

CANADA

DEBATES OF THE SENATE

OFFICIAL REPORT

(HANSARD)

THE HONOURABLE GUY CHARBONNEAU
SPEAKER

1986-87-88
SECOND SESSION, THIRTY-THIRD PARLIAMENT
35-36-37 ELIZABETH II

VOLUME II

(June 16, 1987 to December 17, 1987)

Parliament was opened on September 30, 1986

and was dissolved on October 1, 1988

Queen's Printer for Canada, Ottawa

THE SPEAKER

THE HONOURABLE GUY CHARBONNEAU

THE LEADER OF THE GOVERNMENT

THE HONOURABLE LOWELL MURRAY, P.C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE ALLAN J. MACEACHEN, P.C.

OFFICERS OF THE SENATE

CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS

CHARLES A. LUSSIER, LL.L.

CLERK ASSISTANT OF THE SENATE

RICHARD G. GREENE

LAW CLERK AND PARLIAMENTARY COUNSEL

R. L. DU PLESSIS, Q.C., B.A., LL.L.

GENTLEMAN USHER OF THE BLACK ROD

RENÉ M. JALBERT, C.V., C.D.

THE SENATE

Tuesday, June 16, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

DISTINGUISHED VISITORS IN GALLERY

CHIEF OF JACKHEAD INDIAN RESERVE, MANITOBA

Hon. Mira Spivak: Honourable senators, I would like to draw the attention of the Senate to the presence in the Senate Gallery of Chief William Travers, who is Chief of the Jackhead Indian Reserve, which is on the western shore of the northern basin of the ninth largest freshwater lake in the world, Lake Winnipeg, which is in Manitoba.

Chief Travers is the immediate past leader of the Indian Brotherhood of First Nations and the immediate past leader of the Interlake Tribal Group. During his tenure as Chief of the Jackhead Indian Reserve, he was responsible for a great deal of social progress in his community, thus bettering life for his people. His achievements include bringing hydro power to the reserve, upgrading educational resources and improving the fiscal responsibility of the reserve.

Chief Travers is accompanied by Mr. Ian Restall, who is a Professor of Law at the University of Manitoba and a legal practitioner with the firm of Swystun and Associates of Winnipeg.

Hon. Senators: Hear, hear!

APPROPRIATION BILL NO. 3, 1987-88

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-65, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*Translation*]

BELL CANADA BILL

FIRST READING

The Hon. the Speaker: informed the Senate that a message had been received from the House of Commons with Bill C-13, respecting the reorganization of Bell Canada.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*English*]

1987 CONSTITUTIONAL ACCORD

ESTABLISHMENT OF SPECIAL JOINT COMMITTEE—MESSAGE FROM HOUSE OF COMMONS—MOTION TO CONCUR—DEBATE ADJOURNED

The Hon. the Speaker informed the Senate that the following message had been received from the House of Commons:

HOUSE OF COMMONS
CANADA

Tuesday, June 16, 1987

ORDERED,—That a Special Joint Committee of the Senate and of the House of Commons be appointed to consider and report on the "1987 Constitutional Accord, signed in Ottawa on June 3, 1987, by the First Ministers of Canada", copies of which were tabled in the Senate and the House of Commons on June 3, 1987;

That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the House of Commons to be designated no later than seven sitting days after the adoption of this motion;

That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the House;

That the Committee have power to sit during sittings and adjournments of the House of Commons;

That the Committee have power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;

That the Committee submit its report not later than September 14, 1987, provided that, if the House is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That substitution be authorized, for Members from the House of Commons, from a list of alternates to be provided to the Joint Chairmen of the Special Joint Committee by a representative of each party at the first meeting of the Committee, such list of alternates to contain no more than twice the number of Members of the House of Commons who are Members of the Special Joint Committee representing each party in the House;

That the quorum of the Committee be eight Members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented, and that the Joint Chairmen be authorized to hold meetings, to receive evidence and authorize the printing thereof, when six Members are present so long as both Houses are represented; and

That a message be sent to the Senate requesting that House to unite with this House for the above purpose, and to select, if the Senate deems it to be advisable, five Members to act on the proposed Special Joint Committee.

ATTEST

Michael B. Kirby
for *The Clerk of the House of Commons*

The Hon. the Speaker: Honourable senators, when shall this message be taken into consideration?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*d*), now.

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

Hon. Senators: Agreed.

Senator Murray: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*d*), I move:

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consider and report on the "1987 Constitutional Accord, signed in Ottawa on June 3, 1987, by the First Ministers of Canada", copies of which were tabled in the Senate and the House of Commons on June 3, 1987.

That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the Senate to be designated no later than seven sitting days after the adoption of this motion;

That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;

That the Committee have power to sit during sittings and adjournments of the Senate;

That the Committee have power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;

That the Committee submit its report not later than September 14, 1987, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate;

That substitution be authorized, for Members from the House of Commons, from a list of alternates to be provided to the Joint Chairmen of the Special Joint Committee by a representative of each party at the first meeting of the Committee, such list of alternates to contain no more than twice the number of Members of the House of Commons who are Members of the Special Joint Committee representing each party in the House;

That the quorum of the Committee be eight Members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented, and that the Joint Chairmen be authorized to hold meetings, to receive evidence and authorize the printing thereof, when six Members are present so long as both Houses are represented; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No, it is not.

Senator Murray: Honourable senators, today's motion is almost anti-climactic. Honourable senators knew it was coming. The government had announced its intention in this regard some time ago. I had conveyed that information to honourable senators. Notwithstanding that fact, honourable senators, in a majority, voted the other day to refer the matters under discussion to a Committee of the Whole of the Senate.

Honourable senators opposite, however, took the position, if I understood the Leader of the Opposition correctly, that referring the Constitutional Accord to Committee of the Whole did not prejudge the position they might take on an invitation from the House of Commons to join with that House in a joint committee. Members of the other place were, and are, well aware of the decision that was taken, for whatever reason, by a majority of members of this place. Notwithstand-

ing that, they proceeded this morning unanimously in the other place to pass the motion with which we are now seized, inviting us to join in this joint committee.

The terms under which it is proposed to set up the committee are unexceptional. The number of senators and members of the House of Commons is a total of 17—12 members of the House of Commons and 5 members of this place. That is the same number in each case as constituted the membership of the special committee that studied Canadian foreign policy earlier in the present Parliament.

• (1410)

I can only appeal to honourable senators for their support of this motion. It asks the Senate to participate in the joint committee. I believe that that will, first of all, meet the convenience of many witnesses who wish to take advantage of this process. I believe that whatever the Committee of the Whole of the Senate may wish to do with the accord, the establishment of a joint committee will make for a better organized, more coherent and more efficient consideration of this important matter.

Finally, I express the hope that in the circumstances, and notwithstanding the decision that a majority of honourable senators took on Thursday last, honourable senators would not place the Senate in the position of refusing an invitation of this kind from the other place. That, I believe, would constitute a very undesirable parliamentary precedent.

Senator Frith: Honourable senators, to pick up exactly where the Leader of the Government left off, for reasons that I think honourable senators will understand, I believe that to support and concur in this motion would be a very bad constitutional precedent. It would not at all create a bad precedent for the Senate to refuse to join with the House of Commons on this resolution for a joint committee.

I want to make it clear that I am speaking to senators, that I am speaking as a senator, that I am not speaking as a Liberal or as the Deputy Leader of the Opposition—

Some Hon. Senators: Oh, oh.

Senator Phillips: That's new!

Senator Frith: —or as a Conservative—

Some Hon. Senators: Hear, hear!

Senator Frith: —or as an Independent, or any of the above. I am speaking as a senator, and I am speaking to all of you not as Liberals, not as Conservatives, not as Independents, but as senators.

Before I explain why I believe it would be a very bad precedent for the Senate to concur in this motion, let me deal with the feelings that were behind the groans, the "ohs" and the "ahs" we heard from the other side a few moments ago, and that is to try to avoid—though it may be hopeless to do so—any one of my colleagues in the Senate or members of the House of Commons or members of the press putting a mischievous spin on what I am about to say. Let me come to grips with that immediately.

This is not a challenge to my colleagues, who may very well vote in favour of this motion; this is not a challenge to the leadership of Mr. Turner; this is not a challenge to the leadership in the Senate. If it is a challenge at all, it is a challenge to the House of Commons, and a respectful one, of course.

Why do I think we should not have a joint committee? Well, let us look at why people say we should have a joint committee. People say we should have a joint committee because we had one in 1981 and 1982. They say we can have both a Senate committee and a joint committee because we had that in 1978. So, let us go back to 1981, 1982 and 1978 to understand why I say we should not have a joint committee.

In the Fulton-Favreau report there was a useful and, I believe, scholarly and generally accepted review of the amending process that had taken place up to 1981-82. It reviews all of the cases of amendments, and points out that there was a great deal of variety in the amending procedures used in the sense that in some cases all of the provinces were consulted, and in some cases they were not. In some other cases only provinces affected were concerned.

The first one reviewed is the British North America Act of 1871. It goes through all of them up to the time of the British North America Act of 1960, and then tries to draw general principles from the amending procedure.

Remember, honourable senators, that at that time the Constitution was amended by the Parliament of the United Kingdom; it was not amended in Canada. In every one of the cases that I have mentioned, the amendment was done in London.

The authors then draw some of the conclusions that can be drawn from those years of experience. They state:

> *The first general principle* that emerges in the foregoing resumé is that although an enactment by the United Kingdom is necessary to amend the British North America Act, such action is taken only upon formal request from Canada. No act of the United Kingdom Parliament affecting Canada is therefore passed unless it is requested and consented to by Canada. Conversely, every amendment requested by Canada in the past has been enacted.
>
> *The second general principle* is that the sanction of Parliament is required for a request to the British Parliament for an amendment to the British North America Act. This principle was established early in the history of Canada's constitutional amendments, and has not been violated since 1895. The procedure invariably is to ask amendments by a joint Address of the Canadian House of Commons and Senate to the Crown.

I emphasize "joint address".

So, in 1978 the existence of a joint committee was quite consistent with precedents to that date, because on Bill C-60 it would have required a joint address for the amendment.

In 1982, when the present amending formula was established, the method used was a joint address, that is to say, it was effected by a joint address of the Senate and the House of Commons. We also had a joint committee for our joint

address. But under the present amending formula, which, incidentally, was passed by the House of Commons, the House of Commons has sent us this request to join with them in a joint committee. Then, together with the necessary provinces, it is sought to have the amendment take place by resolution of the Senate, not by a joint address. The amending formula requires a resolution of the Senate, a resolution of the House of Commons, and a resolution of the necessary number of provinces.

So, the process that is now in place is not a joint address by the Parliament of Canada, it is a series of resolutions by the Senate, by the House of Commons and the necessary number of provinces, each of which has its own individual resolution. I assume, for example, that Ontario and Quebec, or Ontario and Manitoba, will decide not to have a joint committee to look after their responsibilities, which are separate and not joint.

Honourable senators, we now have, with that method in place, the suggestion that we should proceed by joint committee to investigate and carry out our separate functions.

It is said—and I believe that there is support for this—that when the Constitution was amended to set up the present formula, and when section 47 was passed, which is the section which provides that the Senate can be bypassed in constitutional amendments, and that 180 days after the House of Commons passes its resolution—not a joint resolution, but its own resolution; another evidence of the separation of the Senate and the House of Commons with separate functions to perform—and the House of Commons passes it again, it can then take effect by proclamation, without the intervention of the Senate.

Again the Senate was given a different role. It has been said that the reason it was given a separate role in the section that provides for resolutions was related to the fact that it now has a separate timetable and was asked to take only a suspensive veto. That is another reason to consider our responsibilities as being separate.

● (1420)

What is before us now is one of the other partners in the amending process, namely, the House of Commons—and it could as easily be the Province of Ontario or one of our other partners in the process—I suppose because of what seems to me to be the House's rear view mirror approach, not having really read the Constitution, not having thought about the fact that there is a different process, and thinking that we have always had a joint committee, and that there is no reason to have another one now—asking us to join with them in a joint committee with unequal representation. Do they have that in mind? If they were to stop looking in their rear view mirror of pre-1981-1982, and if they were to look at the present proceedings, why would they be asking us to join in a committee on which they, the House of Commons, will have a majority? You have heard what was read.

If they have read the Constitution, do they mean to say, "We know that you, as senators, have a separate responsibility and a separate timetable, but we want your process to be governed by a committee on which we have the majority."? Why would they want to do that, unless they wanted to control totally the carrying out of our responsibilities, that is, the responsibility that each one of us has constitutionally as a senator to approach this matter with our own separate, distinct responsibility? It can only be because the House of Commons wants to run the show. If that is the way they want it, they should have said that in 1982. They should have said, "No, we are not going to give the Senate a separate responsibility." They had the chance. They voted for a constitutional amending formula that gave us a separate responsibility. Now they come back to us and say, "Yes, but we still want to run the whole show." Not only do they say they want it to be joint—although they said it was going to be separate, and voted for its being separate—they want to run the whole show, and they want to have a majority.

Honourable senators, I am sure you can see how they would respond if it were the other way around. Suppose that we put forward this resolution and asked them to join, and let us run their show with us having a majority. You can imagine what the response would be.

The NDP said that they could not understand why—one of the reasons they could not understand why is because they never took the time to read the Constitution—senators wanted a separate committee; that it was outrageous that a bunch of hacks, flacks and bagmen were presuming to look after their own constitutional responsibilities. I assume they voted for this motion since I hear it was passed unanimously, but if that is what they think of us, why do they want us to serve on their committee?

I say that we should say to them, "Thanks for asking. Go back and read the Constitution. Look after your responsibility. Let us hope that Ontario, Quebec, Prince Edward Island and all the other provinces will look after their individual responsibility, but we mean to look after ours, and we do not need any help from you. We have already set up our own committee and we will do our job. You will hear from us. Don't call us, we'll call you. You do the same thing, that is, look after your own responsibilities, mind your own business, and let us look after ours."

Some Hon. Senators: Hear, hear!

Hon. Eymard G. Corbin: Honourable senators, I am rising on a point of order. I had intended to do it immediately after Senator Murray's remarks, but Senator Frith had already taken the floor. In the course of his remarks the Honourable Leader of the Government alluded to, commented on and, indeed, reflected upon the vote taken in this house last week on the question of establishing a Committee of the Whole to study the Constitutional Accord. He did so, and I think I am correct in quoting him, by referring to "a decision of a majority" in this house. Besides the point that a decision of a majority in the house is, in fact, a decision of the whole house, I would like to object to Senator Murray's remarks inasmuch as they offend parliamentary practice.

I quote as my authority *Beauchesne's Parliamentary Rules and Forms*, Fifth Edition, page 102, citation 313. This is one of the paragraphs under the heading "Content of Speeches".

> A Member may not speak against or reflect upon any determination of the House, unless he intends to conclude with a motion for rescinding it.

Citation 315 on the same page, continuing on to page 103, states:

> (1) It is a wholesome restraint upon Members that they cannot revive a debate already concluded; and it would be little use in preventing the same question from being offered twice in the same session if, without being offered, its merits might be discussed again and again.

I particularly draw to the attention of honourable senators the contents of paragraph (2) of citation 315, which states:

> (2) It is irregular to reflect upon, argue against, or in any manner call in question in debate the past acts or proceedings of the House, on the obvious ground that, besides tending to revive discussion upon questions which have already been once decided, such reflections are uncourteous to the House and irregular in principle inasmuch as the Member is himself included in and bound by a vote agreed to by a majority; and it seems that, reflecting upon or questioning the acts of the "majority" is equivalent to reflecting upon the House.

Therefore, I humbly request that Senator Murray withdraw his comments, because they are against a long-standing practice and tradition. If other senators wish to comment, I invite them to do so. I find it difficult to accept any other interpretation of the quotations I have just produced.

● (1430)

[*Translation*]

Hon. Arthur Tremblay: Honourable senators, I would like to make a few brief remarks on the comments made earlier by Senator Frith.

I certainly do not challenge his reading and interpretation of the provisions of the Constitution Act of 1982. I agree, and he stressed this very strongly, that it refers to two distinct resolutions and not to a joint resolution of the House of Commons and the Senate, and that this was contrary to previous practice, which is indeed perfectly accurate.

However, I think we should make a distinction between what I would call the final stage of the process, namely where the House of Commons and the Senate are each called upon to assume their separate responsibilities, and the stage at which a question, which may eventually lead to those two separate resolutions, in other words, to a constitutional amendment, is considered and reported. As far as the final stage is concerned, I have no quarrel with Senator Frith's analysis.

The motion before us today says:

> That a Special Joint Committee of the Senate and the House of Commons be appointed to consider and report—

At this stage, we are "considering". I think that the reasons given by Senator Frith for having the Senate decline an invitation from the House of Commons to consider jointly the subject in question are totally unfounded, and it seems to me his objections do not hold water.

In fact, I think that joint consideration, and I apologize for being repetitious, makes perfect sense more than anything else.

If we are to consider the draft constitutional amendment, the June 3 Constitutional Accord, it seems to me it would be in the interests of all concerned, and especially of the witnesses the joint committee might wish to invite, and any witnesses who might wish to be heard, to have this done simultaneously by the Commons and the Senate. I hardly think the Senate would object, if it sits in Committee of the Whole, to hearing witnesses that previously appeared before the Commons and vice versa. And there will surely be witnesses who will want to be heard in both places. So let them have an opportunity to be heard by both chambers simultaneously, instead of by each separately. I think it is just a matter of common sense.

I repeat, and I want to say this in concluding, that this does not in any way affect the distinct responsibilities of the two chambers at the subsequent stage, after consideration, when both chambers will assume their separate responsibilities, without seeing this as a challenge to the other's authority. That is what I had to say about the analysis given by Senator Frith.

Senator Frith: Honourable senators, would Senator Tremblay entertain a question?

Senator Tremblay: Yes, honourable senators.

Senator Frith: Honourable senators, unless I am mistaken the proposition of Senator Tremblay is as follows: A distinction must be made between the resolution, the final act and the study. If this proposition is true, it includes a corollary.

I would suggest that in the case of a bill, the final act or the final resolution of a bill consists in its adoption on third reading. Why not examine it together at the study stage? It is the corollary of his proposition, is it not?

According to him we would be better advised if we were to act independently to make a final decision, and we should make the study together. The same argument applies with respect to legislation.

But let us consider the process of a constitutional amendment we now have before us. We participate, as do the other partners. All these partners must pass their own resolution. Why did we not strike a joint committee with Ontario, and why not with the 12? All together we could study it, and then we should go our separate ways and make our final decision. That is the difficulty I have with the proposition of Senator Tremblay.

Senator Tremblay: Honourable senators, after the first words of Senator Frith I had the impression he was asking me whether I would accept a question from him. I did not detect a question in what he said. However I thought I detected a brand new suggestion: a proposition to convene all the legislative assemblies so they would undertake together the study in question.

What more can I say about this proposition other than referring to what I said earlier, a kind of common sense.

[*English*]

Senator Frith: It is called *reductio ad absurdum*, and it was meant to be!

[*Translation*]

Hon. Pietro Rizzutto: Honourable senators, I have a question for the Leader of the Government. The government is proposing to have twelve members of the other place and five senators on the joint committee. Has there been any thought given to how many of the five senators will be chosen from the government side and how many from this side? Will there be a co-chairman from the Senate? If so, would the joint committee agree to have a senator from this side of the House act as co-chairman?

Senator Murray: Honourable senators, I have taken down the questions asked by my honourable friend. I shall try to reply to these questions when we are concluding this debate.

Senator Rizzutto: Honourable senators, I have asked these questions because they are extremely important for many of us here today. I believe that the Senate will be very well represented. If we could have a senator from this side of the house as co-chairman, it could help many senators when the time comes for them to decide whether to vote for or against the proposal. If the Senate agrees, I would like to adjourn the debate until tomorrow afternoon.

Senator Murray: Honourable senators, we shall follow the normal process. The resolution mentions twelve Members of the House of Commons and five senators. There will naturally be a co-chairman from the Senate. As for the distribution of senatorial seats on the committee, this remains to be negotiated between the leaders of the parties.

Senator Rizzutto: Honourable senators, it is very important for some senators on this side to know how senators will be distributed on this committee. If the honourable senators agree, I propose to adjourn the debate until tomorrow so that you may provide us with further information on this matter. I find this very important. I think that we might agree to vote for your resolution if we had the assurance that the concerns and the objectives of the honourable senators can really be defended on the joint committee, without obstructing the work of our own committee which could sit at the same time. We could propose that the joint committee report on September 14. If the Senate finds this report inadequate, we could then continue our examination in a Committee of the Whole. This might be a valid solution. I suggest to the honourable senators that we could agree to have both committees. One could sit during the summer and continue to sit later if we find that the amendments proposed by the joint committee do not meet all the objectives of the honourable senators. It is extremely important for me to know how senators from this side will be represented. First, how many of the five senators chosen to sit on the joint committee will be from this side, and second, would it be possible for the co-chairman to be chosen among the senators from this side?

[Senator Tremblay.]

Honourable senators, I propose that the debate be adjourned until the next sitting of the Senate.

• (1440)

[*English*]

Hon. John M. Godfrey: Honourable senators, before the debate is adjourned, I would like to say a few words about Senator Frith's argument. Back in 1978, Senator Frith said it was a joint address, and therefore it was proper to have a joint committee. But in spite of that fact, the Senate then had a separate committee as well.

Senator Frith: Honourable senators, that was with reference to the Senate aspects only. Read Senator Connolly's speech at the time.

Senator Godfrey: It was on the question of Senate reform, but, in any event it was a separate committee. As far as I am concerned, there is no precedent. We simply approach it on an individual case basis and decide whether, in certain cases, we want to have a separate committee as well as a joint committee.

[*Translation*]

Senator Le Moyne: Mr. Speaker, the debate has been adjourned.

Some Hon. Senators: No.

[*English*]

Senator Godfrey: I am sorry, I did not hear the interjection. In any event, it is not a question of precedent.

Honourable senators, I would like to say one other thing. I notice in the press that they seem to take for granted that the fact that the Senate is having a separate committee is a criticism of Mr. Turner and a criticism of the Meech Lake accord. As far as I am concerned, although I recognize some of the weaknesses of the Meech Lake accord, I support the accord, and I support Mr. Turner. When I was supporting the formation of a separate committee, it never occurred to me that I was in any way criticizing Mr. Turner or his position. I have talked to several other senators, and they say exactly the same.

Some Hon. Senators: Hear, hear!

Hon. Charles McElman: Honourable senators, before the adjournment of this debate takes place, I would like to draw to the attention of the Leader of the Government in the Senate that there appears to be at least one flaw in his motion, and perhaps a second.

The flaw that is clear is that with respect to substitutions on the joint committee, he has taken, word for word, the clause from the motion as passed in the House of Commons, which provides only for substitution of members from the House of Commons. There should be an addition to that paragraph, or, alternatively, there should be a second paragraph, which should precede the paragraph with respect to the House of Commons, to correct that shortcoming in the motion.

The other difference in the two motions is in the preceding paragraph of the motion of the House of Commons, and it is

with respect to the time involved. The paragraph now reads, in part:

> . . . the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

In the motion of the Honourable Leader of the Government, it says:

> . . . on the day such report is deposited with the Clerk of the Senate.

I wonder if perhaps the motion should not be identical in that paragraph rather than leaving out the reference to the Clerk of the House of Commons. I just draw these matters to the attention of the Senate for possible correction.

Hon. George van Roggen: Honourable senators, before the debate is adjourned, if it is in order to comment on the merits, as Senator Godfrey just did, I would like to say that, as always, Senator Frith's excellent legal mind has made a compelling case against a joint committee from a purely legal point of view. However, I feel that the art of politics often involves something more than pure legalisms, and it seems to me from a practical point of view that as we have established a Committee of the Whole of the Senate to consider this matter, there is nothing anomalous or incongruous in participating in a joint committee which can travel the country—

Senator MacEachen: That committee has no travel authority. That authority was refused in the House of Commons.

Senator van Roggen: I would think that is most unfortunate. Perhaps the Committee of the Whole in the Senate should give some thought as to whether or not that would be wise.

In any event, it seems to me that participation in the joint committee is not out of order, and that to have the report of that joint committee, which is to come down on a certain day in September, available to be considered by the Committee of the Whole in this place would be advantageous. On that basis, I will be supporting the motion when the time comes for the proposal.

[*Translation*]

Senator Murray: Honourable senators, is it the wish of my friends opposite to move the adjournment of the debate?

Senator Frith: Adjournment of the debate has already been moved by Senator Rizzuto. I think it is because Senator Rizzuto yielded to Senator Godfrey. Senator Godfrey asked for leave to speak today before Senator Rizzuto moved the adjournment of the debate. The debate adjournment has simply been suspended in my view.

Senator Murray: Senator Rizzuto has not yet concluded his speech, has he?

Senator Rizzuto: This is the point, honourable senators, and I moved that the debate be adjourned to the Senate's next sitting.

Senator Corbin: Honourable senators, I rise once more on the point of order I raised earlier, and which I feel is genuine. Nobody rose to argue against my submission.

On the other hand, the Government Leader in the Senate did not respond either. I will therefore ask His Honour the Speaker to rule on the validity of my point of order, later today or at a later sitting of the Senate, in view of course of the comments used by Senator Murray.

The Hon. the Speaker: I will take Senator Corbin's request under advisement.

Senator Murray: Is Hon. Senator Corbin suggesting that my resolution is not—

Senator Corbin: Senator Murray, I was in no way referring to the resolution as such. I was rather referring to certain remarks you made in your speech, where you referred to a majority decision in this house.

I argued the point that it is not proper, according to a longstanding parliamentary tradition, to comment on an earlier decision of the Senate, except to ask that the vote be rescinded.

I was suggesting that in my view, your comments offended a very ancient parliamentary tradition. Therefore, either you withdraw them immediately or, as I just did, I ask the Speaker to rule on the validity of my argument.

I think in that respect Beauchesne is quite clear, a vote must not be commented upon, and especially not refer to a majority decision. A majority decision commits the whole Chamber. It is not a majority decision, it is the Senate's decision. At that point, if you do not like it, the one option open to you is to move that the decision be rescinded.

So I cannot see how you can get out of that in any other way.

Hon. Jacques Flynn: Will the ruling be coming from Mr. Speaker?

Senator Corbin: I asked the Speaker to rule—

Senator Flynn: To rule how?

Senator Corbin: —to rule on the point I raised. I think this is quite in order, Senator Flynn.

[*English*]

Senator Murray: Honourable senators, I heard my friend speaking earlier in English on this point, and I made a note of it. I appreciate the point he has made, first of all, about my reference to a majority of this house. Actually, it was a majority of those voting rather than a majority of the house. In any case, if I misspoke myself and should have said a decision of the house, then I am perfectly prepared to amend my remarks in that respect.

As far as my remarks referred to a decision taken by the Senate a couple of days ago, I think he is stretching the point to suggest that my remarks were out of order. I did not reflect on the decision that had been taken by the Senate a couple of days ago. I did not comment on it. I did not try to reopen the debate. However, I thought and still think that the decision that was taken on Thursday is relevant to the motion that I have placed before the Senate today.

I do not object to the honourable senator raising these points at this time, and I accept the reproach to the extent that it may be valid. Frankly, I do not think it is a very big deal.

I want to be clear so far as Senator Rizzuto is concerned.

[*Translation*]

I take it, if I am not mistaken, that Senator Rizzuto suggested that we adjourn this debate so that I may be able to answer his questions tomorrow.

Senator Frith: That is right.

Senator Murray: Well, I am in a position to answer right now by saying first that there will be a co-chairman from the Senate in that special joint committee. Senator Rizzuto would like me to give him the assurance that this co-chairman will come from the Liberal ranks. I think that is going a little too far. I cannot speak for the committee which will have the last say in the choice of both co-chairmen. This is as far as I can go. There will be a co-chairman from the Senate. It will be up to the committee itself to select both co-chairmen.

Senator Frith: A special joint committee with a Commons, a government majority.

Senator Murray: This should not come as a shock to my honourable friend. After all, my friend—

Senator Frith: That is what they called the—

Senator Murray: With respect to the allocation of senator positions in that committee, Senator Rizzuto suggested that three senators be appointed by the Liberal group, and two by the Conservative group.

This is again a matter to be discussed between the leaders in the House. Personally, I have no argument with that distribution, namely, three members appointed by the Liberal party leadership, and two by the Conservative party leadership.

Those were the three questions raised by my honourable friend Senator Rizzuto. This is my answer, and I would not be in a position to tell you more tomorrow.

● (1450)

Senator Rizzuto: I understand full well, Senator Murray.

I already feel that I know a little more than I did ten minutes ago. As you said, there will be three senators from this side of the house, and two from the government side.

I appreciate that you cannot give us an assurance as to who will be appointed as the co-chairman to represent the Senate.

That is why I wanted to get that information, because it is important for me to reach a decision as to whether we should agree with your motion. Will the co-chairman from the Senate be elected by the five senators representing the minority on the special joint committee or will the committee itself appoint the co-chairman?

Senator Murray: Honourable senators, under the current procedure, the special joint committee appoints both co-chairmen.

I have co-chaired the Standing Joint Committee of the Senate and the House of Commons on Official Languages Policy and Programs. In that case, the Joint Committee appointed me as well as my friend Senator Corbin—

Hon. Joseph-Philippe Guay: They have a co-chairman from each side.

Senator Murray: —who was a Member of the House of Commons at the time.

Senator Guay: The Standing Joint Committee of the Senate and the House of Commons on Official Languages Policy and Programs has a co-chairman from both sides, one Conservative and one Liberal.

[*English*]

Senator Godfrey: I have been here for 14 years, and this is the first time it has ever been suggested that a committee actually chooses its own chairman. The chairmen are always chosen by the leaders. Let's not kid ourselves.

[*Translation*]

Senator Rizzuto: Honourable senators, I realize the Leader of the Government in the Senate has a substantial input in the decisions made by the government, and I would like his opinion. I feel I must find some way of making a contribution to your motion, while at the same time we on this side of the house would have to have some measure of reassurance. I think we should let our senators voice their opinions to ensure that this committee is run in such a way that we all have a chance to express our views.

I don't mean that I have any doubts we will have a joint chairman, but we would like to have that assurance, so that when the time comes, we can make decisions more readily. If that assurance is not forthcoming, we will just have to wait and see. That is why I moved to adjourn the debate until the next sitting of the Senate, because this would give us a chance to think about it and to find out a bit more.

I would like to give the matter a bit more thought and see how we could manage to vote in favour of the motion moved by the Leader of the Government.

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

Some Hon. Members: Agreed. On motion of Senator Rizzuto, debate adjourned.

The Hon. the Speaker: Is Senator Corbin satisfied with the clarification provided by the Leader of the Government or should I still take his intervention under advisement?

Senator Corbin: Mr. Speaker, I am only partially satisfied. I would say to Senator Murray, either we meet this evening in front of the Centennial Flame to burn Beauchesne or I maintain my point of order and ask Your Honour to hand down a ruling at a subsequent sitting of the Senate.

I think my point of order is sound, and I would like to have this question clarified once and for all.

Senator Flynn: Honourable senators, on the subject of this point of order, it is a fact that the rule quoted by Senator Corbin exists. However, the same rule applies in the case of

relevance. One can object to irrelevant or irregular statements at the time they are made, but once that has been done, the Chair cannot ask the Senator to retract any more than it can ask him to withdraw the irrelevant statements that are made so frequently in this chamber. There has never been a ruling of this kind.

Senator Corbin: Honourable senators, I beg your pardon! On the contrary, I think there are quite a few precedents. I qualified my statement earlier when I rose, saying that I would have liked to speak right away. I did not want to look unprepared, however, and that is why I took the time to consult *Beauchesne's*. That was my only reason.

My point was not to delay today's proceedings. I know this is not exactly the most important question we have to discuss. I agree. Nevertheless, it is a matter of basic parliamentary procedure, and if we let this pass, how often is this going to happen in the future and how often has it already happened in the past?

Senator Flynn: It happens all the time!

Senator Corbin: Well, in that case, let's get together in front of the Centennial Flame this evening and burn *Beauchesne's*, because he is no use to us any more.

Senator Flynn: We can burn *Beauchesne's* and your questions as well.

• (1500)

[*English*]

Hon. H.A. Olson: Honourable senators, I should like to say a word or two about the point of order. The Leader of the Government in the Senate, who made the offensive remarks, has indicated that he is sorry. Then he said, unfortunately, that it is "no big deal." It is a big deal if we let people get away with that. That is the problem. The Leader of the Government would have been in order had he left it at that. As Senator Corbin has stated, history is full of Speaker's rulings that reflection on past votes is discourteous and out of order.

Senator Murray: I did not reflect.

Senator Olson: You did. If you disagree, we will wait until we see the "blues." If I remember correctly, what you said was, "because a majority of honourable senators voted for this resolution". You were using a reflection on a previous vote to argue for the current motion, and that clearly is discourteous and out of order.

Senator Murray: I am sorry my honourable friend is ashamed of his vote already.

Senator Olson: I am ashamed of your comments.

On motion of Senator Rizzuto, debate adjourned.

VENICE SUMMIT, 1987

On tabling of documents:

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, did the Deputy Leader of the Government include in the list of documents tabled a copy of the Venice communiqué? Perhaps he did include that, and, if so, I did not hear him. If not, could we have that at some point?

Hon. C. William Doody (Deputy Leader of the Government): It was not on the list. We do not have it here, but we will certainly arrange to have it brought in.

FOREIGN AFFAIRS

SEVENTH AND EIGHTH REPORTS OF COMMITTEE PRESENTED AND PRINTED AS APPENDICES

Hon. George van Roggen: Honourable senators, the Standing Senate Committee on Foreign Affairs has the honour to present its Seventh and Eighth Reports.

I ask that each report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and to the *Debates of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of Seventh Report, see Appendix "A", p. 1257. For text of Eighth Report, see Appendix "B", p. 1259.*)

The Hon. the Speaker: Honourable senators, when shall these reports be taken into consideration?

On motion of Senator van Roggen, reports placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

SIXTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Arthur Tremblay: Honourable senators, I have the honour to present the sixth report of the Committee on Social Affairs, Science and Technology respecting power to incur special expenses pursuant to the procedural guidelines for the financial operation of Senate committees. I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this House.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "C", p. 1261.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Tremblay, report placed on the orders of the Day for consideration at the next sitting of the Senate.

[*English*]

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

SECOND REPORT OF COMMITTEE—STATUS

Hon. Orville H. Phillips: Honourable senators, before we move on to Notices of Inquiries, may I point out that the

Special Committee of the Senate on the subject matter of Bill C-22 was to report to this chamber by June 15. This being June 16, I believe we should have a report from that committee on Bill C-22. Perhaps the chairman of the committee can present that report before we move on to the next item of business.

Hon. Royce Frith (Deputy Leader of the Opposition): Perhaps we could revert to Reports of Committees in due course. I know that a report is available. I see that a copy has been put on my desk. I assume all honourable senators have received a copy. As a matter of fact, I can see that a report has been placed on the desks of those honourable senators who sit close to me.

Hon. C. William Doody (Deputy Leader of the Government): The report should be placed on the record.

Senator Frith: I do not know whether the chairman of the committee is putting some finishing touches to the report, but, in any event, Senator Phillips is quite right. I know the committee is aware of this. There is a document entitled "Second Report" on my desk, which fulfils that requirement. Perhaps we can revert to Reports of Committees later.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

THE CONSTITUTION

PROPOSED CONSTITUTION AMENDMENT, 1987—NOTICE OF MOTION

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I give notice that on Thursday next, June 18, 1987, I will move that:

WHEREAS the *Constitution Act, 1982* came into force on April 17, 1982, following an agreement between Canada and all the provinces except Quebec;

AND WHEREAS the Government of Quebec has established a set of five proposals for constitutional change and has stated that amendments to give effect to those proposals would enable Quebec to resume a full role in the constitutional councils of Canada;

AND WHEREAS the amendment proposed in the schedule hereto sets out the basis on which Quebec's five constitutional proposals may be met;

AND WHEREAS the amendment proposed in the schedule hereto also recognizes the principle of the equality of all the provinces, provides new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and requires that conferences be convened to consider important constitutional, economic and other issues;

AND WHEREAS certain portions of the amendment proposed in the schedule hereto relate to matters referred to in section 41 of the *Constitution Act, 1982*;

[Senator Phillips.]

AND WHEREAS section 41 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons and of the legislative assembly of each province;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE
CONSTITUTION AMENDMENT, 1987
CONSTITUTION ACT, 1867

1. The *Constitution Act, 1867* is amended by adding thereto, immediately after section 1 thereof, the following section:

"2. (1) The Constitution of Canada shall be interpreted in a manner consistent with

(*a*) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and

(*b*) the recognition that Quebec constitutes within Canada a distinct society.

(2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada referred to in paragraph (1)(*a*) is affirmed.

(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(*b*) is affirmed.

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

2. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

"25. (1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by the government of the province to which the

vacancy relates and must be acceptable to the Queen's Privy Council for Canada."

3. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following heading and sections:

"AGREEMENTS ON IMMIGRATION AND ALIENS

95A. The Government of Canada shall, at the request of the government of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

95B. (1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95C(1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada, or the legislature or government of a province, pursuant to any such agreement.

95C. (1) A declaration that an agreement referred to in subsection 95B(1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

(2) An amendment to an agreement referred to in subsection 95B(1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

(*a*) by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

(*b*) in such other manner as is set out in the agreement.

95D. Sections 46 to 48 of the *Constitution Act, 1982* apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95C(1), any amendment to an agreement made pursuant to subsection 95C(2) or any amendment made pursuant to section 95E.

95E. An amendment to sections 95A to 95D or this section may be made in accordance with the procedure set out in subsection 38(1) of the *Constitution Act, 1982*, but only if the amendment is authorized by resolutions of the legislative assemblies of all the provinces that are, at the time of the amendment, parties to an agreement that has the force of law under subsection 95B(1)."

4. The said Act is further amended by adding thereto, immediately preceding section 96 thereof, the following heading:

"GENERAL"

5. The said Act is further amended by adding thereto, immediately preceding section 101 thereof, the following heading:

"COURTS ESTABLISHED BY THE PARLIAMENT OF CANADA"

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

"SUPREME COURT OF CANADA

101A. (1) The court existing under the name of the Supreme Court of Canada is hereby continued as the general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a superior court of record.

(2) The Supreme Court of Canada shall consist of a chief justice to be called the Chief Justice of Canada and eight other judges, who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

101B. (1) Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province or territory, has, for a total of at least ten years, been a judge of any court in Canada or a member of the bar of any province or territory.

(2) At least three judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of Quebec, have, for a total of at least ten years, been judges of any court of Quebec or of any court established by the Parliament of Canada, or members of the bar of Quebec.

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province and are

qualified under section 101B for appointment to that court.

(2) Where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada.

(3) Where an appointment is made in accordance with subsection (2) of any of the three judges necessary to meet the requirement set out in subsection 101B(2), the Governor General in Council shall appoint a person whose name has been submitted by the Government of Quebec.

(4) Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province other than Quebec.

101D. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

101E. (1) Sections 101A to 101D shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101 except to the extent that such laws are inconsistent with those sections.

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada."

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

"106A. (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

(2). Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces."

8. The said Act is further amended by adding thereto the following heading and sections:

"XII—CONFERENCES ON THE ECONOMY AND OTHER MATTERS

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

[Senator Murray.]

XIII—REFERENCES

149. A reference to this Act shall be deemed to include a reference to any amendments thereto."

CONSTITUTION ACT, 1982

9. Sections 40 to 42 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

"40. Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(*a*) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(*b*) the powers of the Senate and the method of selecting Senators;

(*c*) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(*d*) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;

(*e*) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(*f*) subject to section 43, the use of the English or the French language;

(*g*) the Supreme Court of Canada;

(*h*) the extension of existing provinces into the territories;

(*i*) notwithstanding any other law or practice, the establishment of new provinces; and

(*j*) an amendment to this Part."

10. Section 44 of the said Act is repealed and the following substituted therefor:

"44. Subject to section 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."

11. Subsection 46(1) of the said Act is repealed and the following substituted therefor:

"46. (1) The procedures for amendment under sections 38, 41 and 43 may be initiated either by the Senate or the

House of Commons or by the legislative assembly of a province."

12. Subsection 47(1) of the said Act is repealed and the following substituted therefor:

"47 . (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution."

13. Part VI of the said Act is repealed and the following substituted therefor:

"PART VI
CONSTITUTIONAL CONFERENCES

50. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

(*a*) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate;

(*b*) roles and responsibilities in relation to fisheries; and

(*c*) such other matters as are agreed upon."

14. Subsection 52(2) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(*d*) any other amendment to the Constitution of Canada."

15. Section 61 of the said Act is repealed and the following substituted therefor:

"61. A reference to the *Constitution Act 1982*, or a reference to the *Constitution Acts 1867 to 1982*, shall be deemed to include a reference to any amendments thereto."

GENERAL

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 of the *Canadian Charter of Rights and Freedoms*, section 35 of the *Constitution Act, 1982* or class 24 of section 91 of the *Constitution Act, 1867*.

CITATION

17. This amendment may be cited as the *Constitution Amendment, 1987*.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—WITNESSES' EXPENSES—NOTICE OF MOTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I give notice that on Thursday next, June 18, 1987, I will move:

That the provisions of rule 83 of the Rules of the Senate with respect to the payment of expenses of witnesses shall apply to witnesses appearing before the Committee of the Whole.

COMMITTEE OF THE WHOLE—SEATING OF WITNESSES—NOTICE OF MOTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I also give notice that on Thursday next, June 18, 1987, I will move:

That any witnesses called before the Committee of the Whole be permitted to sit on the floor of the Senate at a special table provided for that purpose.

COMMITTEE OF THE WHOLE—TELEVISING OF PROCEEDINGS—NOTICE OF MOTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I also give notice that on Thursday next, June 18, 1987, I will move:

That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and

That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.

• (1510)

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

SECOND REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, I have the honour to present the second report of the Special Committee on the Subject Matter of Bill C-22, to amend the Patent Act and to provide for certain matters in relation thereto.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "D", p. 1264.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

FINAL REPORT OF COMMITTEE—STATUS

Hon. Orville H. Phillips: Honourable senators, before we leave Reports of Committees, may I ask the chairman of the Special Committee on the Subject Matter of Bill C-22 when a final report will be submitted to the Senate?

Hon. M. Lorne Bonnell: Honourable senators, in answer to the new member of the government *ex officio*, Senator Phillips, my colleague from the Island—

Senator Phillips: A temporary arrangement!

Senator Bonnell: —let me say that it is a difficult question to answer. It will be up to my committee. I am in the same position as the government leader in the house, who could not say today that a Liberal might be co-chairman of another committee because he could not tell you what the committee might decide. I am in the same position as your leader; I cannot tell you what my committee might decide, but as soon as they do decide, I will bring you the report.

Senator Phillips: I thank the honourable senator for his reply. However, I believe he is grossly out of order to compare himself with the Leader of the Government.

Senator Bonnell: Honourable senators, last week I said—

Senator Frith: I thought it was charitable of him.

Senator Bonnell: —that he was next to me. He is still next to me!

NATIONAL TRANSPORTATION

TRANSPORT AND COMMUNICATIONS COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-18

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Transport and Communications be authorized to examine the subject matter of the Bill C-18, An Act respecting national transportation, in advance of the said bill coming before the Senate or any matter relating thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

MOTOR VEHICLE TRANSPORT BY EXTRA-PROVINCIAL UNDERTAKINGS

TRANSPORT AND COMMUNICATIONS COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-19

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Transport and Communications be authorized to examine the subject matter of the Bill C-19, An Act respecting motor vehicle transport by extra-provincial undertakings, in advance of the said bill coming before the Senate or any matter relating thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

FORGIVENESS OF CERTAIN OFFICIAL DEVELOPMENT ASSISTANCE DEBTS

FOREIGN AFFAIRS COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-62

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject matter of the Bill C-62, An Act relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and the Islamic Republic of Mauritania and also the the former East African Community, in advance of the said bill coming before the Senate or any matter relating thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

SMALL BUSINESSES LOANS ACT

BANKING, TRADE AND COMMERCE COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-63

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject matter of the Bill C-63, An Act to amend the Small Businesses Loans Act in advance of the said bill coming before the Senate or any matter relating thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

REGIONAL INDUSTRIAL EXPANSION

ASSISTANCE TO INDUSTRY—ENTERPRISE CAPE BRETON

Hon. B. Alasdair Graham: Honourable senators, I have a question for the Leader of the Government which relates to an answer that he provided on June 9 to a question that I had asked on February 3 with respect to the offers of assistance made to industry by Enterprise Cape Breton and the number of jobs reported.

I noticed in his reply, which I thank him for, that there were a number of blanks with respect to the amount disbursed to individual companies, and that there were also a lot of blanks with respect to the number of jobs created. Would the Leader of the Government undertake to provide us with a more complete answer in both respects, but particularly with respect to the amounts disbursed to individual enterprises, companies or individuals, and, if at all possible, if there were jobs created in any of these situations where there are blanks?

• (1520)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): As I recall, honourable senators, the question Senator Graham asked had to do with offers of assistance from Enterprise Cape Breton to various firms. I hope I am not assuming too much when I say that where there are blanks under "Amounts Disbursed," no moneys have been disbursed; and where there are blanks under "Jobs Created," obviously, the project has not yet begun and the jobs have not been created.

I will ask to have what appears to me to be an obvious explanation confirmed, and I will report back.

Senator Graham: As I understand it, honourable senators, 511 offers of assistance were made to industry and 352 offers were accepted. Certainly the total of firms, as listed here, would not come to 352. However, the very fact that they were listed would imply that some offer had been made and, indeed, accepted. That is the information I am looking for.

REQUEST FOR ANSWER TO ORDER PAPER QUESTION

Hon. B. Alasdair Graham: Honourable senators, on February 3 I posed a written question relating to the status of the LaPrade Fund, asking if, indeed, the terms of reference had changed, and so on. I wonder if I might expect an answer to that question from the Leader of the Government before the end of this week or the end of next week?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I shall make inquiries immediately, honourable senators.

BRITISH COLUMBIA

SOUTH MORESBY—ESTABLISHMENT OF NATIONAL PARK

Hon. Len Marchand: Honourable senators, I am concerned about a headline in this morning's *Globe and Mail* which states, "No national park for South Moresby."

I want to assure the Leader of the Government in the Senate and all honourable senators here that South Moresby constitutes a big deal for the Haida as well as for many other Canadians.

Could the Leader of the Government in the Senate enlighten this chamber on that headline? Have talks, in fact, broken down, or is there a possibility that talks will continue? There are references in the article to the provincial government of British Columbia establishing one of its own parks under its own provincial laws, and that logging in some parts of the island will resume. That disturbs me greatly.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I regret I have to confirm that the talks have broken down. The Government of Canada has made an offer that we believe is more than fair and generous, and will be so regarded by all interested parties except, unfortunately, the Government of British Columbia, which feels that the offer is not high enough.

For the record, let me say that the value of an offer that was made by the Government of Canada is in excess of $100 million over a ten-year period.

Senator Marchand: As a supplementary question, is there any hope that discussions will resume?

This is an extremely important matter not only for the Indians of that area but for all Indians of Canada and, indeed, all Canadians. Could the Leader of the Government in the Senate take another look at this matter and perhaps persuade Mr. Mulroney, the Prime Minister, to take another look at it? This extremely important matter involving the future of the Haidas should not be dropped.

Senator Murray: Honourable senators, the Prime Minister has been involved and has discussed the matter with the premier, and so, too, has the Deputy Prime Minister.

I do not know what more we can do. We have made what I think is a more than fair and more than reasonable offer, and the Government of British Columbia has indicated that Canada's offer of $100 million is not enough. I do not think we can go beyond our present position.

The honourable senator may wish to make inquiries of the government of his province on the matter.

Senator Marchand: Honourable senators, I will do that. However, would the Leader of the Government in the Senate be good enough to either table some background documents on this matter in the Senate or perhaps provide background documentation to me privately so that I can better inform myself on the details of this subject and, in particular, of the position as put forward by the Government of Canada?

Senator Murray: Honourable senators, I do not know what documents are available that I could properly table here, but I can give my friend some information concerning the last offer which was made by the Government of Canada through the Deputy Prime Minister less than a week ago, on June 10.

We offered to pay for acquisition of non-forestry third-party interests, estimated at less than $1 million. We would pay $32 million for park operating and capital development over ten years. We would pay 75 per cent of the cost of acquiring third-party forestry interests which are normally shared 50-50: The estimated cost of this would be $23 million. We would contribute $50 million over ten years to a Queen Charlotte Islands regional development fund to support the diversification of the regional economy. The total value of the offer is $106 million over ten years.

I may add to that that there is no dispute over the boundary. The British Columbia position is acceptable to Canada. It protects all of Lyell Island, including Windy Bay. To that I can only add that our offer is still on the table, and that the Government of Canada remains committed, as ever, to seeking a resolution to the issue.

Hon. George van Roggen: Honourable senators, I have a supplementary question. Is the Leader of the Government free to give us an idea of the dollar gap between the two governments?

It has been mentioned in the Vancouver press that the B.C. government has objected to the federal government offer, which does not provide sufficient to pay out the private forestry interests that will be expropriated as a result of the establishment of the park. I presume this refers to people's cutting rights.

From what the Leader of the Government has just said, it appears that the federal government offer involves paying 75 per cent of these forestry rights which were estimated at $23 million. That would indicate that the other 25 per cent is only about $7 million, which the provincial government will be expected to pay. Could he confirm that that is the only matter standing between the two parties in the settlement of this question?

Senator Murray: No, honourable senators. I do not have the entire file in front of me, but I do know that, for example, with regard to the $50 million that we were to contribute over ten years to a Queen Charlotte Islands regional development fund to support diversification of the regional economy, British Columbia had asked for a $100 million fund.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. H.A. Olson: Honourable senators, the Leader of the Government will know that I am interested in whether or not there will be a program dealing with an acreage payment for the prairies for 1987.

I asked him a number of questions about the final payment, or the 70 per cent, for that program that was announced for 1986. I appreciate the answer he gave the other day to the effect that the cheques were going to be in the mail. I know quite a few farmers who have not yet received their cheques, but I expect that they are in the mail.

• (1530)

What I want to know today, although I do not expect an answer immediately, is whether or not the government is going to have a program for 1987 similar to that for 1986. There has been a further decline in the price of grain by at least 18 per cent in the initial price. We do not know what the final payment will be, but thus far there is no indication that it will be compensated for in a final payment. Therefore, I would like to know before we adjourn on June 29 whether farmers can feel some relief from this through an announcement of the government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have nothing to add to the statements that were made on this matter in the other place as recently as yesterday by the Prime Minister. He said that the programs that will be introduced will be adapted to the circumstances, and will be designed to help Canadian farmers. He said that he and members of the government will be meeting with farmers, farm groups and provincial governments on this matter.

Senator Olson: Honourable senators, many of those meetings have already taken place. The Leader of the Government advised me about two weeks ago that such meetings were taking place. Indeed, the provincial premiers of the four western provinces at a meeting about two weeks ago made their declaration as to what was an appropriate program at that time. I believe that the minimum indicated by the premiers of Alberta and Saskatchewan was a program involving something like $1.6 billion. Is the minister saying now that that is the information the Prime Minister was seeking and is now prepared to act upon?

Senator Murray: Honourable senators, I cannot undertake that a decision or an announcement will be made on this matter before we rise for the summer. But then, I do not know when we are going to rise for the summer.

PRIVATE BILL

YELLOWKNIFE ELECTRIC LTD.—THIRD READING

Hon. Nathan Nurgitz moved the third reading of Bill S-10, to revive Yellowknife Electric Ltd. and to provide for its continuance under the Canada Business Corporations Act.

Hon. Royce Frith (Deputy Leader of the Opposition): Have we received a report from the committee on this bill?

Senator Nurgitz: Honourable senators, I understand that Senator Neiman reported this bill without amendment on Thursday of last week. I was informed that that took place, but I was not here.

Senator Frith: I don't remember that happening, but if that is so, of course, we would proceed to third reading.

Yes, Bill S-10 was reported last Thursday.

Senator Nurgitz: Honourable senators, I am informed by Senator Frith and by the Clerk that this bill was reported on Thursday of last week.

Senator Frith: I see that from my notes; I am sorry.

Senator Nurgitz: Once more I move third reading of this bill!

Motion agreed to and bill read third time and passed.

VENICE SUMMIT, 1987

COMMUNIQUÉ TABLED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, in response to a request made by the Honourable Leader of the Opposition earlier that the Venice Declaration be tabled, I table a declaration of the heads of government from the industrialized nations meeting at Venice last week.

Document tabled.

MARRIAGE (PROHIBITED DEGREES) BILL

THIRD READING

Hon. Nathan Nurgitz moved the third reading of Bill S-5, to amend and consolidate the laws prohibiting marriage between related persons.

Motion agreed to and bill read third time and passed.

UNEMPLOYMENT INSURANCE BENEFIT ENTITLEMENT ADJUSTMENTS (PENSION PAYMENTS) BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Robertson, seconded by the Honourable Senator Macquarrie, for the second reading of the Bill C-50, An Act respecting the treatment of pension payments in determining certain unemployment insurance benefit entitlements and to amend the Unemployment Insurance Act, 1971.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, I rise to speak on second reading of Bill C-50. This is a most unfortunate bill. It has been put upon Parliament to get the government out of a difficult situation—an unpopular situation—which began in a messy way in 1984, and which ends in an even more messy fashion in 1987. The underlying premise of this legislation is that unemployment insurance should be changed. Senator Robertson, when speaking on second reading, explained the content of the bill and called these changes to unemployment insurance "promised" changes. But Canadians working in an occupation with a high rate of lay-offs, or with early retirement as the only alternative, consider these changes not as being "promised" but as being "threatened" by the government in 1984. As Mary Collins, member of Parliament for Capilano, said in her comments on the bill:

> The principle . . . is that the income one derives from unemployment whether it is through wages, separation pay, or personal income, is considered income. This, of course, was the reason that back in November, 1984, this government had announced that pension income and severance pay would be treated as income for the purpose of defining UI benefits.

In theory, this sounds quite reasonable, especially if the person listening to the theory has a good income, steady employment, good pension benefits, and little likelihood of having to bridge the gap between employment and pension benefits after age 65. But good theory often makes bad policy, and in this case the utter unfairness and cruelty of this policy has been exposed. One month after the government announced these regulatory changes, so many workers to be affected by this regulatory move had protested that the Minister of Employment—then the Honourable Flora MacDonald—had to announce that the pension income provisions would not come into effect until January 1986, and that the severance provisions would apply to collective agreements signed after December 31, 1984, and to individuals receiving severance pay after April 1, 1985. These changes caused additional confusion and protest.

It was clear to Canadian workers, unions, employers and other observers that the government had walked into sinking sand, without doing any careful thought, planning, impact studies or testing. It showed Canadians how far from the experience of every day life this government really is. So, in March 1985, when Mr. Mulroney chaired his federal economic conference, he was embarrassed by a petition, signed by 80 out of 136 of his hand-picked conference delegates, which protested against these arbitrary changes to unemployment insurance.

What the government had done was to break faith with workers and employers who had paid the UI premiums for many years and who were organizing their financial lives upon the quite reasonable expectation that the rules would not be changed in mid-stream. Not only had the government broken faith but it had done so at a particular moment in history that maximized the damage and suffering caused, because we are going through a period of profound change in the ways of industrial life.

Thousands of workers in Canadian industries are finding that their jobs are disappearing. For example, in September 1985 Inco of Sudbury was struggling to save jobs and the economy of that area by an early retirement program that

would avoid having to impose a mass lay-off of between 500 and 1,000 younger workers. Essential to their early retirement program was the use by the workers of unemployment insurance benefits for a period to bridge them to severance and retirement benefits. This change in regulations threw the plans of Inco into total confusion. But such cases of labour market adjustment are not the only ones. In the Armed Forces, the RCMP and some other occupations, retirement must come at an age much earlier than 65. Such workers are expected to find another job. Some years ago this was not very difficult, but now, as all honourable senators know, jobs are very difficult to find, both for young workers entering the labour force and for older workers. Such people, while they search, need the unemployment insurance benefits to which they have contributed or the severance payments available to them.

● (1540)

So the regulatory change imposed an indignity and cruelty upon people who had contributed to the economy of this country for many years—people who in many cases had children still in school or university; who had mortgages still being paid; people planning retirement years who do not necessarily have a wage-earning spouse, because in some cases they had been highly geographically mobile people throughout their working lives.

The deadline changes described above added further to the confusion and unfairness of the situation. So, when January 5, 1986, rolled around, many workers who had become eligible for early retirement, but who did not know of the government's change in regulations, learned only when they filed for unemployment insurance that their pension payments would be considered as income in the calculation of unemployment insurance benefits.

This came as a terrible shock to all sorts of good working Canadians. People most likely not to be aware of regulatory changes are those people most likely to be in precarious financial circumstances. So by May of 1986, there was such an uproar that there was a demonstration on Parliament Hill of 1,200 workers, eligible for early retirement, against these regulations.

By July 1986, the Ontario government, objecting strenuously to the federal moves, amended its own Employment Standards Act, to order employers to pay severance pay in two weekly instalments, in an effort to nullify the effect of the regulatory changes and to reduce the waiting period to three weeks at most.

In December, 1986, the government's own Forget Commission recommended that unemployment insurance payments be retroactively reimbursed to those early retirees who had been deprived of them since January 5. Action groups met with Mr. Bouchard to get the new minister to reconsider actions of the government, and to pay reimbursement to those who were suffering loss by this arbitrary measure. In January of this year, 1,000 people attended a meeting organized by the Association of Early Retirees Without Unemployment Insurance of Quebec and other groups to demand action from the minister. Again, in February and March this year, other meetings, demonstrations and strong protests took place in Quebec and across the country.

In short, the government was being made aware by the people of how shocked Canadians are that their own government would do such damage to working people, who are caught in a process of worldwide industrial change, in an age of high unemployment, few retraining opportunities, and wide regional disparities.

Honourable senators will have noticed that these changes were not in the form of legislation but were imposed by regulation. Under pressure from the people, from the opposition Liberals and the NDP in the House of Commons, and from the country, the government, clearly embarrassed by its disastrous mistake, tabled on April 1, 1987, the bill now before us. The bill is the government's best effort to save face, and its most insidious effort to continue with these changes to the UI program.

The first part of the bill will undo the government's first mistake, because it will reimburse unemployment insurance payments that would have been received under the old rules to all early retirees who filed for unemployment insurance benefits before January 5, 1986. Of course, those people should be reimbursed, and this should have happened months ago.

The government introduced this bill on April 1, 77 days ago, and then did absolutely nothing to advance the bill further until June 9, when the government suddenly wanted the bill passed in the other place in one day.

With respect to the reimbursement, the case is so obvious, since the situation should never have arisen in the first place, that no one here would deny consent for this aspect of the bill. Liberals certainly wanted reimbursement cheques mailed out months ago, when the Post Office was still delivering such cheques.

Unfortunately, that is not all that is contained in the bill. The second part of the bill contains one of the most deviant proposals ever to be put with respect to unemployment insurance—and that is quite a record—and a proposal to which we do have strong objections—very strong objections. This part of the bill requires that people who file for unemployment insurance benefits after January 5, 1986, have to find another job, work a sufficient number of weeks to qualify for unemployment insurance, and then lose that new job before being entitled to receive unemployment insurance while receiving pension benefits.

Can honourable senators imagine such a perverse scheme being put up by a government which is governing a modern country? There are some people who are fond of criticizing those who claim unemployment insurance benefits. There are those who say that Canadians bend rules and common sense in order to get those benefits. Some people complain about the 10/42 effect in Newfoundland, where unemployment is widely distributed so that many can collect benefits. These are the sort of grave suspicions raised which led to the appointment of the Forget commission, for example. But surely no one can say that this clause of Bill C-50 is any less calculating, devious or

conniving than their worst accusations of the abuses of unemployment insurance.

Furthermore, since the findings of the Forget commission make clear that most unemployment insurance beneficiaries are short term, are in genuine compliance with the rules, and that the unemployment insurance program cannot be properly reformed until there is some good income support program in place, then this half of the bill that we are considering this afternoon compounds rather than helps the problem.

We consider that this clause of the bill is unfair, discriminatory and unacceptable. The provisions in this bill with respect to severance pay are designed to nullify the provisions passed by the Ontario government to protect certain pensioners, for example.

This bill should be split into two parts. The reimbursement of those who lost benefits should go ahead at once. The other changes to the unemployment insurance system, especially in light of the refusal of this government recently to move forward to the planned changes to unemployment insurance, should be postponed. A motion to split the bill was made in the House of Commons and rejected by the government.

Should we in this chamber try to split the bill? Honourable senators, it is the strong sentiment of my party that a government which cared about Canadian workers, which cared about fairness and reasonableness, which was concerned about improving the lot of working Canadians faced with early retirement or with layoffs, or in hard pressed regions of this country, would, first, never have introduced any such arbitrary regulation; or, second, having done so, would recognize its mistake and retract it at once; or, third, would have introduced only the first part of this bill; or, fourth, would have left such tinkering changes as are in the second half until there was a proper overhaul of the Unemployment Insurance Act.

This government is not being reasonable, is not being concerned about fairness to Canadian workers, and is not on top of its brief with respect to unemployment insurance. After consultation, we believe that forcing the government to divide this bill would only have the effect of delaying the reimbursement of those Canadians now waiting with increasing desperation for the cheques which the government's failure to move has already delayed since April 1. We wanted those cheques to have gone months ago, and we want them to go right away. We are ashamed and embarrassed, however, to have to rush through the other part of the legislation in order to get those cheques out. We are embarrassed to work with a government that brings in such a bill.

Today I received a telegram, and I am sure other honourable senators have received similar telegrams, which reads as follows:

> The Federal Superannuates National Association protests most strongly against the enactment of Bill C-50 which will enshrine the unjust and discriminatory policy that deems pension income to be earned income for unemployment insurance purposes. We urge you to do everything possible to defeat this iniquitous measure.

It is signed:

> William J. Mullen, National Secretary Treasurer.

Honourable senators, we assure Mr. Mullen, everyone in this chamber, and all Canadians that when the Liberal government is formed, redress of these wrongs to Canadian working people will be at the top of our agenda.

• (1550)

Hon. Brenda M. Robertson: Honourable senators—

The Hon. the Speaker: I must remind honourable senators that if the honourable Senator Robertson speaks now, her speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Robertson: Honourable senators, I listened with interest to the remarks of my good friend and colleague. I want to assure honourable senators that there are no threats in this bill. The bill is very clear. I believe it is not unusual for governments to introduce legislation, listen to the complaints about that legislation, and then be flexible where they possibly can. I believe that in this case the government has followed this practice.

I must say that I feel a little embarrassment over the timing as to when the bill was introduced in the House of Commons. I would have liked to see the bill—and I am sure all honourable senators feel the same—introduced in the House of Commons earlier. An attempt had been made on a number of occasions during those 77 days. The minister was just as anxious as Senator Marsden to introduce the bill earlier, but, unfortunately, the orders of the House did not permit it. Of course, the orders of the House are a joint responsibility.

I can understand that there might be a difference in philosophy. I would like to review for honourable senators some of the basic principles in this bill so that there is no confusion. This government believes that persons who have retired from the labour market should not look to unemployment insurance as a supplementary source of income. This government also recognizes that there is a difference between people who retire and leave the labour market and people who retire and begin subsequent careers. This bill addresses this difference, and ensures that people who retire and begin subsequent careers are treated fairly and equitably as active members of the labour force.

On December 5, 1986, this government noted that there were allegations of imprecise information about the implementation of the January 5, 1986, rules concerning pension income. The government proposed at that time that it establish a process to re-examine any case where people had alleged that they made their decision to retire on the basis of inaccurate information from federal government sources. Indeed, there was a lot of confusion around those directives. To this end, an administrative procedure and a draft questionnaire were prepared. Upon examination of this procedure, we saw the likelihood of excessive administrative complexity arising. Therefore, to eliminate such complexity and the potential for uneven application across the country, the government brought about changes to the implementation of the January 5, 1986, ruling.

The legislation we are speaking on today draws a clear and simple line to ensure fairness in the transitional provisions of this regulation for early retirees. The rule is simply this: Those who applied for unemployment insurance prior to January 5, 1986—that is to say, those who applied under the previous rules—will have their entitlement to benefits determined under the previous rules. Equally straighforward, those who applied for benefits on or after January 5, 1986, will be governed by the new provisions. There is nothing devious there. It is all straightforward and clear.

Members may recall that on December 5, 1986, this government announced its intention to modify the unemployment insurance legislation dealing with pension earnings. While maintaining the principle that persons who have retired should not use unemployment insurance as supplementary income, the announcement proposed that workers who take other employment after their retirement, and then work long enough to requalify for unemployment insurance benefits, should receive those benefits, without any deduction of the previous pension income. The approach seems to be a sensible one, and it also seems that it is receiving general approval in a number of areas. Of course, I understand that whenever legislation is changed, there is apprehension and resistance on the part of the general public until it understands the changes.

With this bill the government amends the pension regulations to permit what I just described to begin as of April 5, 1987. Moreover, this bill permits retroactive requalification back to January 5, 1986. These changes will ensure that workers who start subsequent careers—and many of them do—and contribute to unemployment insurance, and subsequently become unemployed, will be entitled to full unemployment insurance benefits based on their post-retirement income, regardless of their previous pension income.

As Senator Marsden emphasized, the bill also addresses an issue of fairness which has arisen in connection with the treatment of payments upon separation. Honourable senators will recall that on March 31, 1985, the treatment of payments upon separation for unemployment insurance purposes was changed. Since its introduction, certain employer-employee agreements have sought to take advantage of what can only be described as a loophole in the wording of the current UI regulations. Of course, the purpose of these arrangements is to avoid the clear legislative intention. The honourable senator has referred to Bill C-128 already, and it addresses the same issue. However, with this bill the government changes the regulations to close those loopholes to ensure that people will not be able to receive double indemnification; namely, receive separation pay and unemployment insurance at the same time. These regulatory changes become effective April 5, 1987.

The proposed bill will also permit the extension of both the qualifying and benefit periods when an allocation of separation payments has prevented the payment of UI benefits or has delayed the start of the UI claim. For instance, if an allocation of separation pay delays the start of a claim by seven weeks, the qualifying period can be extended by seven weeks.

[Senator Robertson.]

I believe that the bill is clear. It also shows that the government is caring, responsible and fair. As I mentioned earlier, a change usually, in fact, almost always, brings protest. However, it seems to me that when a government has been mandated by the people to change the way things were governed before the last election, we would not be serving the people very well if we did not indicate and bring about changes which we feel are for the benefit of all Canadians.

Motion agreed to and bill read second time.

The Hon. the Speaker: Honourable senators, when shall this be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CANADIAN EXPLORATION AND DEVELOPMENT INCENTIVE PROGRAM BILL

ORDER STANDS

On the Order:

Second reading of the Bill C-59, An Act to provide for payments in respect of exploration for or development of lands for the production of hydrocarbons in Canada other than coal.—(*Honourable Senator Phillips*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Balfour was to have introduced this bill for second reading today, but he was called away. I would like to stand it in his name until tomorrow.

Order stands in name of Senator Balfour.

PRIVATE BILL

WINDSOR-DETROIT TUNNEL—SECOND READING—DEBATE ADJOURNED

Hon. Royce Frith (Deputy Leader of the Opposition) moved the second reading of Bill S-11, to authorize the City of Windsor to acquire, operate and dispose of the Windsor-Detroit Tunnel.

• (1600)

He said: Honourable senators, Bill S-11, as can be seen from its title, deals with the Windsor-Detroit Tunnel. In order to explain this bill to you, I intend to employ the journalistic device of the five "Ws": what; who; why; when and where. Therefore, first let me tell you that while the background to the bill is of historical interest and the subject is rather interesting, the essential reason the bill is before us is a legal one, as you will see.

Honourable senators, as to the "what", this bill concerns the Canadian portion of the Detroit-Windsor Tunnel, which is a motor vehicle tunnel that carries traffic under the Detroit River between Windsor and Detroit. No doubt many honourable senators have actually used that tunnel to go from Windsor to Detroit and back to Windsor.

To come to the "who", the petitioner is the City of Windsor, and what we are being asked to do in this bill is simply to

clarify what may be regarded as an imperfect expression of Parliament's intention when it enacted a private act in 1953 respecting the tunnel.

As to the "why", we are being asked to do this because the City of Windsor, pursuant to an agreement that it signed with the company that built the tunnel in the late 1920s, anticipates acquiring ownership of the tunnel in 1990, and wishes to make doubly sure that it has the power—and I underline "power," and you will see why in a moment—to acquire and operate the tunnel.

Honourable senators, although the bill itself is short—you will note that it contains only three clauses—the legislative and legal history of the tunnel is somewhat more complex. For example, you will note that the preamble to the bill is much longer than the bill itself. In explaining that history I will, therefore, try, as they say, "to keep it simple," although that may not be easy.

That brings us, then, to the "when". The Canadian half of the tunnel was authorized to be built by a private Act of Parliament, assented to on March 31, 1927. That act incorporated The Detroit and Windsor Subway Company and gave the company the authority to construct and operate the tunnel. At the same time similar legislation enacted in the United States gave authority to the Michigan corporation, the Detroit and Canada Tunnel Corporation, to construct and operate the American half of the tunnel.

The Canadian Authorizing Act of 1927—to which I have just referred—among other provisions, contained a declaration that the works and undertakings of the subway company—that is, the tunnel and all of its assets and facilities—were to be for the general advantage of Canada. I know students of constitutional law, and certainly some students of politics, will recognize the famous "declaratory power" that is referred to there; that being subsection 10 of section 92 of the British North America Act, 1867. Honourable senators will remember that section 92 is the section that sets out the classes of subjects over which the provinces have legislative jurisdiction. It starts as follows:

> In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

It then talks of direct taxation, the borrowing of money, and so on. Subsection 10 then says:

> Local Works and Undertakings other than such as are of the following Classes:—

It then refers to certain Lines of Steam and other Ships, and so on. Then:

> (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

Therefore, that is the original wording of the famous—or according to some people infamous—declaratory power, and was exercised in this case in the act of 1927, which is a pivotal act to what we are concerned with here today.

The act of 1927 also stated that the Railway Act was to apply to the tunnel. That was because it was originally contemplated that the tunnel project would accommodate a railway system as well as motor vehicles. As it turned out, it did not, and those of you who have visited Windsor and observed the waterway between Windsor and Detroit are familiar with the rather regular and constant passage of barges taking railway cars back and forth. There is also, I believe, a railway bridge. In any event, the original intention was to have provision for railway facilities in the tunnel, but that did not take place.

Another key provision of this important 1927 act was that construction of the tunnel could not begin without the consent of the City of Windsor, and could only be carried out on terms to be agreed upon with the city.

The Detroit and Windsor Subway Company subsequently obtained the City of Windsor's consent to construct and operate the tunnel upon the terms and conditions contained in another pivotal agreement that I shall refer to as the "option agreement", dated April 24, 1928. So there is a difference between the original act of 1927 and the next step, which was the option agreement in 1928. Honourable senators, that will be very important for our consideration. In that option agreement the company agreed, in exchange for the right to construct the tunnel under city property, to give the City of Windsor the option to acquire the tunnel at the end of 60 years from the date of its formal opening. The American company on the other side of the river entered into a similar arrangement with the City of Detroit.

Following the signing of the 1928 agreement, construction by both companies began, and if you have been listening and paying attention, you will want to know when the tunnel was completed to know when the option period starts to run. The tunnel was completed and opened for business on November 3, 1930.

Three years later the Ontario legislature enacted the City of Windsor Act, 1933. It ratified and confirmed the 1928 option agreement.

In 1953 the two companies that constructed the tunnel negotiated the sale of the tunnel to the Port of Detroit Commission, a Michigan municipal corporation, for $18 million, subject to the State of Michigan approving the transaction. In anticipation of the sale, the Canadian company also petitioned Parliament for an act to amend the 1927 authorizing act in order to permit the sale.

In response to the company's petition, Parliament passed a private act on March 31, 1953. That is the next important date. That private act amended the 1927 act and permitted the sale of the tunnel to "any public authority, body or commission constituted under the laws of Canada or of the United States of America or of the State of Michigan."

Honourable senators, I do not want to make a cliff-hanger of this, but I will read that again, because in a moment you will see that there is a very important omission there.

Senator Doody: Not the Province of Ontario?

• (1610)

Senator Frith: Honourable senators, that sounds like a set-up, because that is exactly the point of my wanting to read that section again. Obviously Senator Doody is paying attention.

In order to preserve the City of Windsor's rights, Parliament ratified and confirmed the option agreement, and it was set out in a schedule to the act.

The amendment, however, was deficient in that it neglected to expressly permit the sale of the tunnel to a public authority, body or commission constituted under the laws of Ontario, although it inferentially granted permission by ratifying and confirming the option agreement. Having mentioned the other headings, the question is raised, why did it not mention Ontario?

The proposed sale by the two companies to the Port of Detroit Commission was not approved by the State of Michigan, and the transaction did not, therefore, take place.

Let us now move forward to the next important date. In 1978 Ford Motor Properties Inc. began developing the now famous and I must say impressive Renaissance Center on the Detroit waterfront on lands adjacent to the Detroit Tunnel plaza. The company that had built the American half of the tunnel, that is, the Detroit and Canada Tunnel Corporation, acknowledged the City of Detroit's right to acquire the U.S. portion of the tunnel and, accordingly, conveyed the tube and plaza lands to the City. So, the Detroit side received, by conveyance, the tube and plaza lands. A series of complex transactions were simultaneously completed with the result that the City of Detroit and Ford Motor Properties Inc. now own the plaza lands, the City of Detroit owns the tube, and the Detroit and Canada Tunnel Corporation has the franchise to operate the U.S. portion of the tunnel.

In August, 1985, just a couple of years ago, the City of Windsor authorized preparations to enable it to exercise its right to acquire the tunnel on November 3, 1990—an important date, because the option was for 60 years—under the option agreement, and it is now seeking an Act of Parliament clearly conferring upon it, that is, upon the City, the power to do so. The Ontario legislature on November 27, 1986, has already enacted a private act expressly conferring on the City of Windsor the capacity to acquire, own and operate the Canadian portion of the tunnel. Clearly, the City now has the capacity to acquire, own and operate the Canadian portion of the tunnel. However, remember, there was that declaration—

Senator Doody: Will there be a written or oral test when you are finished?

Senator Frith: That is a good question. I am not going to tell you, but you are free to take notes.

[Senator Frith.]

The capacity was granted by the act passed by the Province of Ontario last November. However, if Bill S-11 is enacted, it will make it clear that the City of Windsor has the power to acquire, own and operate the Canadian portion of the tunnel. Our role is important because of the declaratory power that was exercised under section 92(10), declaring this to be a work for the general benefit of Canada. That is where the feds come into play again.

Section 2 provides that the Canadian portion of the tunnel will continue to be a work for the general advantage of Canada, and that the Railway Act will continue to apply to the operation of the tunnel and to any future disposal of the tunnel.

I have to tell you that the City of Windsor commenced an action in the Supreme Court of Ontario against the Detroit and Canada Tunnel Corporation and the Detroit and Windsor Subway Company to declare the option agreement valid. We are getting resistance from the people on the other side and resistance from those against whom the City of Windsor wishes to exercise its option. The City of Windsor commenced an action in the Supreme Court of Ontario against the Detroit and Canada Tunnel Corporation and the Detroit and Windsor Subway Company to declare the option agreement valid and enforceable, and to identify the assets included in the transaction.

I want to underline, honourable senators, that Bill S-11 does not affect the rights of the parties under the option agreement. It simply corrects the omission contained in the 1953 private act, and makes it clear that the City of Windsor has the power to do that which Parliament intended when it ratified and confirmed the option agreement in 1953.

So, by way of a postscript, I add that because of that lawsuit some senators and some others may wish to consider the application of the *sub judice* convention—the principle that Parliament does not interfere in matters before the courts. I remind honourable senators that this question has come up previously in other contexts. It is important to realize that the *sub judice* convention is not of that wide an application that some people think.

The *sub judice* convention, for example, does not apply to bills. Also, in civil cases, the convention does not apply until the matter has reached the trial stage. In this case the trial stage of the present action instituted in the City of Windsor has not yet been reached. At the present time the parties are only in the preliminary stages of examination for discovery.

I will give you the reference on the *sub judice* aspects. It is pages 118 and 119 from *Beauchesne's* Fifth Edition. The citations are 335 and 337.

Honourable senators, I have one further request to make. It is the hope that the bill can be passed here and in the other place before June 30. Normally a private bill goes to a committee. There is an impression that it has to go to a committee. However, if you read the rule, the rule says that if it is referred to a private committee, it has to spend a week there. It does not say that it has to go there.

I would like to ask my colleagues on the other side if they would be prepared to have the bill go to the other place without a reference to a committee. I will undertake to try to answer any questions I can on the continuation of second reading debate. Also, I have with me all the statutes and documents that are referred to in my comments. Of course, we could consider some questions at third reading. I say that because I suspect that those who are interested in this bill will be limited in number, and it may be that we can deal with these questions here; it may also be the case that we cannot. The most I can reasonably ask honourable senators to do is to give it a try at second reading, to raise questions, to see if, in closing the debate on second reading, I can satisfy any questions that are raised. If I am unable to do so, then it would have to go to committee.

Hon. Nathan Nurgitz: Honourable senators, I wonder if Senator Frith will entertain a question. Does he know the precise nature of the civil suit that is pending?

Senator Frith: I have a copy of the pleadings in my office. I will look it up to confirm what I am about to say, but the essence of the action is to have a court order declaring the option agreement of 1928 valid. We are not here validating that agreement; we are simply giving them the power to take advantage of the agreement if the courts hold that it is a valid agreement.

• (1620)

Senator Nurgitz: So the Senate bill will be so precise that it will avoid the possibility of conflicting with the *sub judice* rule?

Senator Frith: Yes. That is what we hope to be the case, and have to take care that we are not, for any other reason, breaching the convention of *sub judice.*

Hon. Eymard G. Corbin: Honourable senators, I should like to put a question to Senator Frith as well. In fact, I had begun asking him for this very information just before we were summoned to the chamber earlier today.

This is a private bill. Does it have the effect, if we adopt it, of establishing an exception to the general law of Canada?

Senator Frith: No, I would say not, honourable senators. What it will have the effect of doing is clarifying the terms of a previous act of the Parliament of Canada, also based on a private bill. This bill tries to clarify the intention of that earlier act of Parliament. It does not, as such, create an exception to the general law of Canada.

Senator Corbin: I take it, then, that there is no other vehicle available, administratively speaking, in the executive branch of government to do what Senator Frith is asking this house to do today.

Senator Frith: I would say not. If I had been here back in 1928 when the original bill was passed, perhaps I would not have been able to say that, or perhaps I could have. I say that only to assure Senator Corbin and other honourable senators that, because the other act was passed, what we are now doing is simply clarifying that previous act. No one else could do that. Therefore, I do not think those other possibilities exist.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, rule 93 states:

> After its second reading, a private bill shall be referred to a committee, and any representations before the Senate for or against such bill stand referred to such a committee.

Is there another rule I missed since you indicated a while ago this will not be referred to committee?

Senator Frith: I will have to look that up. I think there is a provision that requires it to stay for a week. I do not know whether rule 93—

Senator Doody: Rule 93 says it has to be referred to a committee.

Senator Frith: I am not sure that this is a private—

Senator Doody: It says, "private".

Senator Frith: Yes, but there are two kinds—a private member's private bill and a private member's public bill. I will have to check that. Thank you for drawing that to my attention.

On motion of Senator Doody, debate adjourned.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, I had promised Senator Bélisle that I was going to speak to this bill today. However, most unhappily and regretfully, I must renege on the promise I made to him because of a technical delay and the delay in my research on this bill. I am not in a position to speak today, so I would ask that this order be stood again in my name.

Order stands.

[*English*]

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Bosa, seconded by the Honourable Senator Frith, for the second reading of the Bill S-8, An Act to amend the Citizenship Act (foreign spouses).—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have nothing to say on this item. I realize that Senator Bosa is most anxious to get this bill referred to committee. I made some inquiries, and there does not appear to be anything that will upset the applecart, as it were, so in order to get answers to the questions I have, I should like to move that this bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology. We can then call the appropriate witnesses from the department and move the bill along.

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—CONSIDERATION IN COMMITTEE OF THE WHOLE—ORDER STANDS

On the Order:

Senate in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we think this item should stand. We are in the process of discussing such details as the chairmanship, membership of the steering committee, and so forth. Until we have established such things, I think we should stand the order.

Order stands.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SIXTEENTH TO TWENTY-EIGHTH REPORTS OF COMMITTEE—ORDERS STAND

On the Order:

Resuming the debate on the motions of the Honourable Senator Frith, seconded by the Honourable Senator Langlois, for the adoption of the Sixteenth to Twenty-Eighth Reports of the Standing Committee on Internal Economy, Budgets and Administration approving the budgets for the following committees:

16th Agriculture and Forestry;
17th Banking, Trade and Commerce;
18th Energy and Natural Resources;
19th Fisheries;
20th Foreign Affairs;
21st Legal and Constitutional Affairs;
22nd National Finance;
23rd Official Languages;
24th Regulations and other Statutory Instruments;
25th Social Affairs, Science and Technology;
26th Social Affairs, Science and Technology;
27th Standing Rules and Orders;
28th Regulations and other Statutory Instruments.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am here armed with what I hope are answers for Senator Roblin. Is it the wish of the Senate to have these items stand until Senator Roblin is present? All of these committees are waiting, although I do not know that they need their funds right away; I have not received any complaints. However, I am prepared to do what the Senate thinks is appropriate.

Hon. Orville H. Phillips: Honourable senators, last week these items were stood until the return of Senator Roblin. I do not believe he will be present this week either. Perhaps we should stand these matters until the beginning of next week.

Orders stand.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 1241*)

FOREIGN AFFAIRS

SEVENTH REPORT OF COMMITTEE

TUESDAY, June 16, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on March 11, 1987, to examine the expenditures set out in External Affairs Votes 1, 5, 10, 15, 20, 25, 30, L35, L40, 45, 50 and 55 and National Defence Votes 1, 5 and 10 of the Estimates for the fiscal year ending the 31st March, 1988, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

GEORGE C. VAN ROGGEN
Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

APPLICATION FOR BUDGET AUTHORIZATION FOR THE FISCAL YEAR ENDING MARCH 31, 1988

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Wednesday, 11th March 1987:

"With leave of the Senate,
The Honourable Senator Frith moved, seconded by the Honourable Senator Doody:

That the expenditures set out in External Affairs Votes 1, 5, 10, 15, 20, 25, 30, L35, L40, 45, 50 and 55 and National Defence Votes 1, 5 and 10 of the Estimates for the fiscal year ending the 31st March, 1988, which were referred to the Standing Senate Committee on National Finance, be withdrawn from the said Committee and referred to the Standing Senate Committee on Foreign Affairs.

The question being put on the motion, it was—
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate.

SUMMARY

Professional and Other Services	**$ 71,453**
Transportation and Communications	**4,500**
All Other Expenditures	**1,250**
TOTAL	**$ 77,203**

The foregoing budget was approved by the Committee on the 15th day of April 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

George C. van Roggen
Chairman, Standing Senate Committee on Foreign Affairs

Date: April 15, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: June 9, 1987

EXPLANATION OF COST ELEMENTS

Professional and Other Services
(Parliamentary Centre)

1. a)	1 Advisor 129 hrs. at $107 per hr. =	$13,803	
	1 Advisor 850 hrs. at $57 per hr. =	48,450	
b)	Expenses of witnesses	9,200	
			$ 71,453

Transportation and Communications

1.	Anticipated expenses of Senators responding to invitations to speak on the work of the Committee	$ 4,000	
2.	Postage and Freight	500	
			4,500

All Other Expenditures

1.	Purchase of Stationery, Books and Periodicals	$ 300	
2.	Other expenditures	950	
			1,250
TOTAL			$ 77,203

APPENDIX (B) TO THE REPORT

TUESDAY, June 9, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Foreign Affairs for the proposed expenditures of the said Committee with respect to its examination of the expenditures set out in External Affairs Votes 1, 5, 10, 15, 20, 25, 30, L35, L40, 45, 50 and 55 and National Defence Votes 1, 5 and 10 of the Estimates for the fiscal year ending the 31st March, 1988, as authorized by the Senate on March 11, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 71,453
Transportation and Communications	4,500
All Other Expenditures	1,250
	$ 77,203

ATTEST:

GUY CHARBONNEAU
Chairman

APPENDIX "B"

(*See p. 1241*)

FOREIGN AFFAIRS

EIGHTH REPORT OF COMMITTEE

TUESDAY, June 16, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

EIGHTH REPORT

Your Committee, which was authorized by the Senate on March 17, 1987, to examine the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

GEORGE C. VAN ROGGEN
Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

APPLICATION FOR BUDGET AUTHORIZATION FOR THE FISCAL YEAR ENDING MARCH 31, 1988

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, 17th March 1987:

"Pursuant to the Order of the Day, the Senate resumed the debate on the inquiry of the Honourable Senator Argue, P.C., calling the attention of the Senate to the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada; the support for such action among Turks and Caicos Islanders and Canadians; and whether any of the following steps might be usefully taken prior to a formal union or association:

(1) adoption of a common currency;
(2) designation of Canada's Governor General as the Queen's representative for the Islands;
(3) a closer economic association between the two countries;
(4) any change in procedures to our mutual advantage that would assist the entry of Canadians to the Islands, and of Islanders to Canada; and
(5) provision of efficient direct air service between the two countries.

After debate,

The Honourable Senator Frith for the Honourable Senator Argue, P.C., moved, seconded by the Honourable Senator Macquarrie, that the inquiry be referred to the Standing Senate Committee on Foreign Affairs for study and report.

The question being put on the motion, it was—
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate.

SUMMARY

Professional and Other Services	**$**	**8,105**
Transportation and Communications		**1,500**
All Other Expenditures		**250**
TOTAL	**$**	**9,855**

The foregoing budget was approved by the Committee on the 15th day of April 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

George C. van Roggen
Chairman, Standing Senate Committee on Foreign Affairs

Date: April 15, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: June 9, 1987

EXPLANATION OF COST ELEMENTS

Professional and Other Services
(Parliamentary Centre)

1. a)	1 Advisor 15 hrs. at $107 per hr. =	$ 1,605	
	1 Advisor 100 hrs. at $57 per hr. =	5,700	
b)	Expenses of witnesses	800	
			$ 8,105

Transportation and Communications

1.	Anticipated expenses of Senators responding to invitations to speak on the work of the Committee	$ 1,000	
2.	Postage and Freight	500	
			1,500

All Other Expenditures

1.	Purchase of Stationery, Books and Periodicals	$ 200	
2.	Other expenditures	50	
			250
TOTAL			$ 9,855

APPENDIX (B) TO THE REPORT

TUESDAY, June 9, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Foreign Affairs for the proposed expenditures of the said Committee with respect to its examination of the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada, as authorized by the Senate on March 17, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 8,105
Transportation and Communications	1,500
All Other Expenditures	250
	$ 9,855

ATTEST:

GUY CHARBONNEAU
Chairman

APPENDIX "C"

(*See p. 1241*)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

SIXTH REPORT OF COMMITTEE

TUESDAY, June 16, 1987

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

SIXTH REPORT

Your Committee, which was authorized by the Senate on December 16, 1986 and March 31, 1987, to examine and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", respectfully requests that it be empowered (i) to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study, and (ii) to adjourn from place to place within and outside Canada for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

APPLICATION FOR BUDGET AUTHORIZATION FOR THE PERIOD 1st APRIL 1987 TO 31st MARCH 1988

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, March 31, 1987:

"The Honourable Senator Tremblay, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented its Fourth Report, as follows:

TUESDAY, March 31, 1987

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FOURTH REPORT

Your Committee, which was authorized by the Senate on December 16, 1986, to examine and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", dated May 1985, tabled in the Senate on 12th March, 1986, and also matters arising from the report as well as any subjects of interest to the present and future requirements of Canada's veterans, respectfully requests that the date of presenting its final report be extended from 1st September, 1987 to no later than 31st March, 1988.

Respectfully submitted,

ARTHUR TREMBLAY,
Chairman.

With leave of the Senate,
The Honourable Senator Tremblay moved, seconded by the Honourable Senator Nurgitz, that the Report be adopted now.

The question being put on the motion, it was-
Resolved in the affirmative".

CHARLES A. LUSSIER,
Clerk of the Senate

Extract from the *Minutes of Proceedings of the Standing Senate Committee on Social Affairs, Science and Technology*, Tuesday, February 10, 1987:

"The Committee proceeded to examine the Order of Reference relating to Veterans Affairs, adopted by the Senate on December 16, 1986.

The Honourable Senator David moved, - That the following Order of Reference be referred to the Subcommittee on Veterans Affairs:

"That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", dated May 1985, tabled in the Senate on 12th March, 1986, and also matters arising from the report as well as any subjects of interest to the present and future requirements of Canada's veterans; and

That the Committee present its report no later than 1st September, 1987.

The question being put on the motion, it was-
Resolved in the affirmative".

Denis Bouffard,
Clerk of the Committee

Extract from the *Minutes of Proceedings of the Senate*, Tuesday, December 16, 1986:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Phillips:

"That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", dated May 1985, tabled in the Senate on 12th March, 1986, and also matters arising from the report as well as any subjects of interest to the present and future requirements of Canada's veterans; and

That the Committee present its report no later than 1st September, 1987.

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate.

SUMMARY

Professional and Other Services	**$ 5,000**
Transportation and Communications	**12,599**
All Other Expenditures	**1,000**
TOTAL	**$ 18,599**

The foregoing budget was approved by the Subcommittee on the 20th day of May, 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

Jack Marshall
Chairman, Subcommittee on Veterans Affairs

Date: May 20, 1987

Arthur Tremblay
Standing Senate Committee on Social Affairs, Science and Technology

Date: May 20, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: June 9, 1987

EXPLANATION OF COST ELEMENTS

Professional and Other Services

Part-time Research and Administrative Assistance

10 weeks at $500.00 per week $ 5,000

Transportation and Communications

1. Travel Expenses

A) Trip to Charlottetown

i) Air Transportation

Ottawa-Charlottetown-Ottawa

Air fare to one city at
$ 421. per person for:
- 5 senators
- 1 Clerk
- 1 Secretary
- 1 Researcher
- 1 Messenger

9 x $ 421.: $ 3,789

ii)	Hotel Accommodation		
	9 persons, 2 nights at $ 85. per night	1,530	
iii)	Per diem allowance		
	9 persons, 3 days at $ 40. per day	1,080	
iv)	Ground Transportation		
	By limousine, bus and taxi for 9 persons	300	
v)	Contingency	300	6,999
B)	Anticipated expenses of Senators responding to invitations to speak on the work of the Subcommittee	5,000	5,000
2. Telegrams and Telephones		300	
3. Postage and Freight		300	600
All Other Expenditures			
	Contingency: to cover unforeseen expenses arising out of Committee business	1,000	1,000
TOTAL			**$18,599**

APPENDIX (B) TO THE REPORT

TUESDAY, June 9, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Sub-committee on Veterans Affairs for the proposed expenditures of the said Sub-committee with respect to its examination and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", dated May 1985, tabled in the Senate on 12th March, 1986, and also matters arising from the report as well as any subjects of interest to the present and future requirements of Canada's veterans, and; that the Committee present its report no later than March 31, 1988, as authorized by the Senate on April 1, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 5,000
Transportation and Communications	12,599
All Other Expenditures	1,000
	$ 18,599

ATTEST:

GUY CHARBONNEAU
Chairman

TUESDAY, June 9, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology for the proposed expenditures of the said Committee with respect to its examination and report upon the Document entitled: "A Study Team Report to the Task Force on Program Review (Nielsen Task Force) - Service to the Public - Veterans", dated May 1985, tabled in the Senate on 12th March, 1986, and also matters arising from the report as well as any subjects of interest to the present and future requirements of Canada's veterans, as authorized by the Senate on April 1, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 5,000
Transportation and Communications	12,599
All Other Expenditures	1,000
	$ 18,599

ATTEST:

GUY CHARBONNEAU
Chairman

APPENDIX "D"

(*See p. 1245*)

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

SECOND REPORT

TUESDAY, June 16, 1987

The Special Committee of the Senate on the subject-matter of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, has the honour to present its

SECOND REPORT

Your Committee, to which was referred the subject-matter of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, held 29 meetings to which attended 39 senators (see list in Appendix A) in the 10 provincial capitals and heard testimony from 191 groups or individuals (see Appendix B) including the Minister for Consumer and Corporate Affairs, The Honourable Harvie Andre.

The Committee had to postpone its original schedule due to approval of the budget on May 12, 1987, which delayed the local notices of public hearings in the Maritimes.

The Committee had to redraft all of its travel plans to regroup the ten provincial capitals in 3 consecutive weeks.

On May 26, 1987 in Charlottetown, P.E.I., the Committee heard 7 groups or individuals including The Honourable Keith Milligan, Minister of Health and Social Services.

On May 27, 1987 in Fredericton, New Brunswick, the Committee heard 4 groups or individuals.

On May 28, 1987 in St. John's, Newfoundland, the Committee heard 16 groups or individuals, including The Honourable Hugh Twomey, Minister of Health, and The Honourable Jim Russell, Minister of Consumer Affairs.

On May 29, 1987 in Halifax, Nova Scotia, the Committee heard 15 groups or individuals.

On June 2, 1987 in Victoria, British Columbia, the Committee heard 23 groups or individuals, including the Minister of Health and Human Resources of the Government of the Yukon, The Honourable Margaret Joe.

On June 3, 1987 in Edmonton, Alberta, the Committee heard 27 groups or individuals.

On June 4, 1987 in Regina, Saskatchewan, the Committee heard 10 groups or individuals.

On June 5, 1987 in Winnipeg, Manitoba, the Committee heard 22 groups or individuals.

On June 10, 1987 in Toronto, Ontario, the Committee heard 25 groups or individuals, including the Assistant Deputy Minister for Emergency and Specialized Health Services, Dr. Dennis Psutka.

On June 11, 1987 in Toronto, Ontario, the Committee heard 16 groups or individuals.

On June 12, 1987 in Quebec City, Quebec, the Committee heard 26 groups or individuals.

The Committee could not hold hearings in Whitehorse, Yukon and Yellowknife, N.W.T. because of the restraint of the timetable. However, the Committee invited interested witnesses to appear either in Victoria or Edmonton. Representatives of the Yukon Government and groups from the Northwest Territories accepted this invitation.

The Committee hopes to hold hearings in Ottawa before it presents its final report.

Respectfully submitted,

M.LORNE BONNELL
Chairman

APPENDIX (A) TO THE REPORT

EXTRACT FROM THE MINUTES OF PROCEEDINGS OF THE SPECIAL COMMITTEE OF THE SENATE ON THE SUBJECT-MATTER OF THE BILL C-22

SENATORS' ATTENDANCE

OTTAWA, ONTARIO
THURSDAY, April 9, 1987 (P:1 I:1)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Buckwold, Cogger, Doody, Frith, Gigantès, Petten and Turner. (9)

TUESDAY, April 14, 1987 (P:2 I:1)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Cogger, David, Marchand, Marsden, Thériault, and Turner. (8)

Other Senators present: The Honourable Senators Godfrey, Lang and McElman.

TUESDAY, April 14, 1987 (P:3 I:1)
Members of the Committee present: The Honourable Senators Bonnell, Cogger, David, Marchand, Thériault and Turner. (5)

TUESDAY, May 5, 1987 (P:4 I:2)
Members of the Committee present: The Honourable Senators Barootes, Bazin, Bonnell, Buckwold, Cogger, Marchand, and Turner. (7)

TUESDAY, May 5, 1987 (P:5 I:2)
Members of the Committee present: The Honourable Senators Barootes, Bazin, Bonnell, Buckwold, Cogger, Marchand and Turner. (7)

Other Senators present: The Honourable Senators Haidasz and Spivak.

WEDNESDAY, May 6, 1987 (P:6 I:3)
Members of the Committee present: The Honourable Senators Barootes, Bazin, Bonnell, Cogger, Lucier, Marchand and Thériault. (7)

Other Senators present: The Honourable Senators Bosa, Haidasz, McElman, Molgat and Simard. (5)

WEDNESDAY, May 6, 1987 (P:7 I:3)
Members of the Committee present: The Honourable Senators Barootes, Bazin, Bonnell, Cogger, Marchand, Lucier and Thériault. (7)

TUESDAY, May 12, 1987 (P:8 I:4)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Buckwold, Cogger, David, Marchand, Thériault and Turner. (8)

Other Senators present: The Honourable Senators Bazin, Lucier, Simard and Spivak. (5)

TUESDAY, May 12, 1987 (P:9 I:4)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Buckwold, Cogger, David, Marchand, Thériault and Turner. (8)

WEDNESDAY, May 13, 1987 (P:10 I:5)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Cogger, Corbin, David, Marchand, Thériault and Turner. (8)

Other Senators present: The Honourable Senators Rossiter and Simard. (2)

WEDNESDAY, May 13, 1987 (P:11 I:5)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Cogger, Corbin, David, Marchand, Thériault and Turner. (8)

CHARLOTTETOWN, P.E.I
TUESDAY, May 26, 1987 (P:12 I:6)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Simard, Thériault and Turner. (7)

Other Senators present: The Honourable Senators Phillips and Rossiter. (2)

FREDERICTON, NEW BRUNSWICK
WEDNESDAY, May 27, 1987 (P:13 I:7)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Simard, Thériault and Turner. (7)

Other Senator present: The Honourable Senator Sherwood.

ST. JOHN'S, NEWFOUNDLAND
THURSDAY, May 28, 1987 (P:14 I:8)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Thériault and Turner. (6)

Other Senators present: The Honourable Senators Cochrane, Lewis and Rowe. (3)

HALIFAX, NOVA SCOTIA
FRIDAY, May 29, 1987 (P:15 I:9)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cottreau, Cogger, David, Thériault and Turner. (7)

Other Senator present: The Honourable Senator Hicks.

AFTERNOON MEETING

Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Thériault and Turner. (6)

VICTORIA, BRITISH COLUMBIA
TUESDAY, June 2, 1987 (P:16 I:10)
Members of the Committee present: The Honourable Senators Barootes, Bonnell, Buckwold, Cogger, David, Marchand, Thériault and Turner. (8)

Other Senator present: The Honourable Senator Perreault.

EDMONTON, ALBERTA
WEDNESDAY, June 3, 1987 (P:17 I:11)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Thériault and Turner. (6)

AFTERNOON MEETING (P:18 I:11)

Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Nurgitz, Thériault and Turner. (7)

REGINA, SASKATCHEWAN
THURSDAY, June 4, 1987 (P:19 I:12)
Members of the Committee present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Nurgitz, Steuart, Thériault and Turner. (8)

Other Senator present: The Honourable Senator Barootes.

WINNIPEG, MANITOBA
FRIDAY, June 5, 1987 (P:20 I:13)
Members of the Committee Present: The Honourable Senators Bonnell, Buckwold, Cogger, David, Nurgitz, Thériault and Turner. (7)

Other Senator present: The Honourable Senator Spivak.

AFTERNOON MEETING (P:21 I:13)

Members of the Committee Present: The Honourable Senators Buckwold, Cogger, David, Nurgitz and Turner. (5)

Other Senator present: The Honourable Senator Spivak.

OTTAWA, ONTARIO
TUESDAY, June 9, 1987 (P:22 I:14)
Members of the Committee Present: The Honourable Senators Buckwold, Cogger, David, Nurgitz and Turner. (5)

TORONTO, ONTARIO
WEDNESDAY, June 10, 1987 (P:23&24 I:14)
Members of the Committee Present: The Honourable Senators Bazin, Bonnell, Buckwold, Cogger, Marchand, Nurgitz, Thériault and Turner. (8)

TORONTO, ONTARIO
THURSDAY, June 11, 1987 (P:25 I:15)
Members of the Committee Present: The Honourable Senators Bazin, Bonnell, Buckwold, Cogger, Marchand, Thériault and Turner. (7)

QUEBEC CITY, QUEBEC
FRIDAY, June 12, 1987 (P:26 I:16)
Members of the Committee Present: The Honourable Senators Bonnell, Cogger, David, Gigantès, Hébert, Thériault and Turner. (7)

Other Senators present: The Honourable Senators Flynn and Rousseau.

AFTERNOON MEETING (P:27 I:16)

Members of the Committee Present: The Honourable Senators Cogger, David, Gigantès, Hébert, Thériault and Turner. (6)

Other Senators present: The Honourable Senators Flynn and Rousseau.

APPENDIX B TO THE REPORT

LIST OF WITNESSES

OTTAWA, ONTARIO
Tuesday, April 14, 1987

Appearing:
The Honourable Harvie Andre, P.C., M.P., Minister of Consumer and Corporate Affairs.

From the Department of Consumer and Corporate Affairs:
Mr. Mel Cappe, Assistant Deputy Minister, Bureau of Policy and Coordination;
Mr. André Gariépy, Commissioner of Patents.

OTTAWA, ONTARIO
Tuesday, May 5, 1987

From the Pharmaceutical Manufactuers' Association:
Mrs. Judy Erola, President;
Dr. Geeta Lingam, Manager of Regulatory Affairs in the Medical Research & Development Department of Syntex Canada;
Mrs. Any Gabbour, Pharmacist, Director of Scientific Affairs at Ciba-Geigy Canada Ltd.;
Dr. Allan Davis, Senior Clinical Research Associate with Beecham Clinical Pharmacology;
Mr. John L. Zabriskie, Immediate Past Chariman of the Board (PMAC) and President, Merck-Frosst Canada Inc., Montreal, Quebec; and
Mr. Pierre Fortin, Director of Government Liaison.

From the Canadian Drug Manufacturers' Association:
Mr. Luciano Calenti, Chairman;
Mr. Jack Kay, Director; and
Mrs. Debra Eklove, Executive Director.

From the Consumers Association of Canada:
Mr. Robert Kerton, Chairman, Economic Issues Committee;
Mr. Andrew Cohen, Director General; and
Mr. Robert Best, Senior Researcher.

OTTAWA, ONTARIO
Wednesday, May 6, 1987

Mr. Donald Arthur Hill, Lawyer and Engineer.

From the Canadian Labour Congress:
Mrs. Nancy Riche, Executive Vice-President
Mr. Ronald W. Lang, Director.

OTTAWA, ONTARIO
Tuesday, May 12, 1987

Mr. H.C. Eastman;
Mr. Alan S. Davidson, M.D., P. Psych.

OTTAWA, ONTARIO
Wednesday, May 13, 1987

From the National Pensioners and Senior Citizens Federation:
Mr. Ross Chapman, Representative;
Mr. Herbert Hanmer, Representative; and
Mr. Paul Gorecki.

CHARLOTTETOWN, P.E.I.
Tuesday, May 26, 1987

Appearing:
From the Government of Prince Edward Island:
The Honourable Keith Milligan, Minister of Health and Social Services.

From the Senior Citizens' Federation of Prince Edward Island:
Mrs. Mary Sutherland, President;
Mrs. Thelma Bearsto, Secretary.

From the Prince Edward Island Health Coalition:
Mrs. Mary Boyd, Director, Social Action Commission for the Diocese of Charlottetown;
Miss Frances Piercey, Member of the P.E.I. Dental Hygienists' Association;
Miss Elizabeth MacFadyen, Labour Relations Officer for the P.E.I. Nurses' Union.

From the Medical Society of P.E.I.:
Dr. D.K. Tweel, Chairman, Public Information Committee.

FREDERICTON, NEW BRUNSWICK
Wednesday, May 27, 1987

From the Kidney Foundation:
Mr. Victor Drury, Executive Director, National Office;
Mrs. Doris Norman, National President.

Mr. Peter R. Ford, Ford's Pharmacy Ltd.

Mr. Eric Bungay, Private Citizen.

ST. JOHN'S, NEWFOUNDLAND
Thursday, May 28, 1987

Appearing:
From the Government of Newfoundland:
The Honourable Dr. Hugh Twomey, Minister of Health;
The Honourable Jim Russell, Minister of Consumer Affairs.

From the Government of Newfoundland:
Mr. Gerald White, Assistant Deputy Minister of Health;
Mr. Robert Jenkins, Assistant Deputy Minister of Consumer Affairs.

From the Pharmacy Council:
Mr. Brian Healy, President.

From the Newfoundland and Labrador Federation of Labour:
Mr. David Curtis, Vice President.

From the Newfoundland and Labrador Nurses' Union:
Ms. Janet Andrews, President.

From the Provincial Advisory Council on the Status of Women:
Mrs. Ann Bell.

From The Royal Canadian Legion:
Mr. Frank Wall, Provincial Secretary;
Mr. Harvey, Honorary President, Dominion Command.

From Memorial University of Newfoundland, Faculty of Medicine:
Dr. J. George Fodor:
Mr. Ed Campana, Vice President of Administration, Ayerst Laboratories.

From the St. John's Status of Women Council:
Ms. Sandy Pottle.

Dr. Steve Neary, private citizen.

Mr. Jack Harris, private citizen.

Mr. Martin Rose, private citizen.

HALIFAX, NOVA SCOTIA
Friday, May 29, 1987

From the College of Pharmacy, University of Dalhousie:
Dr. David K. Yung, Professor and Director.

From the Nova Scotia Federation of Labour:
Ms. Gwen Wolfe, President;
Mr. Leo McKay, Secretary General.

From the Maritime Workers' Federation:
Mr. J.K. Bell, Secretary-Treasurer.

From the Consumers' Association of Canada - Nova Scotia:
Ms. Linda Lusby, President;
Mr. Nick Murray, Treasurer.

From the Nova Scotia Government Employees Union:
Mr. Reg Lownie, Researcher;
Mr. Victor Henrikson, First Vice-President.

From the Antigonish Women's Association:
Mrs. Lucille Sanderson, Member.

From the Health Coalition of Nova Scotia:
Mr. Paul O'Hara, Spokesperson.

From the North End Community Health Coalition:
Mrs. Heather McLeave.

From Canadian Pensioner Concerns Inc.:
Miss Doreen E. Fraser, President.

Mrs. Betty Bembridge, private citizen.

Mrs. Donna Thompson, private citizen.

Mr. Kell Antoft, private citizen.

VICTORIA, BRITISH COLUMBIA
Tuesday, June 2, 1987

Mr. John Cashore, Member of the Legislative Assembly of British Columbia (Mallardville-Coquitlam).

From the University of British Columbia:
Dr. Gail Bellward, Assistant Dean, Research and Graduate Studies, Faculty of Pharmaceutical Sciences;
Dr. John W. Schrader, Director, Biomedical Research Center;
Dr. Keith McErlane, Director General, Association of Faculties of Pharmacy of Canada.

From the Victoria Cancer Clinic:
Dr. Kenneth Wilson, Head of Medical Oncology, and Clinical Assistant Professor of Medicine at the University of British Columbia.

From The Canadian Wholesale Drug Association:
Mr. Gary Lovell, Past Chairman of the Board.

Dr. James A. Russel, Coordinator, Critical Care Medicine, University of British Columbia.

From the Canadian Federation of Biological Societies:
Dr. Bernard Bressler, President.

From the British Columbia Coalition of the Disabled:
Ms. Linda Wallbaum, External Vice President.

Appearing:
From the Yukon Government:
The Honourable Margaret Joe, Minister of Health and Human Resources.

From the Yukon Government:
Mrs. Rosemary Seaman, Policy Analyst,
Department of Health and Human Resources.

From the B.C. Old Age Pensioners' Organization:
Mr. Ed Apps, Public Relations Chairman, Council of Senior Citizen's Organizations of British Columbia.

From the B.C. Health Association:
Mr. E.M. Tomasky, Vice President, and
Ms. L. Kallstrom, Health Policies Analyst.

From End Legislated Poverty:
Mrs. Jean Swanson, Spokesperson.

From the Canadian Society of Hospital Pharmacists - British Columbia Branch:
Mr. Ronald McKerrow, Delegate.

From the Consumers Association of Canada - British Columbia Branch:
Ms Ada Brown and Ms Ruth Lotzkar, Co-Presidents.

From the Liaison Committee of the Canadian Psycho-Neuro Pharmacologists:
Dr. J. McClure, Chairman.

Dr. Clyde Slade, Private Citizen.

Mr. Charles Bayley, Private Citizen.

From the B.C Health Coalition:
Dr. David D. Schreck, Secretary.

Dr. K. Dawson, Private Citizen.

EDMONTON, ALBERTA
Wednesday, June 3, 1987

From The Society for the Retired and Semi-Retired:
Dr. Earle Hawksworth, representing the Board of Directors;
Miss Hazel Wilson, Vice-President.

From the Alberta Federation of Labour:
Mr. Jim Selby, Research and Communications Director.

From The Alberta Pharmaceutical Association:
Mr. Larry Shipka, Registrar;
Mr. Donald Vickerson, Past President.

From the Alberta Hospital Association:
Mr. Don Macgregor, President;
Mr. Len Hough, Board Chairman;
Mr. Ed Crowther, First Vice President.

From the University of Alberta:
Mr. John Bachynsky, Dean, Faculty of Pharmaceutical Sciences;
Mr. Ronald G. Micetich, President, SynPhar Laboratories Inc.

From the Inter-Agency Council on Aging:
Mr. Harry Boddington, President;
Mr. Ron Rhine, Director of I.A.C.A. and Chairman of the Alberta Retired Teachers' Association;
Mr. Elliot Loh, employee of I.A.C.A.

From The Alberta Teachers' Association:
Mrs. Nadene M. Thomas, President;
Mr. Bernie T. Keeler, Executive Secretary.

From Staff Nurses' Association of Alberta:
Ms. Barbara LeBlanc, President;
Ms. Louise Rogers, Employee Relations Manager.

From the Northwest Territories Council for Disabled Persons:
Ms. Allana Shore, Director General;
Ms. Jacqueline Burles, First Vice President.

From the N.W.T. Federation of Labour:
Mr. Dave Johnston, President;
Mrs. Arlene Hache, Research Assistant.

From the "Ukrainian Women's Association of Canada - St. John's Cathedral Branch":
Mrs. Helen Raycheba, Convenor of Women's Issues.

From Chembiomed Ltd.:
Dr. Harold Hutchings, President and CEO.

Mr. W.L. Boddy, Private Citizen.

From the Consumers' Association of Canada, Alberta Branch:
Ms. Ruth C. Wood, President (Alberta);
Mrs. Sally Hall, President (Canada).

Mr. David L.J. Tyrrell, Private Citizen.

REGINA, SASKATCHEWAN
Thursday, June 4, 1987

From the Senior Citizens' Action Now Association:
Mrs. F. Petit, President.

From the Saskatchewan Pharmaceutical Association:
Mr. R.J. Joubert, Registrar.

From the Saskatchewan Federation of Labour, CLC:
Ms. Nadine Hunt, President;
Mr. Ted Boyle, Public Relations Officer.

Mrs. Louise Simard, M.L.A.,(Regina- Lakeview).

From the Consumers' Association of Canada, Saskatchewan Office:
Mrs. Ruth Robertson, Member.

From the National Farmers' Union:
Mr. Stuart A. Thiesson, Executive Secretary.

From the Saskatchewan Health Coalition:
Mr. C.A. Robson, Treasurer.

Mr. Ralph Goodale, M.L.A., Leader of the Saskatchewan Liberal Party.

Dr. Jim Blackburn, Dean, Faculty of Pharmacy, University of Saskatchewan, as a private citizen.

WINNIPEG, MANITOBA
Friday, June 5, 1987

From the Government of Manitoba:
Mr. Marty Dolin, MLA (Kildonan).

From the Manitoba Society of Seniors Inc.:
Ms. Marguerite E. Chown, President.

From the Manitoba Federation of Labour, CLC:
Mr. Wilf Hudson, President.

From Winnipeg Labour Council:
Mr. Terry Kennedy, 2nd Vice-President;
Ms. Donna Poitras, 3rd Vice-President.

From the University of Manitoba:
Professor Keith Simons, President of the Association of Faculties of Pharmacy of Canada;
Professor Jon Gerrard, Assistant Professor, Department of Pediatrics.

From the Manitoba Society of Professional Pharmacists Inc.:
Mr. J.E. Davis, Executive Director.

From the Manitoba Association of Registered Nurses:
Ms. Sherry D. Wiebe, Director General.

From Women's Health Interaction:
Ms. Irene D'Souza.

From the Manitoba Coalition on Health and Higher Education:
Ms. Lori Bell, Coalition Coordinator.

From the Coalition Against Free Trade:
Mr. Mike Bauder, President.

From the Consumers' Association of Canada, Manitoba:
Ms. Sondra Bruni, President.

From the Manitoba Womens' Institute:
Mrs. Audrey Turbett, President;
Mrs. Gwen Parker, Executive Secretary.

From The Manitoba Council for International Cooperation:
Ms. Sari Tudiver, Development Officer;
Ms. Virginia Platt, Vice President and Member of the Executive.

From The Manitoba Government Employees' Association:
Mr. Peter Olfert, President;
Mr. George Bergen, Research Director.

From The Royal Canadian Legion:
Mr. Bill Neil, National Vice President, War Amputations of Canada.

From The Social Planning Council of Winnipeg:
Ms. Shirley Bradshaw, President;
Mr. Ken Murdoch, Executive Director.

TORONTO, ONTARIO
Wednesday, June 10, 1987

From the Government of Ontario:
Dr. Dennis Psutka, Assistant Deputy Minister for Emergency and Specialized Health Services.

From the Canadian Association of Retired Persons:
Mrs. Louise Morgenthau, President.

From the University of Toronto Faculty of Medicine, Department of Health Administration:
Dr. T. Goldberg, Professor and Chairman of the Department.

From the Ontario Medical Association:
Dr. Jack Saunders, Director of Health Services;
Dr. D.G.H. Stevens, Member of the Ontario Medical Association Committee on Drugs and Pharmacotherapy;
Mr. G.N. Rotenberg, Associate Director of Health Services.

From the University of Toronto, Department of Pharmacology:
Dr. Lawrence Spero, Professor of Pharmacology.

From the Hospital for Sick Children:
Dr. Stephen P. Spielberg, Director, Division of Clinical Pharmacology and Toxicology.

From the Ontario Hospital Association:
Mr. Willis A. Rudy, Vice President, Member Services;
Mrs. Muriel Hale, Director of Pharmacy Services.

From the United Church of Canada:
Mr. David Hallman, Program Officer.

From the Ontario Federation of Labour:
Mr. Jo Surich, Research Director.

From the Confederation of Canadian Unions:
Mr. John Lang, Secretary Treasurer;
Ms. Laurell Ritchie, 1st Vice President.

From the Council of Canadians:
Ms. Sandra Drake, Board Member.

From the Canadian Cardiovascular Society:
Dr. E.D. Wigle, Past President.

From the Second Mile Club of Toronto, High Park Branch:
Mrs. Kay Maxwell, Chairman of the Council.

From the Medical Reform Group of Ontario:
Dr. Joel Lexchin.

From The York West Federal Liberal Association:
Mr. Len Cardozo, President.

Mr. Maxwell Joel, private citizen.

From RX Plus:
Mr. Robert A. Morel, President.

From the Consumers' Association of Canada (Ontario):
Mrs. Rose Robino, President, Health;
Mrs. Beatrix Robinow, Provincial President, Health.

Mr. Douglas Martin, private citizen.

Mr. André Mercier, private citizen.

TORONTO, ONTARIO
Thursday, June 11, 1987

From Torcan Chemical Ltd.:
Dr. Jan Oudenes, Vice President.

From McCarthy and McCarthy:
Mr. Robert G. Hirons, Registered Patent Agent.

From Novapharm Ltd.:
Mr. Leslie Dan.

From Apotex Inc.:
Dr. Barry Sherman.

From Upjohn Company of Canada:
Mr. Stuart S. Alexander, President and General Manager.

From the Ontario Health Coalition:
Mr. Sean Usher, Board of Directors;
Ms. Michele Harding, Policy Advisory Committee.

From United Senior Citizens of Ontario Inc.:
Mrs. Joyce King, President.

Ms. Barbara Jackson, private citizen.

From the Coalition Against Free Trade:
Mr. Dennis Howlett, Member,
Mr. Scott Sinclair, Member;
Mr. Michael Bachyn, Member, Council of Canadians.

From the Ontario Coalition of Senior Citizens' Organizations:
Ms. Sheila Purdy, Councillor;
Ms. Jean Woodsworth, Member.

From the Communist Party of Canada - Central Committee:
Mr. Gordon Massie, Member of the Central Executive.

From McMaster University, Faculty of Health Sciences:
Dr. J. Underdown, Associate Dean, Research.

QUEBEC CITY, QUEBEC
Friday, June 12, 1987

From The Canadian Society of Industrial Pharmacists:
Mr. Fares M. Attalla, President.

From the "Association des medécins de langue française du Canada":
Dr. François Lamoureux, President;
Dr. Omer Gagnon, Chairman of the Board.

From the "Fédération nationale des associations de consommateurs du consommateurs du Québec":
Mrs. Marie Vézina, Secretary-Treasurer;
Mr. Benoît Côté, Administrator.

From the "Institut de cardiologie de Québec":
Dr. Gilles R. Dagenais, Director.

From "Université Laval, Bureau de valorisation des applications de la recherche":
Dr. Louis Larochelle, Chairman, Committee on Patents;
Dr. Gaston Labrecque, Director, School of Pharmacy;
Mr. Pierre Pedneau, Director, "Bureau de valorisation des applications de la recherche.

Mr. J. Edgar Bouchard, private citizen.

From "l'Association des résidents en pharmacie de l'Université Laval (ARPUL)":
Mr. Daniel Kirouac, President.

From "La fédération des médecins omnipraticiens du Québec":
Dr. Georges Boileau, Assistant Director General and Director of Communications.

From "La fédération des médecins spécialistes du Québec":
Dr. Jean-Marie Albert, Director, Professional Affairs.

From the "Groupement provincial de l'industrie du médicament":
Mr. Lucien Lévesque, President;
Mr. Pierre Marin, Director General.

From the "Ordre des chimistes du Québec":
Mr. Édgard E. Delvin, President;
Mr. Henri Faure, Vice-President, Administration;
Mr. Jean-Claude Richer, Registrar.

From the Canadian Wholesale Drug Association,:
Mr. Desmond Lartigue, President.

From the Conference of Montreal Suburban Mayors:
Mr. Sam Elkas, Mayor, Kirkland;
Mrs. Yolande Laurin, Director General;
Mr. Stephen Bigsby, Director, Office of Economic Expansion, Montreal Urban Community.

From the "Fond de la recherche en santé du Québec":
Dr. Serge Carrière, President.

From the Canadian Association of Pharmacy Students and Interns (ACEIP, CAPSI):
Mr. François Cauchon, National Treasurer.

From the "Association canadienne des étudiants en pharmacie de l'Université Laval (AEPUL)":
Mr. André Gagnon, President.

From the Montreal Chamber of Commerce, and the Montreal Board of Trade:
Mr. Alex Harper, Executive Vice President, and Director General, Montreal Board of Trade.

THE SENATE

Wednesday, June 17, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

CAPITAL PUNISHMENT

OPPOSITION TO REINSTATEMENT—PRESS CONFERENCE BY POLITICAL PARTY YOUTH REPRESENTATIVES

Hon. Finlay MacDonald: Honourable senators, today at 1 p.m. in the National Press Club theatre, under the sponsorship of Senator Hastings, there occurred a press conference which I consider to be of historic importance.

In my memory it marks the first time that the elected heads of the youth federations of all three major political parties have come together for a common purpose.

I am sure that honourable senators will by now have received, or will shortly receive, a letter sent to all members of Parliament. I should like to read into the record the first and last paragraphs:

> We are young Canadians, active in the political process, who have come together to express our opposition to the reinstatement of the death penalty. Although we differ on many issues, there are those, crossing all party lines, in which there is clearly a right path and a wrong path to take. While we do not all claim to speak for all those we represent in our respective party organisations, nonetheless, we are allowed, as you are, freedom of conscience and expression as individuals. We agree with the leaders of our parties that the death penalty has no place in the Canadian system of justice.
>
> We urge Canada's Parliament to vote aginst the reinstatement of the death penalty.

There are two middle paragraphs, which I am sure honourable senators will have read or will want to read. The letter is signed by the President of the Progressive Conservative Youth Federation, Irene Porter; by Jonathan Schneiderman, President of the Young Liberals of Canada; and Elaine Fox, representing the NDP.

I would ask the chamber to recognize the presence of these young people in the gallery.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): We recognize the NDP, even when they don't recognize us!

[*Translation*]

1987 CONSTITUTIONAL ACCORD

ESTABLISHMENT OF SPECIAL JOINT COMMITTEE—MESSAGE FROM HOUSE OF COMMONS—DEBATE ON MOTION TO CONCUR—POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before proceeding with the Order of Business, I would like to rule on the point of order raised yesterday by Senator Corbin, regarding Senator Murray's remarks during the debate on the motion to appoint a joint committee on the 1987 Constitutional Accord.

Senator Corbin argued that Senator Murray's remarks about the Senate's decision last week to refer the Accord to Committee of the Whole were contrary to parliamentary practice, insofar as they criticized a decision by the Senate.

I have read the text of Senator Murray's remarks, and the only derogatory allusion I find was the use of the term "majority" in connection to the Senate's decision. Beauchesne is very clear on this in C. 315 of the Fifth Edition of his *Parliamentary Rules and Forms*.

Senator Murray has acknowledged that he was at fault and has made amends.

As far as Senator Murray's other remarks are concerned, I do not share Senator Corbin's objections, since Senator Murray neither criticized nor attacked the Senate's decision.

Hon. Jacques Flynn: That was an exercise in futility!

[*English*]

NATIONAL DEFENCE

SECOND REPORT OF SPECIAL COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Paul C. Lafond: Honourable senators, the Special Committee of the Senate on National Defence has the honour to present its second report respecting power to incur special expenses pursuant to the *Procedural Guidelines for the Financial Operations of Senate Committees*.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and to the *Debates of the Senate* of this day, and that it form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 1292.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

THE PHILIPPINES

CURRENT SITUATION—NOTICE OF INQUIRY

Hon. B. Alasdair Graham: Honourable senators, I give notice that on Monday next, June 22, 1987, I shall call the attention of the Senate to the situation in the Philippines.

QUESTION PERIOD

[*English*]

BRITISH COLUMBIA

SOUTH MORESBY—ESTABLISHMENT OF NATIONAL PARK—REPORTED STATEMENT BY PREMIER—DISCUSSIONS BETWEEN PRIME MINISTER AND PREMIER

Hon. Len Marchand: Honourable senators, I regret that we do not have yesterday's *Hansard* on our desks yet, because I wanted to refer to it. However, I have a question for the Leader of the Government in the Senate in connection with the matter I raised yesterday concerning South Moresby Island. First, through the Leader of the Government in the Senate, I want to address the Premier of British Columbia, who was quoted in the press as saying that "he does not want to see a part of British Columbia given to those easterners." As a British Columbian and a parliamentarian of long standing, I want to tell all of those present that I regret that statement very much. It is a short-sighted, ridiculous kind of statement.

I also want to tell parliamentarians here and to remind the people of Canada that South Moresby Island is not just any ordinary site or any ordinary part of British Columbia or Canada. South Moresby is considered a world-class heritage site, and we should preserve it not only for all Canadians but for all humanity. It is that kind of site, and the premier should have that kind of vision so that we can gladly enter into meaningful negotiations with the Government of Canada to set it aside not just for the Haida Indians or for Canadians but for all humanity to enjoy.

I wish I had yesterday's *Hansard* so that I could refer to what the Leader of the Government said. As I recall, he said that the Prime Minister was involved in discussions with the Premier of British Columbia about South Moresby. I refer to another news article in the *Toronto Star* of June 16 that came out of Vancouver. It says, in reference to Premier Vander Zalm, "Now he wants to speak directly with Prime Minister Brian Mulroney." I think that is a good idea. South Moresby Island is worth every effort we can make to get a deal. I wonder whether the Leader of the Government can enlighten us as to whether discussions have in fact taken place between Premier Vander Zalm and Prime Minister Mulroney?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am reasonably confident of the accuracy of my statement yesterday, to the effect that the matter did come up at one of the meetings that has taken place over the past little while between the Prime Minister and the Premier of British Columbia. Obviously, if the Premier of British Columbia wished to have further conversations with the Prime Minister of Canada on this or any other matter, the door of the Prime Minister of Canada is open.

I might say that the Deputy Prime Minister has had several discussions with the Premier on this matter, and I know that Mr. McMillan, the Minister of the Environment, has also had occasion to discuss the matter with Premier Vander Zalm.

I appreciate the concerns expressed by the honourable senator. I cannot add much to what I said yesterday, except to confirm that the difference between what we regard as a fair and generous offer of the federal government, on the one hand, and the demand of the Government of British Columbia, on the other, is of the order of $100 million or thereabouts, so we are talking about a very considerable gap.

Senator Marchand: Honourable senators, I do not wish to belabour the point about discussions between the Premier of British Columbia and the Prime Minister. However, I would again ask the Leader of the Government in the Senate if there is not some opportunity, or opening in the door, whereby the Prime Minister of our country could again take the matter up with the Premier of British Columbia. It is that important.

Senator Murray: Honourable senators, I hope my friend does not underestimate the authority of the Deputy Prime Minister—nor, indeed, of the Minister of the Environment—to speak on behalf of the Government of Canada. We have made an offer which would cost the federal treasury $106 million over ten years. That is a fair and generous offer. The lands in question belong to the Government of British Columbia. If the Government of British Columbia prefers logging to protection of the environment, that is their choice, and we really cannot go beyond the fair and generous offer that we have made.

NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—NON-PROLIFERATION TREATY—GOVERNMENT POLICY

Hon. Peter Bosa: Honourable senators, my question is for the Leader of the Government in the Senate. The white paper on defence proposes the acquisition of nuclear-powered submarines. In the non-proliferation treaty which Canada signed, there is a definite provision that the signatories not sell uranium to any country that would use nuclear-powered vessels. That is a stated government policy. How does the Leader of the Government in the Senate reconcile that provision with what is proposed in the white paper on defence?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not have a prepared note on that matter, but my advice from the Secretary of State for External Affairs is that the decision taken by the government with regard to nuclear

submarines is consistent with our obligations under the treaty to which my friend refers.

Senator Bosa: Would the Leader of the Government in the Senate undertake to provide us with a more detailed answer at the next sitting of the Senate, if that is possible?

Senator Murray: I shall make inquiries, honourable senators.

[*Translation*]

1987 CONSTITUTIONAL ACCORD

ESTABLISHMENT OF SPECIAL JOINT COMMITTEE—MESSAGE FROM HOUSE OF COMMONS CONCURRED IN

Leave having been given to proceed with Order No. 8.

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consider and report on the "1987 Constitutional Accord, signed in Ottawa on June 3, 1987, by the First Ministers of Canada", copies of which were tabled in the Senate and the House of Commons on June 3, 1987;

That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the Senate to be designated no later than seven sitting days after the adoption of this motion;

That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;

That the Committee have power to sit during sittings and adjournments of the Senate;

That the Committee have power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committeee

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;

That the Committee submit its report not later than September 14, 1987, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate;

That substitution be authorized, for Members from the House of Commons, from a list of alternates to be provided to the Joint Chairmen of the Special Joint Committee by a representative of each party at the first meeting of the Committee, such list of alternates to contain no more than twice the number of Members of the House of Commons who are Members of the Special Joint Committee representing each party in the House;

That the quorum of the Committee be eight Members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented, and that the Joint Chairmen be authorized to hold meetings, to receive evidence and authorize the printing thereof, when six Members are present so long as both Houses are represented; and

That a Message be sent to the House of Commons to acquaint that House accordingly.—(*Honourable Senator Rizzuto*).

Hon. Pietro Rizzuto: Honourable senators, yesterday, the Leader of the Government in the Senate moved to accept the invitation to take part in a Special Joint Committee, an invitation extended by the other chamber for the purpose of considering the Meech Lake Constitutional accord.

I asked him two questions on that occasion. The answer to the first was affirmative, that is, three out of five senators would be appointed from this side of the House. The answer to the second question, whether the joint chairman of the Committee would be chosen from among the three senators representing the majority in this chamber was not answered. That is why I preferred to adjourn the debate until today, to give him time to consult and make sure that my request was indeed eminently sensible. Since there would be a joint chairman from the other place, appointed from their majority, the joint chairman from the Senate should also represent the majority.

As for the invitation to take part in a special joint committee, I feel that the participation of this chamber is important in that it would give us a chance to make a contribution as well. I am prepared to support the motion, but I hope my suggestion with respect to the joint chairman is taken into consideration. I am convinced that if we have that assurance, a number of senators would support the motion.

Honourable senators, I am certainly not one of the most eloquent speakers in this chamber, but I have a strong commitment to the issues in a debate on which the future of our country's harmonious unity depends.

Hon. L. Norbert Thériault: Honourable senators, on a point of order. Obviously, I agree totally with the comments made by my colleague, Senator Rizzuto, except where he said, in his preamble, ". . . the senators on this side of the house."

I have no particular ambition to be a member of the Special Joint Committee, but I know he did not mean to say in his remarks that he wanted to exclude my Liberal colleagues including Senators Corbin, Le Moyne, Hébert, and all the other senators on this side of the House. We often speak, mistakenly, of "that side of the house", leaving out the—

Hon. Jacques Hébert: —the best!

Senator Thériault: —some of the best, at least those who like me, think of themselves as "Liberal" senators.

Senator Rizzuto: Honourable senators, I agree. I think it is a habit we have in the Senate of saying: "on this side of the house", in referring to Liberal senators.

If the honourable senator will allow me, I will gladly make the correction. In any case, I meant this to refer to Liberal senators, and certainly not just those on this side of the chamber. I know there are many Liberal senators on the other side of this chamber as well.

In any case, I think our colleagues have all understood.

● (1410)

[*English*]

Hon. Daniel A. Lang: Honourable senators, I wish to interject for a moment, before the debate on this motion is closed, just to give honourable senators some idea of my preoccupation since this matter came before us yesterday.

I was really quite impressed by Senator Frith's remarks on this matter. That is not a condition or attitude of mind that I am overly wont to fall into. I think that we are, on the surface of the matter, really dealing with something that is of a procedural nature, whereas, in fact, underlying that, and far more fundamental, we are dealing with a very substantive matter involving the existence of and the role of the Senate in the Parliament of Canada.

In my period in this chamber, I have seen a certain evolution take place in this house. It has gone from being a relatively independent, relatively deliberative body, to assuming more and more a role as a counterpart of the House of Commons. In other words, in procedure and attitudes, it is becoming more consistent with those of the House of Commons, and, in effect, during that evolution the Senate has come to be rather a more pale reflection of party loyalties and personal loyalties than of independent opinions.

I believe that that evolution has brought with it the increasing hype in media and elsewhere that we are a group of "hacks, flacks and bagmen," as Senator Frith mentioned yesterday.

I would like to remind honourable senators that we have had an invitation from the House of Commons. The word "invitation" has a friendly overtone, but I would like you to remember that this is the invitation of the spider to the fly. Once again, by adopting this resolution, we will be getting stuck in the web: A joint commmittee in which the Senate would be a small minority divided amongst itself. It will merely become a method of expressing the views of the majority of the House of Commons members.

Be that as it may, we, as a Senate, will have been co-opted into the proceedings of the House of Commons. You might very well say, "Why, that is perfectly all right. We are going to have our own committee." Assuming that our own committee report is different or distinct from that of the joint committee, we are going to look like fools. We are going to look ridiculous, and the public can point to us and say, "Well, how can you come up with a report like that when you had members on the joint committee?" In a joint committee there is no possibility of a dissident group writing a separate report.

By adopting this resolution, we will have been co-opted by the House of Commons. We will, once again, have denigrated our role in Parliament, and we will be ridiculed by the press and the public if our own deliberations should differ from those of the other place.

Therefore, honourable senators, I do not have to invite you to judge whether I oppose this resolution. I do so in the interests of perpetuating and, hopefully, enhancing the image and the individuality of this institution as part of the Parliament of Canada.

Some Hon. Senators: Hear, hear!

● (1420)

Hon. Hartland de M. Molson: Honourable senators, I did not think at the outset that I would step in where angels fear to tread, but since the Meech Lake accord of 1987 has been made public, I have been concerned, as an anglophone Quebecois and as a representative of a minority in Quebec, about the effect that this accord will have. My main difficulty, of course, is in common with that of many who have already discussed the accord—it is that the meaning of some of the terms used is quite unclear. They are not defined, and until they are defined, I, quite frankly, do not know what I am supposed to do in terms of representing those people in Quebec whom I think it is my responsibility to represent.

Apart from that, in this case, as I see it, the amendment of the Constitution now requires a resolution of the Senate. I do not believe that a joint committee permits such a resolution to come forward clearly. I was impressed by the speech made yesterday by Senator Frith. I thought his reasoning was good, and I was particularly impressed when he said that he was speaking as a senator—not as a deputy leader, not as a Liberal, not even as a Conservative, and not even as an Independent—which I found to be a very refreshing change in this chamber, and I congratulate him on it.

Senator Flynn: It is not because he said it that it was true.

Senator Molson: Well, that is not a discussion I will embark upon.

Be that as it may, I feel that the Senate should present its own resolution. I think that its own committee should deal with the matter. I do not think that a minority representation in a joint committee answers the needs of the Senate, as has just been said by my colleague, Senator Lang. For that reason, I cannot support the motion to join with the House of Commons in a joint committee, and I support a motion for a separate Senate committee, be it a Committee of the Whole or otherwise.

Hon. Ann Elizabeth Bell: Honourable senators, I do not have much to add to this discussion, but I would simply like to underscore the Senate's separate, distinct identity when we are dealing with constitutional affairs. The Senate has regional responsibilities. We all support the Meech Lake proposals in principle. The only difficulty here, it seems to me, is that we must make sure that any ambiguities in the finished document are reduced to a minimum, or as much as they possibly can be. Even if the invitation from the House of Commons had

proposed equal representation of the Senate and the House, this still would not have anwered the necessity for the Senate to be seen to act and to be able to act as a separate and distinct identity.

The other aspect of the proposal that makes me uneasy is the television coverage. It has been said that the Senate is a workshop, that it is not a stage. The House of Commons is in a different category. The members of Parliament have their electorate to get a message across to, and the television coverage ensures that there is a clear picture of what the House of Commons is doing. If the Senate is actually a workshop and has a committee of its own, it will put expert questions from some of the undoubted expertise that there is in this chamber, I am afraid to say it, but some of the questions and some of the answers from our expert witnesses are going to be boring to most of the audience who will be watching. That is why we are a workshop, and that is why, if there is a legislative chamber anywhere in this country that is objective, it is the Senate of Canada. On this occasion I feel that it will be non-partisan.

Let us have a workshop-type atmosphere, not a public relations exercise. We wish the House of Commons well in their responsibilities; let us do our work in our responsible senatorial way to the best of our ability. I am afraid that I cannot support the invitation from the other place.

Hon. Louis-J. Robichaud: Honourable senators, this is a delicate situation in which we find ourselves. It is a delicate issue not only here in the Senate but also outside of the Senate, because the solution that will evolve from all of these discussions in the House of Commons, the various provincial legislatures and the Senate will be extremely important for decades and possibly centuries ahead. The more we study the matter, the better it will be, and the better off our children and our children's children will be.

I do not object to the Chamber of Commerce, the Board of Trade, the Rotary Club, or any given organizations—universities throughout the country—studying this matter. The more people who get involved, the better it will be.

We have been studying this problem of the Constitution for decades now, and I have been involved in this matter since July of 1960, during the ten years that I was premier of my province. It was a delicate matter then; it is a delicate matter today. After all, 1960 is only 27 years ago; it is not a long period when we consider the life of a country. I am willing to postpone the final decision until after September 14, if we have to, provided that we have good results.

Last Thursday we took a vote in the Senate to decide whether we should constitute ourselves into a Committee of the Whole and pursue the study that was started many years ago. "Why not?", I thought. I voted in favour of that resolution because I thought it was a good one. I voted for it because of what I heard from my leader in the Senate, Senator MacEachen. I will quote a portion of what he said on page 1218 of the *Debates of the Senate* of Thursday, June 11, 1987. He said:

[Senator Bell.]

> The only difference is that in this case it would be a Committee of the Whole whereas in the former case it was a special committee of the Senate. However, in both cases the Senate will have conducted its own inquiry and will have left the door open, if it wishes, to participate with and assist the House of Commons.

That makes sense to me. On the basis of that sentence, I voted in favour of constituting ourselves into a Committee of the Whole to study—during the summer months if need be, but later in the year, and maybe next year—the whole matter of a revision of the Constitution. I voted for it last Thursday, and today I am voting for a joint committee of the House of Commons and the Senate.

Some Hon. Senators: Hear, hear!

Senator Robichaud: I understand that there will be more Conservative members from the House of Commons on the committee than there will be Liberals, but that is normal: There are more people there than there are here, and there are more Conservatives there than there are Liberals here. That is okay; I can live with that. I can live with the 12-5 proportion.

Senator Perrault: Not for long!

Senator Robichaud: I can live with it, but it will not tie the hands of the Liberals or the Conservatives in the other place. I must say, with all the courtesy at my command, that I disagree with my colleague, Senator Lang, when he says that there will be no opportunity for some senators on the joint committee to express their own views in one way or another. I do not think they will be in that position.

• (1430)

The report that will come from the joint committee does not necessarily have to be unanimous. So, there could be disagreement there. If the Liberal senators on the committee are not happy, they will find a forum to express their views—at least, I hope they will.

I know that we have made tremendous progress over the years in connection with the Constitution and the Charter of Rights. But what has emanated from Meech Lake is far from being perfect. Let us make it as close as possible to perfection. Let us form ourselves into a Committee of the Whole, and let us participate with the House of Commons in a joint committee.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators—

The Hon. the Speaker: I wish to inform honourable senators that if the Honourable Senator Murray speaks now, his speech will have the effect of closing the debate.

Senator Murray: Honourable senators, our colleague, Senator Robichaud, put it very well. The arguments that have been used by Senator Frith and Senator Lang, among others, against our participation in this joint committee could have been used, and could be used, against our participation in any

joint committee. The fact that we will be outnumbered by members of the House of Commons is of little importance. The history of these joint committees is that honourable senators have made a very useful and important contribution to the deliberation of those committees. I had the honour, during a previous Parliament, of being co-chairman of the Joint Committee on Official Languages.

Senator Guay: When you were a member of the Opposition.

Senator Murray: When I was a member of the Opposition; that is correct. I have seen the work of the joint committee which sat on the Constitution during the 1981-82 exercise, and I recall very well the distinguished contribution made by a number of honourable senators on this side, as well as by Senator Austin, by our former colleague, Senator Goldenberg, and others who were here at the time. So I would embark upon this venture, in partnership with our friends from the House of Commons, with every confidence in the ability of honourable senators to make an important, perhaps even decisive, contribution to those deliberations.

Our honourable friend, Senator Bell, in her remarks concerning television, seemed to be anticipating a motion that Senator Frith has already placed before us and which will be coming up for debate in a couple of days—namely, a motion to televise the proceedings of the Committee of the Whole. At that time she will have an opportunity to express her views again on that matter and, if necessary, to vote against televising the Committee of the Whole.

I had not intended on this occasion—and I hope that largely I can resist the temptation—to discuss the Meech Lake accord, or the Langevin accord, or the constitutional resolution in detail or substance today. Nevertheless, I was struck again by the expressions of concern on the part of Senator Molson, speaking as he does as a member of the anglophone community of Quebec. I tell him—and I draw the attention of honourable senators to the fact—that in the interpretative clauses that are proposed in the present constitutional resolution, all 11 governments, for the first time in the history of our country, have committed themselves to protecting what I would call the linguistic duality of this country. So, in that respect alone, the situation of the anglophone minority in Quebec is probably better today than it was before the Meech Lake accord.

Hon. Royce Frith (Deputy Leader of the Opposition): You are going to resist now. You are going to start resisting the temptation before we call you to order.

Senator Murray: I made an exception in the concerns expressed, and I am sure that Senator Molson will not object to my taking a minute to address myself—

Senator Frith: I do not intend to speak for Senator Molson—

Senator Murray: I hope not.

Senator Frith: I am speaking for myself—and you are out of order.

Senator Murray: Senator Frith is speaking not as a Liberal, not as a Conservative, not as an Independent—

Senator Frith: And you, on the other hand, are speaking out of order.

Senator Murray: I am sorry that I seem to have got under the honourable senator's skin. I was addressing myself, I had hoped in a non-contentious and non-controversial way, to a concern expressed by our colleague, Senator Molson. I do want to make one further comment about the state of the situation, about the concerns of the people of the community to which he belongs in Quebec, and it is this: It seems to me that the important achievement of this accord—

Senator Frith: Are you closing the debate on the Meech Lake accord?

Senator Murray: —which is to gain Quebec's assent to a constitutional resolution, is very important to all Quebeckers, including the anglophone minority in that province. I have said on many occasions that the fact that Quebec had not assented to a constitutional accord was a source of serious potential instability in this country, and that, surely, would not have been in the interests of the anglophone minority, or anyone else in this country. So I would hope that he and others would in time—

Senator Frith: Honourable senators, I have resisted the temptation to call the Leader of the Government formally to order in closing the debate on a motion for a joint resolution; but, like him, I have been unable to resist it any longer. He is out of order, in closing the debate on a motion to concur in a joint committee, by introducing these comments about the accord itself—all of them very defensive about the accord, clearly political and totally irrelevant to the question of a joint committee.

Senator Murray: Honourable senators, let me simply say that I hope that in time Senator Molson will come to celebrate this important achievement, as ten premiers—

Senator Frith: I ask His Honour the Speaker to call him to order.

Senator Murray: Honourable senators, let me simply say that the constitutional resolution that we are now about to refer to a joint committee has the support of ten premiers, three national party leaders, a good 51 per cent of the population of Canada, and more than 60 per cent of the people of Quebec. That is an historic achievement, and an achievement to be celebrated by all Quebeckers.

Some Hon. Senators: Hear, hear!

Senator Frith: This has been an unpaid commercial by the Progressive Conservative Party, bootlegged into a motion for a joint committee.

Senator Murray: I would have hoped that the honourable senator would be able to contain himself for a while—

Senator Frith: Don't count on it!

Senator Murray: However, if he wishes, he will have the opportunity—

Senator Frith: I cannot speak now. You are closing the debate.

Senator Murray: You will have plenty of opportunities—

Senator Frith: So will you. Why can't you wait?

Hon. Senators: Order, order!

Senator Murray: He will have plenty of opportunities to express what I gather is his ferocious opposition to this constitutional resolution.

Senator Frith: Order, order!

[*Translation*]

Senator Murray: Honourable senators, I may say that I greatly appreciate Senator Rizzuto's commitment to the process, if not to the Constitutional accord itself. I very much appreciate his comments. What he said is very important, considering the key position he occupies within his political group and the special perspective he brings to these issues.

I am no more in a position today than I was yesterday to make any commitment as to the choice of the committee's two joint chairmen. I think we should let the procedure take its normal course and leave the appointment of the joint chairman to the leadership on both sides and to the members of the Joint Committee.

I noted with interest, however, the availability of Senator Thériault and I wish to thank him.

[*English*]

The good news from yesterday's debate is that Senator Frith, in his own words, is not challenging the Right Honourable John Turner. The bad news is that he is not speaking as a Liberal. Senator Godfrey rose to issue his own disclaimer. He is not challenging Mr. Turner. Senator van Roggen rose with, I believe, the same thing in mind.

● (1440)

Senator van Roggen: Such things are never attributed to me.

Senator Murray: I want to give all honourable senators on that side the opportunity, in turn, if they wish, to say that they are not challenging their leader. If anybody wishes to do so, I invite him or her to do so immediately. We could have a show of hands.

Senator Frith: Come on! You are closing the debate.

Senator Murray: All those who are not challenging the leader, kindly raise your hands. Those who are challenging the leader, raise your hands.

Senator Frith: What an abuse of courtesy.

Senator Denis: Question!

Senator Frith: Come on! Let's have the question.

Senator MacEachen: Order!

Some Hon. Senators: Oh, oh!

Senator Murray: Senator Frith also stated yesterday—

[Senator Frith.]

Senator MacEachen: Order!

Some Hon. Senators: Oh, oh!

Senator Lang: Honourable senators, I rise on a point of order.

The Hon. the Speaker *pro tempore:* Order! Senator Lang is rising on a point of order.

Senator Lang: Honourable senators, I think that the remarks that have been flying around this chamber in the past few minutes completely abrogate our rules of conduct in this house. We will lose our whole sense of decorum if challenges and remarks of this kind are hurled about by the Leader of the Government. I ask that honourable senators maintain what semblance of order we may have left.

Some Hon. Senators: Hear, hear!

Senator Murray: Senator Lang pronounces himself as satisfied with the arguments made by Senator Frith yesterday. I am not so satisfied with those arguments, and I am attempting to address myself to them. He has gone in the opposite direction to that taken by Senator MacEachen a few days before. Senator MacEachen had pointed to the precedent of 1978 in which there had been not only a joint committee of the Senate and the House of Commons but also a committee of this Senate dealing with constitutional matters.

Senator Frith: Under the previous amending formula.

Senator Murray: Under the previous amending formula, but it was Senator MacEachen who made the point, and it was Senator MacEachen who pointed to the precedent. Clearly, he was laying the ground work for an affirmative vote today on the creation of this joint committee.

Senator Frith: That is true.

Senator Murray: I repeat, the argument that Senator Frith has made about being outnumbered in a joint committee would apply to any joint committee in which we might be invited to participate. I have never heard him or any other senator make those arguments in respect of any other joint committee.

I would have preferred to have the joint committee alone, and not the Committee of the Whole. However, we have to make the best of the situation that is before us. The Senate decided the other day on a Committee of the Whole. We are now in receipt of an invitation from the House of Commons. Obviously, there will be some duplication of effort. That is not only quite possible, it is even probable. There will be some inconvenience. That inconvenience will fall largely on witnesses who will feel obliged to ask to appear before both committees. The inconvenience will fall heavier on the minority party in this house, the government party, which is outnumbered more than two to one. However, we are quite prepared to accept that invitation and to participate in the work of this joint committee.

● (1450)

Finally, I appeal to honourable senators not to create unnecessary confrontation—

Senator Frith: Only necessary confrontations, no unnecessary ones!

Senator Murray: —with the elected chamber, and to accept their invitation to participate in this joint committee, if I may borrow a phrase, with honour and enthusiasm.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Murray, seconded by the Honourable Senator Doody:

That the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to consider and report on the "1987 Constitutional Accord, signed in Ottawa on June 3, 1987, by the First Ministers of Canada", copies of which were tabled in the Senate and the House of Commons on June 3, 1987.

That twelve Members of the House of Commons and five Members of the Senate be the Members of the Special Joint Committee, such Members on the part of the Senate to be designated no later than seven sitting days after the adoption of this motion;

That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of their powers except the power to report directly to the Senate;

That the Committee have power to sit during sittings and adjournments of the Senate;

That the Committee have power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;

That the Committee submit its report not later than September 14, 1987, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate;

That substitution be authorized, for Members from the House of Commons, from a list of alternates to be provided to the Joint Chairmen of the Special Joint Committee by a representative of each party at the first meeting of the Committee, such list of alternates to contain no more than twice the number of Members of the House of Commons who are Members of the Special Joint Committee representing each party in the House;

That the quorum of the Committee be eight Members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented, and that the Joint Chairmen be authorized to hold meetings, to receive evidence and authorize the printing thereof, when six Members are present so long as both Houses are represented; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say, "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion the "yeas" have it.

And two honourable senators having risen:

● (1500)

The Hon. the Speaker: Please call in the senators.

Motion agreed to on the following division:

YEAS

THE HONOURABLE SENATORS

Anderson	Hébert
Argue	Hicks
Asselin	Langlois
Atkins	Lawson
Balfour	Leblanc (*Saurel*)
Barrow	Lefebvre
Bazin	Le Moyne
Bielish	Lewis
Bonnell	MacDonald (*Halifax*)
Bosa	Macdonald (*Cape Breton*)
Buckwold	MacEachen
Cochrane	Macquarrie
Cogger	Marchand
Cools	McElman
Corbin	Muir
Cottreau	Murray
David	Nurgitz
De Bané	Perrault
Denis	Petten
Doody	Phillips
Doyle	Riel
Fairbairn	Rizzuto
Flynn	Robertson
Godfrey	Robichaud
Graham	
Guay	
Hastings	

Rossiter
Rousseau
Rowe
Sherwood
Simard
Sinclair
Spivak
Stewart (*Antigonish-Guysborough*)
Thériault
Tremblay
van Roggen
Walker—63.

NAYS

THE HONOURABLE SENATORS

Adams
Bell
Davey
Frith
Kenny
Lang
Marsden
Molson
Olson
Turner
Watt—11.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

● (1510)

UNEMPLOYMENT INSURANCE BENEFIT ENTITLEMENT ADJUSTMENTS (PENSION PAYMENTS) BILL

THIRD READING

Hon. Brenda M. Robertson moved the third reading of Bill C-50, respecting the treatment of pension payments in determining certain unemployment insurance benefit entitlements and to amend the Unemployment Insurance Act, 1971.

Motion agreed to and bill read third time and passed.

PRIVATE BILL

WINDSOR-DETROIT TUNNEL—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator Cottreau, for the second reading of the Bill S-11, An Act to authorize the City of Windsor to acquire, operate and dispose of the Windsor-Detroit Tunnel.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, since I understand there is some urgency in this matter, I have no wish to delay this bill which was presented by Senator Frith. On the other hand, I am reluctant to let it go through without some reference to committee.

Senator Flynn: It has to be sent to committee.

[The Hon. the Speaker.]

Senator Doody: I understand that there is some suggestion that rules 93 and 95 should be suspended to facilitate the passage of the bill.

I had undertaken to discuss this matter with some people who have a far greater knowledge of this than I. However, I have not had that opportunity, so I would be very reluctant to let the bill pass without either a committee hearing or at least standing the order long enough to get some information from the other side.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, may I have leave to make a comment without closing the debate?

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

Hon. Senators: Agreed.

Senator Frith: We looked up some precedents and found that there are a number of precedents for suspending rule 95, which provides that when a bill is referred to committee, the committee must not deal with it for a week.

We could find no precedents for suspending rule 93. Perhaps when Senator Doody is considering what action we might take tomorrow, we should consider simply suspending rule 95, for which, as I say, there are many precedents, and sending the bill to committee, but allowing the committee to deal with it immediately rather than having it wait for a week. Perhaps he would include that in his considerations.

Senator Doody: Honourable senators, I have no problem with that. I would be agreeable to the bill's being sent to committee today and suspending rule 95. I simply want to make sure that interested people have an opportunity to consider the content of the bill. I am sure that Senator Frith is satisfied with the content of the bill, but I would like to be sure that we know what we are doing.

Senator Frith: In fairness, I have already pointed out that, although the bill should not excite controversy, the whole process is not without controversy, so I think that is the better course for us to take.

Therefore, honourable senators, with respect to Bill S-11, I move that we suspend rule 95. If that is agreeable, I will then ask leave to move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Jacques Flynn: I believe a better way to proceed would be to give it second reading now, and then that motion should follow.

Senator Frith: I agree.

Senator Flynn: Do we have the opinion of legal counsel as to the propriety of the bill from a legal viewpoint?

Senator Frith: There is a rule that requires that the bill be examined, and I believe there is reference to the Examiner of Bills. I understand that was done, as required, before the bill was introduced for second reading.

Senator Flynn is quite right in that we should have second reading, and then, when the bill is sent to committee, we

should ask for a suspension of rule 95. I believe that is the procedure that has been followed in the past.

Therefore, honourable senators, I commend second reading of Bill S-11, to authorize the City of Windsor to acquire, operate and dispose of the Windsor-Detroit Tunnel.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that this bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs and, with leave, I move that rule 95 be suspended with respect to this reference.

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

Hon. Senators: Agreed.

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

Hon. Charles McElman: Honourable senators, before this motion is agreed to, may I ask the sponsor of the bill whether it will be assured that those who oppose the bill will have notice of this referral so they can appear before our committee?

Senator Frith: Yes, indeed, they ought to have that.

Senator McElman: Then, I have no objection.

Motion agreed to and bill referred to Standing Senate Committee on Legal and Constitutional Affairs.

APPROPRIATION BILL NO. 3, 1987-88

SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody moved the second reading of Bill C-65, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988.

He said: Honourable senators, I will just take a moment to introduce this bill on second reading. It is the Appropriation Act No. 3, 1987-88 which provides for the release of the balance of the Main Estimates for 1987-88, amounting to some $27.4 billion.

These estimates were tabled in the Senate on March 10, 1987, and referred immediately to the Standing Senate Committee on National Finance. These estimates were discussed in committee with the President of the Treasury Board and his officials on April 9, 1987.

Honourable senators, I have no hesitation in assuring you that this bill is in the standard form and that it has no secrets or surprises. If honourable senators require additional information, I will be pleased to try to provide it, but at this point I would simply say that this bill is based on the Main Estimates, and I commend it to you for second reading.

I have with me the total of the estimates tabled to date for 1987-88 and the supply to date for 1987-88 in both official languages. It might be helpful if these were appended to the proceedings today for the information of senators who may wish to speak or ask questions.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For tables, see Appendix "B", p. 1295.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, of course, we are not going to refuse the government supply, but I am going to ask that the debate be adjourned for one day and that we deal with it tomorrow. I simply want to have an opportunity to look at the proceedings in committee to see if there is anything we should highlight as we pass the bill. I certainly do not do that with the purpose in mind of defeating the bill.

On motion of Senator Frith, debate adjourned.

BELL CANADA BILL

ORDER STANDS

On the Order:

Second reading of the Bill C-13, An Act respecting the reorganization of Bell Canada.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it is the intention of Senator Kelly to introduce this bill for second reading tomorrow. With your permission, we would ask that the order stand in the name of Senator Kelly.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators.

Hon. Senators: Agreed.

Order stands in name of Senator Kelly.

• (1520)

CANADIAN EXPLORATION AND DEVELOPMENT INCENTIVES PROGRAM BILL

SECOND READING—DEBATE ADJOURNED

Hon. R. James Balfour moved the second reading of Bill C-59, to provide for payments in respect of exploration for or development of lands for the production of hydrocarbons in Canada other than coal.

He said: Honourable senators, I am pleased to be able to begin in the Senate today the process of discussing a bill to establish the Canadian Exploration and Development Incentives Program. The program, which the Minister of Energy outlined in Edmonton on March 25, is of great importance to the Canadian west and to our economy as a whole. The financial support provided for in the bill could give rise to new investment of up to $1 billion in the oil and gas resource development sector.

The Canadian Exploration and Development Incentives Program is the result of constructive dialogue between government and representatives of the oil and gas industry. It is specific insofar as it targets precise activities that have been deemed most suitable for ensuring industry recovery, and it is global because its objectives clearly locate the Canadian energy sector within international markets and our economic future.

It recognizes that oil and gas companies are ultimately responsible for decision-making on exploration and development work on the basis of economic and geological considerations rather than political imperatives. The government will not decide what company will do the work, nor will it dictate in what region of the country the exploration and development activities are to take place, although clearly the western sedimentary basin will be the logical location for most of the exploration activity generated by this legislation.

To ensure that the program is implemented in the same spirit of cooperation and coordination that accompanied its formulation, the government plans to administer the program mainly from Calgary, where most of our oil and gas industries are located, although Saskatchewan is being considered as a location for a satellite office.

I believe that it would be useful if I took a moment to describe how the bill under consideration fits in with the approach set in motion on June 30, 1986, and with the government's overall energy strategy since September, 1984.

In the Western Accord signed in the fall of 1984, the government did away with the petroleum and gas revenue tax, thereby freeing up substantial sums of money for re-investment in the Canadian oil and gas industry. This legislation will provide about $350 million additional a year in direct assistance to the industry. It began on April 1, 1987, and will provide cash incentives of one third of exploration and development expenses for companies anywhere in Canada, up to a maximum of $10 million in spending per company in a given year.

We are confident that CEDIP will increase considerably the industry's productivity and cash flow. We also expect that it will lead to more than $1 billion in additional investment, and up to 20,000 person-years of new employment. The Government of Canada introduced CEDIP because it was concerned about the uncertainty of the petroleum economy in western Canada and, indeed, around the world. It feels that CEDIP goes directly to the heart of the problem.

I should point out, however, that CEDIP is still a vehicle, a conduit, that is meant to assist in recovery. It is not a panacea, and it will not be all things to all people. We strongly believe in the strength and resiliency of the private sector and the marketplace. Energy production and consumption should preferably be established and maintained by free market forces, to the maximum extent possible

[Senator Balfour.]

The collapse of oil prices, which began in 1986, was, to a large extent, the result of a test of will between a number of producers in the OPEC cartel. The excessive overproduction that caused the price per barrel to drop to $10 or less was a brutal reminder of the uncertainty of international oil markets. Despite the price increases to $18 per barrel or more in recent months and the relative stability of oil markets, factors that contribute to instability, such as the strained situation in the Persian Gulf, remain.

Price instability has a direct impact on our industry and on the oil and natural gas producing regions. Last year over 25,000 jobs were lost in Alberta alone. Everyone in Canada lost, because the bloodletting affected not only a vital industry but also our economic development and social objectives across Canada.

From this standpoint, honourable senators, it is clear that the specific measures provided in the Canadian Exploration and Development Incentives Progam aim primarily at countering the disastrous situation in which the oil and gas industry finds itself as a result of the plunge in world oil prices. It does not, however, attempt to control the market.

Our desire to maintain the fundamental link between producers and consumers remains, because we believe that it is through links like these that the oil and gas industry, the Canadian west and Canada as a whole, will all serve their best interests.

In 1920 the *Western Independent* reported these comments from a great western Canadian, Henry Wise Wood:

> Water cannot rise above its source, neither can social progress rise higher than the level of the citizenship of the people.

The traditional meaning of citizenship is "belonging" or "membership". I believe that it is in the existence of genuine links based on common interest that those who live in all our regions will be able fully and dynamically to express their membership in Canada as a whole.

Honourable senators, I urge speedy passage of this bill.

Hon. H.A. Olson: Honourable senators, I rise to say a few words about Bill C-59. No one could help but look at this bill and wonder what the government is going to do next in terms of resurrecting programs that it threw out only two and a half years ago or so. Bill C-59, of course, which outlines the Canadian Exploration and Development Incentives Program, has in it almost the same terms and conditions that were applicable to the Petroleum Incentives Program. I do not have any disagreement with what Senator Balfour has just said in introducing the bill, but I think that he, on behalf of his party, should at least have had the decency to admit plagiarism. I am sure that both he and Senator Barootes, particularly, would have wanted the opportunity to come before the Senate in ashes and sackcloth to admit that all of those bad things they said about the National Energy Program they didn't really mean, because now they are bringing in a program that is exactly the same.

I agree with Senator Balfour that we should get on with passing this bill, even though it modifies and restricts—really just cheapens—the Petroleum Incentives Program. But I am really tempted to suggest to Senator Balfour that we should keep it here a day or two, because Senator Barootes is not present this afternoon, and I know that he would want to say a few words and to swallow all of those mean things he had to say about the National Energy Program, because here it is back again!

This bill really makes a mockery out of the statements made by the then Minister of Energy, Mines and Resources, Ms. Pat Carney, about how she was going to destroy and throw out past policies. The government had some great ideas then about what it was going to substitute for the National Energy Program when it was dismantled. They said they were going to conduct a study; they had some new philosophy as to how the gas and oil industry ought to be administered by the federal government. Now, at least a year and a half later, they come back to resurrect the Petroleum Incentives Program. It is really sad that all of those people in the western industry had to go through that pain and suffering, yet, the government cannot come up with anything better than this.

Honourable senators, the situation is even worse than that, because the present Minister of Energy was in Calgary last weekend to launch what the *Calgary Herald* calls a "policy quest". Although I am not sure whether these are quotations taken from the minister, I will read from the article entitled "Masse Opens Policy Quest Here Sunday", which describes what he did.

> Although Masse has stressed that avoiding a repeat of the hotly-contested NEP ranks high in his priorities, it is no accident that Alberta oil men are in a small minority on his advisory panel.

● (1530)

Obviously, with all 21 members from Alberta in the Conservative ranks, they still do not know how they want to run a national energy program; they have to set up an advisory committee with a small minority of people from the gas and oil industry. That is what the minister is doing.

It also states that:

> He also described oil and gas production as overemphasized by past energy policies, and has set his sights on a policy covering all the bases from electrical power planning to protection of wildlife and the environment.

So the gas and oil industry will be degraded some more by this inquiry that the minister launched on Sunday.

I want to read one or two other paragraphs. One paragraph states:

> The minister and his aides have indicated it is also no accident that the government is being vague about what it expects to come out of the inquiry.

Honourable senators, what is clear is that they do not know what they want to come out of the inquiry. They are not even sure that they want the energy—that is, the gas and oil—sectors to have a major undertaking. So, we will have to wait for another 18 months or so before we find out what this government really wants by way of a national energy program.

Why I find that so strange, honourable senators, is that two or three years ago they knew what was wrong with everything, and they were going to repair the National Energy Program. Now they finally come to admit that they really did not know what they were talking about, and they have revived the program that was there before in a cheapened and contracted condition.

Honourable senators, there are a number of things that need to be explained in Bill C-59. First is the definition of a person vis-à-vis a corporation and how that is done with respect to certain aspects of the Income Tax Act. I noticed that in clause 6 and in clauses 8, 9 and 10 of Bill C-59 there are some explanations that are extremely complicated in relating what is expected to happen with the administration of this legislation and, indeed, the Income Tax Act. I understand what the reasons are: They pertain to prohibiting a number of persons from dividing themselves into more than one entity so that they can circumvent the limits that are set out in this bill.

I hope that the sponsor of this bill will be able to give us a more detailed explanation of what the consequences are of the various elections that are available and described in clause 8(2), and also in the flow-through shares provision in agreements that are made between a number of persons and, in some cases, corporations.

Honourable senators, there is another serious weakness in this bill. While it contains some reference to marine or ocean-floor drilling—which I suppose could apply to the east coast or to the Beaufort—the limits on it are such that not one well can be drilled. It has a $10 million limit, one third of which is what the incentive will pay, but anyone who has studied this knows that you cannot drill any wells offshore for $10 million. Most of those wells which are offshore the east coast are in the neighbourhood of $30 million, $40 million or $50 million while they are doing exploration work. While they are somewhat less expensive for the development drilling that is necessary to prove the asset, $10 million does not allow you to drill one well.

I do not understand why the government is taking the position that they do not need to be involved in that as far as incentives are concerned. I know that there are some other programs, such as a 25 per cent deduction or tax credit, for some things. I recently checked with some companies in Calgary that have been active in the offshore drilling in Hibernia and other places off the east coast. They tell me that this bill, along with all of the incentives that have been announced before, is insufficient for any Canadian companies to get back to and be active in that drilling.

One of the things that it is difficult for me to understand is that when some of the witnesses were before the Senate committee, they made it clear that there are a number of discoveries off the east coast that are known. The seismographic data that has been gathered identified where they might be; there has been sufficient exploratory drilling into

those seismic spots to indicate that there are some good prospects for developing a field. What was said over and over again is that unless there is a change in government policy, there is no Canadian company—except Petro-Canada—that can drill out those fields. They told us clearly that they need to have an additional development drilling program in order to prove up the asset so that the financial institutions, particularly the banks, will regard it as an asset on which they would finance those things which lead to putting in a production facility. But there is nothing in this bill that will improve that situation at all.

So, I wondered if there were some programs in place that had been announced before that dealt with the financial problem of Canadian companies trying to bring that oil into production. That is why I checked with companies in Calgary, but they said, "No, there is nothing in place that will correct that." I cannot believe that the government does not understand that. Why do they not understand that if you are to find several hundred million dollars in credit to put together the financing necessary for a production project off the east coast that those companies have to do enough development drilling to persuade the financial institutions to lend them the money? The big multinational companies like Exxon and several others have enough resources to do it, but, outside of Petro-Canada, there is no Canadian company that is not controlled by one of the multinationals that has sufficient financing to move at all. It seems to me that the President of Husky—which was one of the major players off the east coast—told us that they could not go back and drill in their areas unless the price of oil returned to something over $28 per barrel. I would like to make the argument—but I will not do it today—that that will probably not happen for many years. What is more, he said they would have to know that the price would stay up there long enough for them to do the development drilling in their fields, install the production facilities, which are enormously expensive, and then start to sell the oil. But the government does not seem to understand that at all. So what will be the consequence? If this bill is passed to take care of Canada's future oil resources and production, it will, in effect, do nothing.

● (1540)

So I hope that the government will come back with another program that will make that possible. We may find some significant reserves of oil in the sedimentary basin of western Canada, but the prospect of that happening is going down all the time because of the lack of drilling until now. The oil industry has not found what it calls an "elephant"—that is, a large field—for many years. I am not saying that it will not do so, but it is unlikely, because most of the area in that sedimentary basin has been explored.

That leads me to suggest that Canada's future requirements will be met by bringing into production some of the oil deposits which we know exist off the east coast—that is, Hibernia and several others—those from offshore in the Beaufort, and those from the heavy oil and tar sands in northeastern Alberta. However, this bill does nothing to bring forward any of that kind of production.

In Canada our production of oil goes down by about 100,000 barrels per day every year. That is the decrease in the potential production that is going on from the western sedimentary basin. It means that we need a new plant two thirds the size of Syncrude, which is one of the largest in the world, to be brought on production each year if we are simply to keep up with the level of Canadian production that we have enjoyed in 1986 and 1987.

There is nothing in this bill, except perhaps a few in-fill drilling wells; but so far as putting in the processing plant, this bill does not provide for that—and it certainly does not provide for the kind of incentives that are needed to bring into production any of the offshore oil.

I would like to conclude by suggesting to the sponsor of the bill that it does not do very much for the industry. It might help a few people in the service industry to get some activity going again, and to get some cash flowing, but it does not go any distance to enable Canada to maintain its level of self-sufficiency in oil production.

It is fairly disappointing that after all this time the best that the government could come up with was a cheapened version of the program that was in place when it took office. It is really sad, but that is about the kindest thing that I can say about Bill C-59.

No doubt Senator Balfour will be closing the debate, and I will not be able to speak again. I wonder whether the honourable senator would be willing to give us some further detailed explanation of what is involved in the flow-through shares referred to in clauses 8, 9 and 10. If so, I would have no objection to the bill moving through all stages without being referred to committee.

Senator Balfour: Honourable senators—

The Hon. the Speaker *pro tempore:* I wish to inform honourable senators that if the Honourable Senator Balfour speaks now, his speech will have the effect of closing the debate on second reading of this bill.

Senator Balfour: Honourable senators, I should like to take Senator Olson's questions as notice. I would prefer to prepare a careful response to his questions with respect to the various clauses of the bill. So, I will simply adjourn the debate, unless any other honourable senator wishes to speak at this time.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Balfour, debate adjourned.

[*Revised Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin.*)

Hon. Eymard G. Corbin: Honourable senators, if I understood correctly, when they spoke to the principle of the bill aimed at making the Regional Vicar of Opus Dei into a single-person corporation, Senators Hébert and Le Moyne would have preferred that the Prelature of the Holy Cross and Opus Dei did not even exist.

I fail to see how the opposition of my honourable colleagues might even slow down the activities and expansion of an organization established as a personal prelature. Whether we vote for or against this bill on second reading, the Prelature of the Holy Cross and Opus Dei will not disappear overnight or next year. In that respect therefore, let us be realistic: practically nothing will have changed in the *modus operandi* of the holy mafia.

Only a law making the Prelature of the Holy Cross and Opus Dei illegal in Canada might completely mollify its most dedicated opponents. And yet there is no guarantee that a Supreme Court of Canada interpretation of the Charter of Rights and Freedoms would uphold the legislator's initiative.

I do not think I am mistaken when I say that precious few Canadians are prepared to endorse Opus Dei. This can be explained by the fact that they do not know the prelature or, if they do, they do not have anything against its secret methods and character. As well, very few politicians are prepared to rubber stamp the incorporation application of the Regional Vicar for Canada without first asking for specific background information on his operations.

It is indeed a matter of incorporating a person, but not just anybody if we consider what he represents. What a wonderful camouflage! Fortunately we still have bishops in Canada who spotted the subterfuge and the danger to their flock, and would have prevented these people from setting foot in their diocese. Canon law empowers them to do just that. After all, is one of Opus Dei objectives not to rescue a pastoral which they view as being bankrupt, even if to achieve this end they must resort to ways and means which certain bishops simply could not knowingly approve?

[*English*]

Opus Dei would be able, as it now does, to pursue its activities in Canada, even if the Senate refused to proceed with the bill. It would be "business as usual" for Opus Dei, just as if Reverend Haddock's petition to incorporate had never been received. So what can one hope to accomplish by turning the bill down?

Strictly speaking, defeat of the bill at second reading, or at any other stage, changes practically nothing for the regional vicar, except that his management of Opus Dei's business, whatever it involves, would perhaps be somewhat cumbersome. But, on the other hand, he has managed pretty well up to now, I am told secretly.

• (1550)

If this bill eventually received Royal Assent, the Reverend Haddock, by virtue of our legislative will, not through the mysterious operation of the spirit, would become two: the personal, physical Reverend Haddock and his vicariously incorporated self.

Senator Frith: One more, and he would have a trinity.

Senator Corbin: Senator Le Moyne has already dealt with the trinity. Such a legal personality, or entity, is known as a "corporation sole"—spelled s-o-l-e, and not s-o-u-l—even though the sanctification of souls is what Opus Dei is supposed to be all about. In Canada most, if not all, requests for personal incorporation by way of a private bill have been granted by Parliament, although I am not absolutely certain. My research has not been completed on that score.

As Senator Belisle pointed out when he introduced the bill at second reading, the general law of Canada regarding non-profit personal corporations has not yet been updated, which explains the vehicle chosen by Opus Dei—that is, to incorporate its regional vicar for Canada by way of a private bill introduced in the Senate and later sent to the House of Commons. We, that is, Parliament, on the other hand, are exercising a real discretion in establishing such corporate creatures. We could refuse, but why do we do it at all? This very question brings me to Senator van Roggen's comments, as reported in the *Debates of the Senate* of June 2, 1987, at page 1149, when speaking to the second reading of private Bill S-10, "to revive Yellowknife Electric Ltd. and to provide for its continuance under the Canada Corporations Act", he said:

> However, I am less inclined to jump to the conclusion that it—

That is, Bill S-10.

> —should automatically be favourably considered by the chamber, because, as a matter of general principle, I find it unfortunate that Parliament should be burdened with private matters of this sort whenever it can possibly be avoided.

Senator van Roggen also said:

> I simply suggest to honourable senators that the committee, indeed, should look at this carefully to ensure that there is no other legal mechanism that could be used to avoid Parliament's being burdened with this type of private matter.

I believe Senator van Roggen is correct inasmuch as his comments apply to the particular circumstances of the corporation mentioned in Bill S-10, to revive Yellowknife Electric Limited. His comments could also apply to private Bill S-11, introduced just a day or two ago by Senator Frith, respecting a tunnel between Windsor and Detroit. It would not apply to the clarification of the text, which is the object of that bill, but to the original bill introduced in the 1920s. I do feel, however, that Senator van Roggen's comments have a bearing on the Opus Dei bill presently being debated inasmuch as Parliament itself initially creates each and every non-profit corporation at the federal level. The question is: Must this practice be maintained? I shall come back to this point later.

Are honourable senators the only legislators who have misgivings about organizations such as Opus Dei? I remember well the speech made in the House of Commons by Mr. Cooper, the member, then and today, for Peace-River. The occasion was consideration of Bill C-10, the great grandchild of Bills S-3, S-4 and S-7, which were respectively studied and passed by the Senate of Canada between 1977 and 1979, but thrice sacrificed on the Commons' order paper. So, another attempt was made. Debate at second reading of Bill C-10, the fourth attempt at reform, intituled "the Canadian Non-Profit Corporations Act", introduced by the Honourable André Ouellet, began in the Commons on December 17, 1981. At the very beginning of his speech, Mr. Cooper, speaking after the minister, said:

> I take pleasure in having the opportunity to speak on this bill tonight. Somehow when one talks of charitable organizations, many images come to mind. We think of clubs, such as the Lions and Kinsmen. We think of church organizations. But at the same time we think of other groups and the abuses that have occurred under the umbrella entitled charitable organizations. I think of groups such as the Moonies. I can think of kidnapping, brainwashing and programming and all those sorts of things that we have heard on the news lately. There is no doubt that is all part of this particular piece of legislation we are addressing tonight.

Now, if Bill C-10, or any one of its predecessors—Bills S-3, S-4 or S-7—had become law, or, indeed, if they were law today, Opus Dei would most likely, this very day, be able to incorporate its regional vicar for Canada by filling out a form at Consumer and Corporate Affairs, and there could possibly have been no way we could have brought into the light of day the deranged spirituality of this clerical mafia and, to say the least, its controversial activities worldwide.

We have been blessed to have been petitioned by way of a private bill by the very people who—there is no doubt in my mind—want to use the law to cloak themselves in secrecy, who would say, "Look, we have the Pope's blessing, and we also want to be good Canadian citizens, just like the bishops, like the dioceses." I am not necessarily impressed by the fact that Opus Dei is a personal prelature of the Pope, for whom I have the greatest respect. I certainly do not consider that to be a binding doctrinal or dogmatic matter. There is a degree of democracy in the church, and there ought to be more, if I may say so. Therefore, I am not disposed to rubber-stamp this bill. That in no way makes me less Christian or less Roman Catholic. I believe my faith, by the grace of God, rests on more solid ground than the wishy-washy Balaguer quotes given by Senator Le Moyne, not to mention the rest of Balaguer's works.

I request a detailed look at Bill S-7 and the mission of Opus Dei in Canada, because I do not know what they are up to. I also want parents and young people to be fully informed that there are options, that the road to personal sanctity is not necessarily circuitous and distorted, if we are to allow this outfit to operate under the generous provisions and protection of Canadian laws.

I had to live through some pretty tough years as an adolescent and as a young man. I do not wish similar experiences on members of my family, or anyone else for that matter. If Opus Dei cannot operate openly at high noon in the full sun of our democracy, it does not deserve to exist.

[*Translation*]

I have been informed that the Quebec legislature passed some time ago an Act on Catholic Bishops which is a kind of umbrella legislation allowing, roughly, incorporation by the issue of letters patent. This is done at the administrative level by officials, which means that the Quebec National Assembly is not bothered with this type of private request. I believe that this is the kind of legal instrument which Senator van Roggen had in mind. I am told that there are other such pieces of legislation.

There is therefore a major gap in our laws on corporations. Like Senator van Roggen, I believe that the Canadian Parliament should take this opportunity to ask for reintroduction of the bill on non-commercial corporations or, if you prefer, non-profit corporations. We are both hoping that the committee to which Bill S-7 is referred will be able to call experts to discuss this weakness and report on this problem at the same time as on the bill itself. This would satisfy both myself and Senator van Roggen. The Senate will then have played a useful role by sending a clear message to the government.

I even believe that we should perhaps decide that we shall no longer receive any private incorporation requests in the form of private bills until the government has completed its reform of our laws on corporations. After all, honourable senators, this review has been going on for ten years.

If the review of the original Corporations Act were to cover all possible types of incorporation, would this mean that Parliament would in the future no longer allow itself to respond to private unipersonal incorporation requests by passing private bills? We shall have to reflect on this matter in the light of the democratic orientation of our parliamentary institutions. The ancient right of citizens to petition Parliament for a personal incorporation could well disappear in the face of the principle of equality contained in the Charter of Rights and Freedoms. However, Parliament could retain this power or else transfer it to the executive by adopting a law of general application. I am not an expert on this matter. I am simply putting the question.

The incorporation requested by private bill of the Regional Vicar of the Opus Dei is certainly exceptional, but to my knowledge, it is not urgent. I cannot see how the Regional Vicar of the Opus Dei would be adversely affected if the Senate were to refuse passage to his bill. After all, how long have these people been operating in Canada? Since 1957? Moreover, does one need civil incorporation for one's personal

sanctification? Senator Bélisle has been silent in this regard. Perhaps he can give us some clarification when he closes the debate.

I regretfully share the opinion of those who say this bill must follow the normal channels of referral to a committee. I would prefer to object immediately to this request. However, in the committee, we shall at least have the opportunity to call witnesses, ask them questions and hear the views of corporate law experts. Indeed, we have no obligation to accept the text of the bill as written. We can require the Opus Dei to give an account of itself to Parliament.

If we decide to refer the bill to a committee, it will be our duty to reassure ourselves and the public that such a bill is prejudicial to no one. Furthermore, the Senate has the authority and the duty, if it so decides, to amend the bill, to harmonize it with the intent of our general legislation and with the Charter of Rights and Freedoms, and to bring its content and provisions into line with the democratic trends of the waning years of this century, a century that has been singularly lacking in enlightenment, considering the genesis and growth of Opus Dei at a time that was a particularly bleak period for humanity.

Honourable senators may wonder about the legal status of the Prelature of Opus Dei in other countries and states. In other words, what kind of approach is taken by other legislatures.

I received the following information from an authorized source on Opus Dei in Canada.

I had asked especially about the legal status of Opus Dei in common-law jurisdictions. The information is neither complete nor entirely satisfactory, and further research will be required. Occasionally, answers remain vague on several points. For instance, it is not known whether certain countries have refused to recognize Opus Dei as a legal entity.

• (1600)

[*English*]

We are told that in most of these countries—and I am told that Opus Dei operates in approximately 35 countries at last count—Opus Dei acquired civil personality in the years before it was erected as a personal prelature in 1982 under canon law.

Such an answer raises more questions. Does it mean that in some countries Opus Dei did not, or could not, incorporate? When our informer tells us Opus Dei acquired civil personality, is he talking of the organization itself or one individual, like the regional vicar or someone else, and through what legal vehicle? Is there a minimal reporting procedure on the membership and its activities required under those laws?

The informer does say in the next line of this letter, and I quote:

> Because of the juridical nature of the prelature at that time—

That is, before 1982:

> —in most cases the juridical personality was acquired through the incorporation of a simple non-profit corporation. That is the case in the United States, for example, where the Prelature is incorporated via several non-profit corporations in different states (Illinois, Wisconsin and Maryland for example).

I presume there are others.

It is also the case in Kenya, Ireland and the Philippines.

Our informer, spokesman for Opus Dei, tells us that in some of the above named countries:

> . . . after the erection of Opus Dei as a personal prelature in 1982, some minor changes were made in the governing documents of these non-profit corporations to accommodate the terminology, by-laws etc to the new juridical status of a personal prelature, but so far no definitive solution has been arrived at in any of these countries.

What I really have difficulty with in the information is the vagueness of it. Expressions like "in some", "minor changes", "in most" and "it seems", that is the woof of the fabric of the information sent to me. There is not much to bite into.

I am not saying there is an attempt to camouflage or mislead in this instance, because the information requested was of a rush-order nature. Nevertheless, it seems difficult to put your finger on hard facts with these people. They seem to take the attitude that not only could we not but we should not be bothered with precise and complete information. Legislators cannot satisfy themselves with generalities, and I do hope that we will take as much time as is needed to get a full and complete picture, even if it takes months. Why rush?

I do not wish to be unfair. The letter containing this information is helpful, but to a point only. All I am saying is: Please be more forthcoming.

Another interesting bit of information is the following:

> They are all in the process—

That is, those units incorporated since the creation of the prelature in 1982.

> —of studying the possibilities allowed them by the civil laws of the country in question but it seems that the corporation sole is not possible in every country. We have been told that in Ireland, for example, the possibility of a corporation sole is not foreseen, even by private bill.

Well, now, isn't that interesting. We in Canada should find out more about the above-board approach to incorporation in Ireland. I quote again:

> Now in England, Opus Dei is incorporated as a trust deed of the Sacerdotal Society of the Holy Cross and Opus Dei (the former name before the erection as a Prelature). This trust deed dates from 1954 and is actually in the process of accommodation. It should be noted that in England, the dioceses also use the concept of trust deed to acquire juridical personality. In Australia, Opus Dei is also incorporated via a trust deed dating from 1966. We have learned that in Australia as well, a definitive and satisfactory solution is also being sought.

• (1610)

So it is very obvious, honourable senators, that if we were to rush into incorporating Opus Dei in Canada, in the context of

what is being done or attempted worldwide, Canada would create a legislative precedent for the rest of the world to follow, certainly as far as common law countries are concerned.

What about other legal jurisdictions such as Spain, Portugal, South America, Central America, Continental Europe, the East, the Far East?

[*Translation*]

If in the past, when faced with similar requests for incorporation, Parliament has rarely made any objections, I think this time it should proceed with a great deal of caution because we are not dealing with an ordinary incorporation.

Some radical stands have been taken against Opus Dei. Impassioned speeches are uttered against Opus Dei. Concern has started to grow among the Canadian public in recent years, witness the television program filmed in 1984 by the CBC's Fifth Estate, which we had a chance to watch several times. We are still receiving personal accounts from distraught and even troubled parents.

There is abundant literature on Opus Dei and it shows that there are many reasons why we should be suspicious. The titles are revealing, the sources impressive and the authors credible. Roman Catholic bishops are quoted who had to intervene in their diocese to restrain the activities of Opus Dei. We have the the testimony of priests, ex-members of Opus Dei, who warn us very seriously against this organization.

Honourable senators, this is just to say that, as I said before, unlike other requests for personal incorporation which were not challenged in Parliament, this time we have good reason to be concerned. There is opposition, there are objections, there is controversy, and we are concerned. Reason enough to take a long and serious look at the issue.

Forewarned, legislators have a duty, in this case, to take a careful look at what is behind this bill.

[*English*]

This is not your run-of-the-mill religious incorporation. "Let the buyer beware," they say in real estate. I say, "let the legislator be doubly on guard with this private bill." The Regional Vicar of the Opus Dei in Canada is but a front. What it hides is what we must be concerned with.

[*Translation*]

My wife and I are the parents of three girls whom we dearly love, needless to say. We simply do not want them to have anything whatsoever to do with Opus Dei members. The future we want for them would not be an existence dedicated to fundamentalism, to conservatism devoid of any prospect. That is the Opus Dei aspect which scares me. Christ never said that a woman is any less a person than a man. There is not one type of salvation for the "weaker sex," as it was called in the old days, and another one for men. Never will I believe that. Opus Dei says so, its members believe it.

In the Montreal newspaper *Le Devoir* of May 5, 1987 there was an article by Marie Laurin entitled "Opus Dei in Canada, a work of God and of discretion" and including this testimony:

[Senator Corbin.]

> He first got to know OD in Sherbrooke in 1974 through a Spanish priest, Father Josef Escribano, and for him it was "love at first sight": "I had studied at Collège Bréboeuf without ever being unduly concerned about the problems of faith. To me Opus Dei was a real revelation, I would even say an internal revolution where I discovered my way.
>
> The *El Camino* of Balaguer.
>
> My belonging to this movement is a matter of faith and culture." His wife is also a member of OD and he looks after the nest when she attends her weekly meeting, "sharing the chores being even more imperative in such a big family", he says with a laugh.
>
> But my wife and I live our faith independently. One must have taken part in a study circle to acknowledge and understand this segregation of the sexes in OD. It is important that men and women be separated, for we do not necessarily have the same interests or the same criteria in our spiritual journey. Mutual trust comes more easily when exchanges take place between two persons of the same sex, and I can assure you there is nothing discriminatory in that.

Honourable senators, that makes me sick! Yes, I am opposed in principle to the very existence of such type of secretive society as Opus Dei, to its dubious methods, to its elitism, to its recruiting approach, to its quasi militarist mentality, to its antifeminism, to its insipid spirituality. I believe that as parliamentarians we must take this opportunity to denounce this pious brotherhood and set forth conditions with respect to its corporate and legal recognition in Canada.

I will give you the second part of my speech at a later date. Therefore, honourable senators, I propose to adjourn the debate in my name.

● (1620)

[*English*]

Hon. Daniel A. Lang: Honourable senators, if I may ask a question, and reducing my question to the mundane matter of our procedures in this chamber, and recognizing that by approving this bill on second reading we are approving a matter in principle, if I believe one tenth of the evidence that I have now received from my colleagues and from elsewhere, I just could not, in good conscience, approve this in principle on second reading, yet, I take it from Senator Corbin's remarks that that is what he is suggesting.

Senator Corbin: You understood me rather well, senator. In fact, I have adopted, shall we call it, an ambivalent attitude with respect to the progress of this bill. On the one hand, I recognize the freedom of anyone to petition Parliament and to propose a legislative text. I think we ought to give everyone a fair hearing.

On the principle of the request, I am opposed; on the other hand, I should like to respect this democratic aspect of the normal process of the parliamentary study of bills. What I am suggesting is that perhaps we could all oppose it on division at

second reading, without necessarily having a recorded majority vote, let it go on its merry way through committee, where we will have ample opportunity to go into it in depth, and when the committee brings its report to the Senate, we could, if there is such a disposition, have a formal recorded vote and either pass it or block it at that stage.

Does that satisfy the honourable senator's concerns?

Senator Lang: I am afraid not. My conscience is too strong!

Hon. John B. Stewart: Honourable senators, on the point that has just now been raised, the assertion that a vote on a second-reading motion constitutes approval in principle, I would like to enter an objection.

I know that we often hear it said, and probably some of us ourselves have said that the vote on the motion for second reading is to give approval to the principle of a bill, but if we think the matter through, I think we will conclude that the validity of that proposition is questionable.

What we have before us when there is a motion for second reading is a procedural motion. What a legislative body does when it gives second reading to a bill is say, "We take this bill seriously enough that we are prepared to move it forward into a committee, a committee which will explore the provisions, the defects and the merits of the clauses. We are prepared to commit the time and energy of our members to this bill." We sometimes say that that constitutes approval in principle. However, really, what it does is to move the bill forward to the committee stage, and to define for the committee the matter on which the committee is to adopt clauses and eventually to report. In that sense it specifies what is to be studied: The committee must confine itself to the principle of the bill that has passed second reading. We go too far if we say that we always are giving approval in principle.

Obviously, there are some cases where the matter is so clear that one can vote yes or no; there you are dealing with the principle. But there are other situations in which one is saying, "Yes, we are prepared to have an intensive look at this, hoping that the work of the committee will clarify the situation and help us make up our minds."

Honourable senators, I have thought a lot about this over the years, because it is sometimes said that if one votes for a bill on the motion for second reading, one is inevitably committed to vote for it on the motion for third reading. I do not think that follows at all. I think one can vote to advance the bill at second reading, refer it to committee, and then, after considering the report of the committee, one can, quite logically, vote against the motion for third reading.

Honourable senators, I do not want to say anything more on this. I simply want to record a footnote of objection against the notion that to vote for second reading always constitutes an expression of approval in principle.

Hon. George van Roggen: Honourable senators, I do not want to delay this matter, but I was most intrigued by Senator Stewart's suggestion that we are not approving something in principle on second reading. I have not heard that argument before, and I certainly bow to his superior knowledge in procedural matters.

Senator Corbin said that he would be speaking to this matter again since he had delivered only half of his address. In his second portion, perhaps he could include some legal opinion or support for Senator Stewart's position in answer to the question of Senator Lang.

Quite frankly, because of the question of approval in principle, I had been close to being prepared to vote against this bill on the motion for second reading.

Senator Corbin: Thank you, honourable senator. I will certainly take those comments into account.

Senator van Roggen mentioned that I had delivered half of my speech today. I would just mention that the next portion may not be so long.

On motion of Senator Corbin, debate adjourned.

FOREIGN AFFAIRS

SEVENTH AND EIGHTH REPORTS OF COMMITTEE ADOPTED

On the Order:

Consideration of the Seventh Report of the Standing Senate Committee on Foreign Affairs (supplementary budget re examination of 1987-88 Estimates for External Affairs and National Defence Departments), presented in the Senate on 16th June, 1987.—(*Honourable Senator van Roggen*).

On the Order:

Consideration of the Eighth Report of the Standing Senate Committee on Foreign Affairs (supplementary budget re examination of desirability and advantages of Turks and Caicos Islands becoming part of Canada), presented in the Senate on 16th June, 1987.—(*Honourable Senator van Roggen*).

Hon. George van Roggen: Honourable senators, the seventh and eighth reports simply involve the tabling of budgets of the committee which I chair. There is nothing else contained in the reports. The budgets have been approved by the Standing Committee on Internal Economy, Budgets and Administration. Therefore, honourable senators, I move the adoption of the reports.

Motion agreed to and reports adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SIXTEENTH TO TWENTY-EIGHTH REPORTS OF COMMITTEE—ORDERS STAND

On the Order:

Resuming the debate on the motions of the Honourable Frith, seconded by the Honourable Senator Langlois, for the adoption of the Sixteenth to Twenty-Eighth Reports of the Standing Committee on Internal Economy, Budg-

ets and Administration approving the budgets for the following committees:

16th Agriculture and Forestry;
17th Banking, Trade and Commerce;
18th Energy and Natural Resources;
19th Fisheries;
20th Foreign Affairs;
21st Legal and Constitutional Affairs;
22nd National Finance;
23rd Official Languages;
24th Regulations and other Statutory Instruments;
25th Social Affairs, Science and Technology;
26th Social Affairs, Science and Technology;
27th Standing Rules and Orders;
28th Regulations and other Statutory Instruments—(*Senator Frith.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think we will be able to dispose of these matters, since Senator Roblin has informed me indirectly that he does not want these matters held up on his account. I will furnish his office with the breakdown figures. Therefore, perhaps these orders could stand until tomorrow, and someone could check with Senator Roblin that that is the case.

Hon. Orville H. Phillips: Honourable senators, I would appreciate an opportunity to check with Senator Roblin.

Senator Frith: Of course.

Orders stand.

[*Translation*]

NATIONAL DEFENCE

SPECIAL COMMITTEE AUTHORIZED TO MAKE FEASIBILITY STUDY OF "SNOWBIRDS" VISIT TO NATO ALLIES

Hon. Peter Bosa, pursuant to his notice of motion of May 26, 1987, moved:

> That the Special Committee of the Senate on National Defence be authorized to examine the feasibility, logistics and merits of a visit by Canada's air demonstration team the "Snowbirds" to our NATO allies in Europe in the near future.

He said: Honourable senators, I would like to say a few words today to pay tribute to and congratulate the "Snowbirds", the aerobatic team of the Royal Canadian Air Force.

The "Snowbirds", or Squadron 431, as it is called in the Royal Canadian Air Force, deserve a special place in the hearts of all Canadians. Every year, the team gives between 65 and 70 aerobatic demonstrations before more than five million spectators. This year, the "Snowbirds" will give 44 aerobatic demonstrations in various places, from Florida to the Canadian Northwest Territories.

[*English*]

The Snowbirds were organized in 1971 by Colonel O.B. Philip, Base Commander, CFB Moose Jaw. Up to that time the Canadian Forces aerobatic teams had had a rather precarious history.

Beginning with the Siskins, who flew from 1929 to 1931, there have been six different Canadian Forces aerobatic teams. Among the most memorable were the Golden Hawks, which were formed in 1959 to commemorate the 50th anniversary of flight in Canada, and which, in the five short years they flew, gained a reputation as one of the finest aerobatic teams in the world. Another famous team was the Golden Centennaires, organized as part of the Armed Forces salute to Canada's Centennial year, 1967.

• (1630)

It is sad to note that Canada's early aerobatic teams, including the Snowbirds themselves in their formative years, were faced with the same problem: Would they be together as a unit the following year? Teams were formed and held together by little more than the initiative and perseverance of the dedicated individual pilots, ground crew and others who believed in them, and never knew a secure future, in spite of the acclaim of those who saw their performance. The Canadian public thought of their aerobatic units as representing the best of Canada's Air Force pilots; they inspired more than applause, they inspired respect and admiration. It would take the first seven years of the Snowbirds' life, however, before they were accorded permanent standing.

The original aerobatic team, consisting for the most part of instructors from No. 2 Canadian Forces pilot training school at Moose Jaw, first performed under the name "Snowbirds" on July 11, 1971, at the Saskatchewan Homecoming Air Show. The name "Snowbirds" was selected as the result of a contest held at CFB Moose Jaw's elementary school.

Between 1971 and the end of March 1978, the Snowbirds operated on a year-to-year basis. On Air Force Day, April 1, 1978, the team finally received official squadron status as the 431 Air Demonstration Squadron.

The aircraft used continue to be CT 114 Tutor Jets manufactured by Canadair of Montreal. The team consists of nine aircraft, supported by a 21-man crew of pilots and technical personnel. Each year half of the members of the team leave, so that the entire team has changed after two years. The present Base Commander at CFB Moose Jaw is Colonel G.E. Miller, and the team leader is Major Dennis Beselt. The other pilot team members are Captain Joe Parente, Captain Paul Giles, Captain Jim Fowlow, Captain Don Barnby, Captain Boyd Smith, Captain Howard Tarbet, Captain Wes MacKay and Captain Don Brodeur. The team coordinators are Captain Richard Lapointe and Captain Eric Dumont. Like the RCMP's musical ride, the Snowbirds are becoming a regular feature of many exhibitions, special events and fairs throughout Canada and the United States. While the RCMP's musical ride has garnered the praise of world-wide audiences and has, as a goodwill ambassador, contributed to enhancing Canada's reputation, the Snowbirds have yet to perform outside North America, most notably in Europe.

Our European and U.S. allies have not missed opportunities to have their aerobatic teams perform here. In the past

Canada has played host to military aerobatic teams of the U.S.A., Brazil, Britain, France and Italy. I am of the opinion that it is long past the time when Canada should reciprocate. As a demonstration of our commitment to and pride in our own national aerobatic team, the Snowbirds should be given the opportunity to show European audiences what Canadian and American audiences have known since July 11, 1971; namely, that the Royal Canadian Air Force has one of the best nine-member aerobatic teams in the world.

A series of European shows would, I believe, serve Canada well. Such performances would raise the profile of our military personnel throughout Europe, and could focus attention on our new state-of-the-art equipment, most notably the CF-18 fighter aircraft, which is already stationed there. Through such shows Europeans could become more familiar with Canada generally.

While delivering the team to Europe would require a modest expenditure of funds, the long-term goodwill generated by the show would be of enormous benefit to Canada.

Canadians have long recognized the dedication and effort of our military personnel who worked to create the Snowbirds. Canadians also recognize that the current team is proudly carrying on the tradition of excellence first established by aerobatic teams some 50 years ago.

The CBC paid homage to the Snowbirds on Sunday, April 29, 1987, in a one-hour television documentary. The program gave Canadians the rare opportunity to meet members of the team and their families, and also contained some thrilling sequences of the Snowbirds in action.

I hope that the Special Committee on National Defence will see the merits of recommending that the Snowbirds have an opportunity to perform in Europe.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 1272*)

NATIONAL DEFENCE

SECOND REPORT OF SPECIAL COMMITTEE

WEDNESDAY, June 17, 1987

The Special Committee of the Senate on National Defence has the honour to present its

SECOND REPORT

Your Committee was empowered by the Senate on May 28, 1987 (i) to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and (ii) to adjourn from place to place within and outside Canada for the purpose of its examination of Canada's land forces including mobile command, as authorized by the Senate on April 7, 1987.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

PAUL C. LAFOND
Chairman

APPENDIX (A) TO THE REPORT

SPECIAL COMMITTEE OF THE SENATE ON NATIONAL DEFENCE

APPLICATION FOR BUDGET AUTHORIZATION FOR THE PERIOD APRIL 15, 1987 TO DECEMBER 15, 1987

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, April 7, 1987:

"That a special committee of the Senate be appointed to hear evidence on and to consider the following matter relating to national defence, namely, Canada's land forces including mobile command, and such other matters as may from time to time be referred to it by the Senate;

That 12 Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the Committee have power to send for persons, papers and records, to examine witnesses, to report from time to time, and to print such papers and evidence from day to day as may be ordered by the Committee; and

That the Committee report to the Senate no later than 15 December 1987.

The question being put on the motion, it was—
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate.

SUMMARY

Professional and Other Services	**$ 68,816**
Transportation and Communications	**63,050**
All Other Expenditures	**1,250**
TOTAL	**$ 133,116**

The foregoing budget was approved by the Committee on the 5th day of May 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

Paul C. Lafond
Chairman, Special Committee of the Senate on National Defence

Date: May 5, 1987

Approved by:
Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: June 9, 1987

EXPLANATION OF COST ELEMENTS

Professional and Other Services
(Parliamentary Centre)

1. a)	1 Advisor 40 hrs. at $107 per hr. =	$ 4,280	
	1 Advisor 600 hrs. at $77 per hr. =	46,200	
	1 Advisor 40 hrs. at $65 per hr. =	2,600	
	1 Researcher 72 hrs. at $38 per hr. =	2,736	
			$ 55,816
b)	One time cost of editing the report: Editor (english) Editor (revising & editing the french text)	$ 3,000 5,000	
			8,000
2.	Expenses of Witnesses		5,000

Transportation and Communications

1.	Travel Expenses		
a)	Fact-finding mission (12 Senators & 3 support staff)		
1)	Calgary - Edmonton - Suffield - Chilliwack (6 days)		
	Transportation:	$ 2,500	
	Hotels: $90 per day x 6 days x 15 persons	8,100	
	Per diem: $40 x 6 days x 15 persons	3,600	
			14,200
2)	Petawawa & Valcartier (2 days)		
	Transportation:	$ 1,000	
	Hotels: $140 per day x 2 days x 15 persons	2,100	
	Per diem: $40 x 2 days x 15 persons	1,200	
			2,200
3)	Lahr/Cyprus (7 days)		
	Transportation:	$ 5,000	
	Hotels: $140 per day x 7 days x 15 persons	14,700	
	Per diem: Germany: $90 x 4 days x 15 persons	5,400	
	Cyprus: $70 x 3 days x 15 persons	3,150	
			28,250
4)	Gagetown (2 days)		
	Transportation:	$ 1,500	
	Hotels: $65 per day x 2 days x 15 persons	1,950	
	Per diem: $40 x 2 days x 15 persons	1,200	
			4,650
5)	Contingencies: Emergency Travel Expenses		10,000
b)	Anticipated expenses of Senators responding to invitations to speak on the work of the Committee		2,500
2.	Telegrams & Telephones	$ 250	
3.	Postage and Freight	1,000	
			1,250

All Other Expenditures

1.	Purchase of Stationery, Books and Periodicals	$ 250	
2.	Other expenditures	1,000	
			1,250
	TOTAL		$ 133,116

APPENDIX (B) TO THE REPORT

TUESDAY, June 9, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the budget presented to it by the Chairman of the Special Committee of the Senate on National Defence for the proposed expenditures of the said Committee with respect to its examination of Canada's land forces including mobile command, as authorized by the Senate on April 7, 1987. The said budget is as follows:

Professional and Other Services	$ 68,816
Transportation and Communications	63,050
All Other Expenditures	1,250
	$133,116

ATTEST:

GUY CHARBONNEAU
Chairman

APPENDIX "B"

(*See p. 1281*)

APPROPRIATION BILL NO. 3, 1987-88

ESTIMATES TABLED TO DATE FOR 1987-88

	To Be Voted	Statutory	Total
	(in thousands of dollars)		
Main Estimates			
Budgetary	$37,826,901	$72,314,176	$110,141,077
Non-Budgetary	59,184	−128,545	−69,361
	$37,886,085*	$72,185,631	$110,071,716
Supplementary Estimates (A)			
Budgetary	$ 700,000	—	$ 700,000
Non-Budgetary	—	—	—
	$ 700,000	—	$ 700,000
TOTAL ESTIMATES TABLED			
Budgetary	$38,526,901	$72,314,176	$110,841,077
Non-Budgetary	59,184	−128,545	−69,361
	$38,586,085	$72,185,631	$110,771,716

*Does not agree with "Supply to Date for 1987-88" statement due to rounding.

SUPPLY TO DATE FOR 1987-88

Two Appropriation Acts have been approved in respect of Estimates for 1987-88:

Supply Approved to Date:	
Appropriation Act No. 1, 1987-88 which granted Interim Supply for *April, May and June* including 31 additional proportions, based on the *Main Estimates* for 1987-88	$10,458,957,258.08
Appropriation Act No. 2, 1987-88	
The whole of Supplementary Estimates (A), 1987-88	700,000,000.00
Sub-total	$11,158,957,258.08
Awaiting Approval:	
Supply for the balance of *Main Estimates* for 1987-88	$27,427,132,310.92
TOTAL	$38,586,089,569.00

THE SENATE

Thursday, June 18, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

OFFICIAL REPORT

QUALITY OF TRANSLATION

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. I would first like to humbly request that Senator Le Moyne pardon me, because I did not follow the salutary advice he sent around to all honourable senators last week with respect to ascertaining that the translation of one's speeches is approved by oneself before publication. I hope he will forgive me for not being a faithful follower of his very good advice.

The translation of the French text of the speech I delivered in the Senate yesterday is a complete bamboozle.

Senator Guay: That is not the first time.

Senator Corbin: It is a fraud; it is a fake, and I plead with my honourable colleagues not to read the English text of the speech I gave in this house yesterday, because I cannot stand behind it the way it has been translated. It is an absolute mess; it is an absolute shame, and I think the time has come for the Senate to set up its own translation services. The disservice this does to us is something out of this world—it is prejudicial, it causes me great harm, and I am not the only senator being hurt by the lack of proper translation facilities.

I thank honourable senators for their attention.

Senator Guay: I will second the motion.

Hon. Ann Elizabeth Bell: Honourable senators, on Senator Corbin's point of order, I might point out that this is rather like banning a book in Boston—we are all going to leap to the *Debates of the Senate* to read his speech again.

(*Translation subsequently revised*)

NATIONAL TRANSPORTATION BILL, 1987

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-18, respecting national transportation.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

THE CONSTITUTION

NOTICE OF MOTION TO AMEND THE CONSTITUTION ACT, 1867

Hon. John M. Godfrey: Honourable senators, I give notice that on Tuesday next, June 23, 1987, I will move:

That the Senate resolve that an amendment to the Constitution of Canada be authorized to be made by proclamation, issued by Her Excellency the Governor General, under the Great Seal of Canada, as follows:

PROCLAMATION AMENDING THE CONSTITUTION OF CANADA

Section 31(1) of the *Constitution Act, 1867* is repealed and the following substituted therefor:

"(1) If, for two consecutive calendar years, he fails to give his attendance in the Senate for at least one-third of the sittings in each of those years", and

That a message be sent to the House of Commons to acquaint that House thereof and to invite them to join with this House in the aforementioned action.

CUSTOMS TARIFF AND DUTIES RELIEF ACT

BANKING, TRADE AND COMMERCE COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-69

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject matter of the Bill C-69, An Act to amend the Customs Tariff and the Duties Relief Act, in advance of the said Bill coming before the Senate or any matter relating thereto.

Motion agreed to.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, June 22, 1987, at two o'clock in the afternoon.

I will say a word about this if the Senate so desires.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we will grant leave, but we would like an explanation.

Senator Doody: Honourable senators, the purpose of coming back on Monday is to try to keep ahead of the schedule, particularly as it relates to Senate committees. We have several pieces of legislation on the order paper. We received Bill C-18 today, and we hope to start second reading of it on Monday. We will also receive Bill C-19 on Monday, I understand, and we can proceed to second reading on that bill at that time as well, or on Tuesday if the Senate prefers. We will also deal with the other legislation on the order paper. As well, we have indications that other legislation might very well reach us early in the week.

With regard to Senate committees, the workload now before the committees, involving both pre-study and the actual study of legislation as well as the preparation of reports preparatory to the close of the session, is a rather heavy one. The Standing Senate Committee on Agriculture and Forestry has a pre-study of Bill C-2 under way, which is a bill that we would like to have dealt with before we finish this session's business.

Senator Frith: Is it Canagrex?

Senator Doody: That is the Canagrex Dissolution Act. They also have a study of farm finance under way. Banking, Trade and Commerce has three pre-studies under way and a fourth one which was referred to them today; Energy and Natural Resources has two studies under way; Fisheries has two studies under way; Foreign Affairs has two matters before them; Legal and Constitutional Affairs has Bill C-15 before them plus two other bills which were referred to them yesterday; National Defence has a study; National Finance has the estimates and the tax expenditures before them; Official Languages has two items; and Social Affairs, Science and Technology has five matters before them at the present time. Of course, we also have the special committee dealing with Bill C-22. The Special Committee on Terrorism and Public Safety is meeting to draft its report; and the Committee on Transport and Communications has before it the pre-study of Bill C-21. The committee has also had referred to it for pre-study Bills C-18 and C-19, dealing with national transportation and motor vehicle transport.

• (1410)

So, if we happen to adjourn early on either Monday or Tuesday, it is hoped that we will be able to fit in some committee meetings; and, of course, Monday and Tuesday mornings and evenings are also available for committee meetings.

Therefore, we have a pretty heavy schedule ahead of us. Wednesday is, of course, Saint Jean Baptiste Day and will be a general holiday. I expect that the Senate, as always, will observe that day. What happens later in the week will, to a large extent, be dictated by the amount of legislation coming to us from the other place. We anticipate quite a bit, but it may be too early at this point to be more specific.

Motion agreed to.

QUESTION PERIOD

[*English*]

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION

Hon. Lorna Marsden: Honourable senators, I believe that all Canadians were amazed to discover this week that there is a new form of the Order of Canada in the land. Twenty favoured Canadians have been called upon to see the tax reform announcement for tonight before parliamentarians.

Some Hon. Senators: Shame!

Senator Marsden: I am sure that many honourable senators have questions about this. My question to the Leader of the Government is: What proportion of those 20 people were women?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am afraid I have not the slightest idea. The matter raised by the honourable senator has been fully dealt with by the Minister of Finance during oral Question Period in the other house.

Senator Perrault: What has that to do with it?

REPORTING OF COSTS OF CONSULTANTS FOR TAX PURPOSES

Hon. Ian Sinclair: Honourable senators, I have a question for the Leader of the Government dealing with those 20 special people. I understand that for some months their firms carried the costs for those people, including their travelling expenses. My question is: When their firms report that, will they report it as a political donation or as a cost of doing business?

Senator Perrault: A good question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I assume that the question is rhetorical and that the honourable senator does not expect me, or any member of the government, to delve into the tax returns of those individuals or corporations. It is not our style.

Senator Sinclair: I take it that the answer of the Leader of the Government means that he does accept the fact that the costs will appear in tax returns. Is that what his answer means?

Senator Murray: The honourable senator has asked me to speculate on what those taxpayers might register in their tax

returns. I have no idea and no way of finding out. I hope he is not encouraging me to try.

Senator Olson: What is the government's response?

[*Translation*]

OFFICIAL LANGUAGES ACT

STATUS OF BILL TO AMEND

Hon. Eymard G. Corbin: Honourable senators, my question is directed to the Leader of the Government, and I would like to ask him whether today he has any more news about when the government intends to table its bill to amend the Official Languages Act. Is there any news? For instance, will the bill be tabled before we adjourn, as assumed, for the summer?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the government's commitment is as I described the other day. We are committed to tabling our reform of official languages legislation and policy during the current session.

I hope and I continue to hope that it will be possible to table this bill before the summer recess.

CONSULTATIONS BY SECRETARY OF STATE—INJUSTICE TO PARLIAMENTARIANS

Hon. Eymard G. Corbin: Honourable senators, I am concerned about the fact that the Secretary of State, who is normally responsible in Cabinet for sponsoring and introducing such a bill, has stated that he had consulted and probably still is consulting with individuals and groups across the country on the subject of the amendments the government wishes to table in Parliament.

I consider this to be an injustice to parliamentarians, since they are not consulted as well. What is wrong with tabling a bill and then consulting with both the public and parliamentarians?

We are now in a position where the Commissioner of Official Languages and the francophones—hors-Québec groups and other people have had a chance to hear about the government's plans, while we parliamentarians are right at the end of the line.

Are we less qualified than the average citizen to study the contents of the bill? I don't see why we in Parliament should be treated as second-class citizens.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, parliamentarians are hardly at the end of the line. My honourable friend was joint chairman of the Joint Committee on Official Languages Policy and Programs. The Committee made recommendations to the government. The government has considered all these recommendations.

We have consulted with all intervenors, all associations and all representatives of language minorities across this country.

I may add that there are three aspects to this linguistic reform. First of all, there will be the bill to amend the Official Languages Act, which will be sponsored, not by the Secretary of State, but by the Minister of Justice. Certain policies will be announced by the Secretary of State and will concern the role of the federal government vis-à-vis the language minorities in this country. Finally, there will be the regulatory aspect and how the policy affects the public service, all of which comes under the jurisdiction of the President of the Treasury Board.

As far as the general aspects of this reform are concerned, we are consulting with representatives of language minorities across the country. We have considered the recommendations made by the Commissioner of Official Languages and the Joint Committee on Official Languages Policy and Programs. As I said earlier, I still hope it will be possible to table the reform before the summer recess.

REPORT OF OFFICIAL LANGUAGES COMMITTEE—GOVERNMENT ATTITUDE

Hon. Joseph-Philippe Guay: Honourable senators, yesterday afternoon, the Joint Committee on Official Languages—a pity Senator Woods is not here today since she is Joint Chairman of this Committee—was working on the report we want to submit to the minister on amendments to the Official Languages Act. We have not finished yet, and our report has yet to be submitted. We will be suggesting some very substantial changes, and I hope we will have a chance to do so before the middle of next week. We met yesterday afternoon but we have not had a chance to finish this report.

Since you have been so considerate about consulting with our fellow Canadians on amendments to the Official Languages Act and perhaps other legislation as well, I hope you will show some consideration to this very important committee which I am sure will want to make some suggestions.

[*English*]

ENERGY

DOME PETROLEUM-AMOCO CANADA TRANSACTION—AVAILABILITY OF DOCUMENTS TO GOVERNMENT

Hon. John B. Stewart: Honourable senators, I have a question concerning the Dome-Amoco transaction. I ask the Leader of the Government in the Senate: Has Investment Canada or the minister received a copy of the bidding rules set by Dome, a copy of each of the three bids, and a copy of the contract entered into between Dome and Amoco? Has the government, either through Investment Canada or through any of its branches or agencies, obtained these documents?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know the answer to the question. I cannot speak for the Minister of Energy, Mines and Resources. I shall inquire.

As for Investment Canada, I would have thought, before any transaction was officially proposed, that it was unusual for Investment Canada to ask for or, indeed, to receive a copy of the bidding rules or of the three bids, or, indeed, of the contract between Dome and Amoco, until such time as the shareholders had decided what they wanted to do.

Senator Stewart: Then, may I ask the minister: If an application is received by Investment Canada, will Investment Canada and/or the appropriate minister undertake to acquire and examine all of these documents?

Senator Murray: I will take that question as notice, honourable senators. I can only say that the usual procedure would be followed.

EMPLOYMENT EQUITY

STATUS OF AMENDMENTS TO CANADIAN HUMAN RIGHTS ACT

Hon. Lorna Marsden: Honourable senators, it is approximately a year ago since we debated and passed Bill C-62, respecting employment equity, as it was called. At that time it was quite apparent to everyone, including Mr. Fairweather from the Canadian Human Rights Commission, that there needed to be amendments to sections of the Canadian Human Rights Act in order to make effective the implementation of the Employment Equity Bill.

We were promised those amendments months ago. It is my understanding that the amendments are prepared, but not yet through cabinet. I wonder if the minister could tell us when we can expect to see those crucial amendments, which are needed in order to make sense of the bill passed last June.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Again, honourable senators, I am sorry I am not in a position to respond. I shall make inquiries and advise the honourable senator accordingly.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. H.A. Olson: Honourable senators, a few days ago the Leader of the Government in the Senate undertook to make some inquiries of his colleagues, the Minister of Agriculture and the Minister responsible for the Wheat Board, as to the status of the deficiency acreage payment for the 1987 crop year. At that time he said that he would report when there was something to report, and that an announcement would be made in the usual way.

I wonder if the Leader of the Government in the Senate has found out anything that he should report. I would entreat him, because it is the last day of the second-last week and there are some farmers who are extremely concerned about 1987, in view of the severe reduction in the prices that they can expect for this year's crop.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would definitely not expect any announcement of a new program in that regard before the summer adjournment. But then, again, as I said the other day, I do not know when the summer adjournment will begin.

[Senator Murray.]

Senator Olson: Perhaps the honourable minister could give some comfort to the farmers who are caught in this, if not desperate, certainly very uncomfortable situation by disclosing whether or not the government is seriously considering a program for 1987 similar to that of 1986. I know the minister told me that there were some conversations going on between the two levels of government and with farm organizations, but so far we have not had one word from him to give hope to the farmers that the government is seriously considering a program for this year. Until the farmers get some comforting words from the government, of course, they may not have any income.

Senator Murray: Honourable senators, our record to date in fighting for the interests of the farmers, both nationally and on the international scene, and in bringing assistance to farmers is absolutely the best guarantee that the farming community in this country could have as to the future actions of the government.

Senator Frith: What worries us is that you think so.

Sentor Olson: Can the Leader of the Government in the Senate say whether this government is likely to bring in a program for this year at least as good as last year's?

Senator Murray: I am glad you liked last year's program

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION—GOVERNMENT LEADER'S ANSWER TO QUESTION—RIGHT OF SENATORS TO ASK QUESTIONS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, earlier today Senator Marsden asked a question of the Leader of the Government in the Senate in which she was clearly asking for information respecting how many of the people invited to participate in this tax expert panel were women, and the Leader of the Government in the Senate said that he had not the slightest idea, and that the matter had been dealt with in the other place.

• (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The general question—

Senator Frith: What is the relevance of what is taking place in the other place? Are we to read *Commons Debates* to obtain that information?

Senator Murray: I wish you would!

Senator Perrault: Your responsibility is to this chamber.

Senator Frith: Do I understand, then, that if we want information on anything that is dealt with in the other place we have to go to the other place to obtain that information, and that the Leader of the Government in the Senate is not going to obtain that information for the Senate?

Senator Murray: Not at all, honourable senators. The preface to the question asked by our colleague, Senator Marsden, was rather rhetorical, but included general questions that had been asked in the other place and which were answered by the responsible minister, Mr. Wilson, in the other place. I simply wanted to indicate that that was the case.

The honourable senator is not precluded from wasting his time and the time of the Senate, if he wishes to do so, by asking the same questions that have been answered by the responsible minister in the other place. I am not precluded from taking every question as notice and bringing in delayed answers, if I wish to do that, but I would hope we would operate on a more reasonable basis, and that the honourable senator would not expect me to be in a position to answer in detail, on the spot, for every other minister in respect of every detail of that minister's department. I will give such information as I can give properly and with confidence of its accuracy.

Meanwhile, I do suggest that honourable senators avail themselves of the opportunity to peruse their free copies of *Commons Debates*.

Senator Frith: Honourable senators, there are a couple of branches to what was just said. First of all, there has never been a suggestion that the Leader of the Government in the Senate should not have an opportunity to take questions as notice so that he can obtain information. Of course he can. In fact, he does not even have to answer questions, for that matter, so let us start from point zero. If the leader wants to take that position, he is free to do so.

Let us get to the particular question that was asked, which was whether any of these people were women. The answer given was that the Leader of the Government had not the slightest idea, and that the matter had been dealt with in the other place. Since he did not have the slightest idea, I can only assume he would not know whether the particular question was answered in the other place. So, there are two things: first of all, we have to go to the other place; and, second, he did not take the question as notice and was not able to tell us whether that question was answered in the other place.

Senator Perrault: That is because the leader does not read *Commons Debates*.

Senator Frith: Obviously, he does not, or he would have had some idea. So he wants us to do something he is not prepared to do himself. It does not seem to me that that is a very—

Senator Murray: Surely some honourable senators on that side have a plane to catch!

Senator Frith: The Leader of the Government has asked us to behave in a reasonable way; I suggest that he is not behaving reasonably as it relates to answering questions and fulfilling his duties to the Senate.

I can tell by the leader's sighing, and because he is looking at his watch, that he finds this whole procedure rather boring, and therefore does not want to be taken to task with regard to his obligation to answer questions in the Senate. He can refuse to answer questions, but if the leader is going to undertake to provide information, I suggest that he give that undertaking in the Senate, and not refer senators to the proceedings of the other place.

Senator Murray: I might say that the original question raised by Senator Marsden was one that sought detail as to the sexual identity of those involved.

Senator Frith: I do not think she had in mind a detailed inspection at all. Whether they were men or women is evident without a detailed inspection.

Senator Murray: I would suggest that the question be put on the order paper, and we shall bring a reply in due course.

Hon. Lorna Marsden: Honourable senators, the question was not asked in the other place. As far as I can see from reading the debates of the other place, the question was not raised. It would be helpful to know this. This is not an idle question, I should like to assure the Leader of the Government in the Senate, because, of course, the concerns of women with respect to tax reform, because of the economic circumstances of women, may be rather different from the concerns of men. Therefore, the question is highly relevant.

THE SENATE

DATE OF SUMMER ADJOURNMENT

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have another question which perhaps the leader can answer, or he may wish his deputy to answer.

A moment ago the Leader of the Government in the Senate, in answer to a question by Senator Olson, said that he did not know when the summer adjournment would take place. Since the adjournment of the House of Commons is now fixed by rules in that place, I take it he means that he does not know when we will adjourn here. Those rules are permanent. They will be adjourning on June 30. I am again asking for information. I could go and ask for it in the other place, but I think this is a question that would best be answered here. The question is: Does he mean that he does not know when we will be adjourning?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Obviously, no, I do not know when we will be adjourning.

Senator Flynn: Perhaps you should read what goes on in the other place.

Senator Frith: He does not read that. We should read about that, because he does not read what goes on in the other place.

Senator Flynn: Read the rules of the other place.

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—NAMES AND GENDER—REQUEST FOR TABLING

Hon. George van Roggen: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate on the question raised by Senator Marsden.

As Senator Marsden phrased her question, it could well be answered, in due course, by a simple naming of one person or

by saying that there were two women in the group of 20. I wonder if I might go further and ask the Leader of the Government in the Senate if he will table in the Senate the names of the 20 people and their sex, if not their sexual proclivities.

Hon. Senators: Oh, Oh!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I will see whether that information is available.

THE SENATE

SUGGESTED SITTINGS IN PROVINCIAL CAPITALS

Hon. Peter Bosa: Honourable senators, my question is for the Leader of the Government in the Senate. In view of the fact that the Meech Lake accord contains a provision whereby the provinces in future will submit a list of nominees for consideration by the Prime Minister for membership in the upper house, has the leader considered, or will he consider, having some meetings of the Senate take place in the capitals of the provinces on occasion in order to bring this institution closer to the people?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, unfortunately, we are labouring under very serious budgetary constraints, and I doubt whether the honourable senator's suggestion would be feasible.

PARLIAMENT

SUMMER PROROGATION—GOVERNMENT INTENTION

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wish to ask a very simple question, stimulated by the use of the expression, three times by the Leader of the Government, "summer adjournment."

Is he putting to rest the rumours that have been circulating around Parliament Hill that the government will have a summer prorogation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have not heard any such rumours and therefore cannot comment.

Hon. Royce Frith (Deputy Leader of the Opposition): You should read the debates of the other place!

Senator MacEachen: Honourable senators, perhaps I made a mistake by relating my question to a rumour. Does the government propose a summer prorogation?

Senator Murray: The answer is pretty much the same, honourable senators: No such decision has been taken by the government.

[Senator van Roggen.]

DELAYED ANSWER TO ORAL QUESTION
NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—NON-PROLIFERATION TREATY—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked by Senator Bosa on June 17 regarding National Defence, specifically nuclear-powered submarines.

(*The answer follows:*)

The acquisition by Canada of nuclear-powered submarines would be fully consistent with Canada's non-proliferation policy as enunciated in 1974 and confirmed in 1976 and 1981. It would also be consistent with our commitment under the Non-Proliferation Treaty (NPT).

Canadian non-proliferation policy states that Canadian nuclear cooperation shall be for non nuclear-explosive purposes only. The NPT is similarly concerned about the proliferation of "nuclear weapons and other nuclear-explosive devices". This clearly allows for cooperation in non proscribed (i.e. non nuclear explosive) military applications. The safeguards agreement Canada negotiated with the International Atomic Energy Agency pursuant to its ratification of the NPT recognizes that fact and contains provisions for nuclear material to be used in military applications to be exempted from safeguards.

APPROPRIATION BILL NO. 3, 1987-88

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Flynn, P.C., for the second reading of the Bill C-65, An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, yesterday, when I adjourned the debate on this order, I mentioned that I did so in order to have an opportunity to look at the proceedings of the Standing Senate Committee on National Finance, which had, of course, dealt with these estimates.

Honourable senators will remember that when interim supply was granted, certain debate did take place, or comments were made at that time, about the proceedings of the National Finance Committee. I also made some inquiries and found that the committee is continuing with its hearings dealing with the Treasury Board, and particularly with some questions and recommendations that the Standing Senate Committee on National Finance made to the Thirty-Third Parliament. It seems that the committee and the Treasury Board officials are getting on very well with this effort. The committee will report further on that subject.

• (1430)

Honourable senators, I see no reason why we should not release the balance of the Main Estimates at this time. Of course, there is no need for the bill to go to committee, because the estimates were studied by our committee in April. Since this is Thursday, and the motion for adjournment has us sitting again on Monday, I see no reason why we should wait until the next sitting of the Senate for third reading of this bill. I think it could be read the third time today.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator Doody speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Doody: Honourable senators, I thank Senator Frith for his comments.

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

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

CANADIAN EXPLORATION AND DEVELOPMENT INCENTIVES PROGRAM BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of Honourable Senator Balfour, seconded by the Honourable Senator Rossiter, for the second reading of the Bill C-59, An Act to provide for payments in respect of exploration for or development of lands for the production of hydrocarbons in Canada other than coal.—(*Honourable Senator Balfour*).

Hon. R. James Balfour: Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator Balfour speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Balfour: Honourable senators, yesterday, in his remarks concerning Bill C-59, Senator Olson raised some questions with respect to clauses 6, 8, 9 and 10 of the bill and requested a more detailed explanation with respect to their effect and application.

Senator Olson was correct when he stated that clause 6 was intended to prohibit a number of persons from dividing themselves into more than one entity so that they could circumvent the $10 million annual expense limit set out in the bill. Paragraph (a) of clause 6 states that the term "associated" will be specifically defined in the regulations. Detailed rules will be required to deal with the myriad of intercorporate arrangements which exist in the oil industry. Speaking generally, these rules will correspond to the rules contained in the Income Tax Act relating to associated corporations.

Paragraph (b) of clause 6 gives the minister the authority to deem persons who would not otherwise be associated to be associated in circumstances where the minister is satisfied that there is no *bona fide* reason for one of the persons to be in existence other than to circumvent the annual expense limit.

Clause 8 sets out special rules for dealing with corporations which finance exploration and development activity through the use of flow-through shares. A flow-through share arrangement may generally be defined as an agreement in writing between a corporation, "a flow-through share corporation", and a person, an "investor", pursuant to which the flow-through share corporation, in return for certain consideration which it receives from the investor, issues shares to the investor. The investor's funds are used by the corporation to incur Canadian exploration expense or Canadian development expense.

Post-1986 flow-through share agreements are referred to as "new" flow-through share agreements. It is the corporation that incurs the expense and then renounces the expense to the investor. Clause 8, subclause (1), permits the company issuing the share to elect to flow through the CEDIP to the investors or to retain the CEDIP itself. This flexibility was expressly requested by industry.

Subclause (2) of clause 8 sets out that where an election is filed, the corporation is deemed not to be entitled to the CEDIP. It will be flowed through to the investors. The investors are entitled to the CEDIP, and the corporation makes application and receives the CEDIP in trust for them. The CEDIP does not become a corporate asset.

For the purposes of determining the annual expense limit, it is the corporation which must combine the eligible expenses incurred under such agreements with the eligible expenses it has incurred on its own behalf.

Clause 9 covers agreements pre-1987, which are referred to as "old" flow-through shares, and under these agreements the investor uses the corporation as its agent to incur expenses. Subparagraph (a) sets out that it is the corporation issuing the shares that shall apply for CEDIP on behalf of the investors. Subparagraph (b) establishes that the investors are entitled to CEDIP, and that the corporation will be paid the CEDIP as trustee for the investors. Subparagraph (c) establishes that the corporation must combine the eligible expenses it incurs on its own behalf with those incurred under these flow-through share agreements, for the purpose of determining the annual expense limit.

With respect to clause 9, it should be explained that the Income Tax Act as it currently exists made certain "grandfa-

ther" provisions to apply to flow-through share agreements made prior to 1987.

Clause 10 is technical in nature. Its purpose is to make possible payments of CEDIP benefits to a person other than the person who was entitled in the event of death, assignment, amalgamation, dissolution and similar occurrence. It is necessary in this respect to comply with the provisions of Part IX of the Financial Administration Act, which is procedural in nature.

Honourable senators, I apologize for the technical nature of that explanation. It would normally have been provided in committee, but in the interests of expediency Senator Olson and I agreed that we would deal with it in this way. I hope I have satisfied his inquiry.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, when a bill receives second reading and it is anticipated that it will probably get third reading without referral to committee, our usual practice, if there is no arrangement for Royal Assent on that day, is to have it wait for third reading until the next sitting of the Senate. However, since legislation is piling up, I wonder whether we should not make an exception in this case. We know that we will be giving the bill third reading at the next sitting of the Senate, and I suggest that in order to keep our order paper uncluttered, perhaps we should proceed to give it third reading immediately. We know that the bill will not be going to committee, and that it will receive third reading on Monday anyway.

Hon. R. James Balfour: Honourable senators, Senator Olson and I had discussions yesterday and that was agreed to.

Hon. H.A. Olson: Honourable senators, I have one further question, and I am sorry that I did not ask it yesterday. Could the sponsor of the bill tell us when he expects that this bill will be proclaimed and when it will be administered? In other words, are applications being accepted now for the contributions under this bill? If not, on what date can we expect the bill to be applicable?

Senator Balfour: Honourable senators, I understand that the bill will be proclaimed forthwith, that is, by the end of the month, before we rise. It will take effect from April 1, 1987. The administrative machinery has not yet been set up in Calgary, but this is being attacked, as I understand it, with a sense of urgency.

Honourable senators, I move, with leave of the Senate and notwithstanding rule 45(1)(*b*), that the bill be read the third time now.

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

Hon. Senators: Agreed.

[Senator Balfour.]

Motion agreed to and bill read third time and passed.

• (1440)

BELL CANADA BILL

SECOND READING—DEBATE ADJOURNED

Hon. William M. Kelly moved the second reading of Bill C-13, respecting the reorganization of Bell Canada.

He said: Honourable senators, I welcome this opportunity to sponsor Bill C-13, the Bell reorganization bill.

As you are aware, Bill C-13 is an important bill. Although its provisions might appear to be merely regulatory housekeeping, their consequences could well affect both telephone users and television viewers.

The purpose of Bill C-13 is to clarify the powers of CRTC to regulate Bell Canada, and to ensure that the reorganization does not adversely affect the interests of Bell's telephone subscribers.

Before the reorganization, Bell Canada was an operating company providing telephone service in Ontario and Quebec. It was also a holding company with investments in several provincially-regulated telephone companies and several unregulated companies such as Northern Telecom.

The monopoly provision of telephone service created the need to regulate rates and services in the public interest. At the present time, however, the telecommunications industry worldwide is undergoing rapid changes in response to technological advances. New services have evolved which are subject to the competitive test of the marketplace. Regulation is less necessary in such a situation.

It is, of course, true that many of the basic services offered by Bell Canada and other telephone companies are still offered on a monopoly basis. It is equally certain that many telecommunications activities are subject to growing competition, sometimes international in scope. Bell Canada's objective in the reorganization undertaken in 1982 was to distinguish clearly its regulated monopoly activities from its non-regulated competitive activities.

Some senators may know that I spent a considerable amount of my own corporate life in a regulated utility, which, over time, moved in a number of new directions into activities considerably more competitive and less regulated. We carried out a similar reorganization, as a matter of good business practice in our opinion, to bring the regulated part of our business into sharper focus for regulation overview. I am sure that Senator Sinclair, with his long experience in Canadian Pacific, and Senator MacDonald, with his extensive broadcasting background, share these perspectives.

In any event, my own experience compels me to support the reorganization which Bell Canada undertook in 1982.

As a result of the reorganization, a new parent company, Bell Canada Enterprises, has been created. Bell Canada, the telephone company, is now a wholly-owned subsidiary of Bell Canada Enterprises.

For years Bell Canada, the telephone company, was regulated under the provisions of the Bell Canada Special Act, the Railway Act and the National Transportation Act. The reorganization, however, threw into doubt the ability of the CRTC to regulate the company effectively.

In April 1983, in response to an order from the Governor in Council, the CRTC submitted a report on the reorganization, stating that it was in favour of the reorganization, but concluded that certain legislative amendments would be required to clarify its powers to regulate Bell Canada and thus protect the interests of telephone subscribers.

Bill C-13 confirms the CRTC's power to regulate the telephone service. It takes into account the specific recommendations of the CRTC and the concerns expressed by a wide range of interest groups.

Witnesses from six organizations expressed their views on Bill C-13 during the present session of the House of Commons. Bell Canada, CNCP Telecommunications, the Association of Competitive Telecommunications Suppliers and the CRTC appeared to reaffirm their views on the bill. There has, therefore, been very careful consideration of this bill. In its present form it takes into account the stated concerns of interested parties.

The first ten clauses of the bill restate the provisions of the Bell Special Act under which Bell Canada was originally established, including clause 7, honourable senators, which maintains the existing statutory prohibition against Bell Canada holding a broadcasting licence. The remaining clauses contain provisions relating to the reorganization and Bell Canada's new role in it. These latter clauses are intended to ensure that the CRTC will continue to have the power to regulate Bell Canada in this new environment.

Clause 11 contains a provision requiring the CRTC to approve the disposal or sale of Bell Canada shares, all of which are now held by Bell Canada Enterprises.

Clause 12 allows the CRTC to obtain information from Bell Canada Enterprises relative to the regulation of Bell Canada's operations. It ensures that the CRTC can gain all the information it needs to regulate the monopoly. As drafted, it permits the CRTC to request information from any Bell Canada Enterprise affiliate as long as the information is relevant to the regulation of Bell.

Clause 13 contains provisions to allow the CRTC to decide whether particular telecommunications services offered by Bell Canada should be carried out on a competitive or a monopoly basis.

Honourable senators, as stated earlier, a major feature of the Bell reorganization was the intended division of activities that are subject to regulation from those other activities which are to be conducted in non-regulated subsidiaries of Bell Canada Enterprises.

Subclauses 13(1) and (2) give the commission powers to order Bell Canada to undertake an activity provided by an affiliate not subject to a sufficient degree of competition. This is what is known as the "in" power. On the other hand, the CRTC can also order Bell Canada to divest itself of an activity that the commission determines is sufficiently competitive not to require regulatory supervision. This is known as the "out" power. These powers enable the commission to prevent the cross-subsidization of competitive activities by monopoly activities.

This, of course, is the concern that is always present in a company in the form that Bell Canada had prior to this reorganization.

The provisions clarify the fact that provincially-regulated affiliates of Bell are not affected by the "in" power. They also ensure that activities which would not otherwise be subject to regulation under the Railway Act, if conducted by Bell, cannot be the subject of an order. Finally, they require the application of a relatively restrictive test before the commission may order the company to undertake an activity or to divest itself of an activity.

In summary, by reaffirming the long-standing provisions of Bell's Special Act, and by conferring three specific new powers on the CRTC, Bill C-13 enables the commission to carry out its mandate to regulate the monopoly telephone service of Bell Canada.

In my opinion, the bill as it stands, therefore, achieves its objectives. The bill ensures that the CRTC clearly has the necessary powers that it requires to exercise its mandate—the regulation of the monopoly services of Bell Canada—in the increasingly competitive telecommunications market.

At the same time, the bill permits Bell Canada Enterprises and its unregulated affiliates to pursue competitive opportunities. I believe that this is important both domestically and internationally.

The bill is therefore designed to maintain the excellent telephone system that has evolved over many years. At the same time, it is designed to allow the Bell group of companies to meet the challenges of competition without regulatory restrictions.

Honourable senators, I conclude by commending Bill C-13 to this chamber. I suggest that it be approved, and that we let Bell get on with its business.

On motion of Senator Frith, debate adjourned.

● (1450)

NATIONAL DEFENCE

SECOND REPORT OF SPECIAL COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Special Committee of the Senate on National Defence (budget re examination of Canada's land forces), presented in the Senate on Wednesday, June 17, 1987.

Hon. Paul Lafond: Honourable senators, this report is concerned exclusively with the budget of the Special Committee on National Defence, which was tabled yesterday and is reproduced as Appendix "A" to yesterday's *Debates of the Senate*.

The proposed budget has been approved by the Internal Economy Committee and its subcommittee. Therefore, I move the adoption of the report.

Motion agreed to and report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTEENTH TO TWENTY-EIGHTH REPORTS OF COMMITTEE ADOPTED

On the Orders:

Resuming the debate on the motions of the Honourable Senator Frith, seconded by the Honourable Senator Langlois, for the adoption of the Sixteenth to Twenty-Eighth Reports of the Standing Committee on Internal Economy, Budgets and Administration approving the budgets for the following committees:

16th Agriculture and Forestry;

17th Banking, Trade and Commerce;

18th Energy and Natural Resources;

19th Fisheries;

20th Foreign Affairs;

21st Legal and Constitutional Affairs;

22nd National Finance;

23rd Official Languages;

24th Regulations and other Statutory Instruments;

25th Social Affairs, Science and Technology;

26th Social Affairs, Science and Technology;

27th Standing Rules and Orders;

28th Regulations and other Statutory Instruments;—(*Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, these orders have now been on the order paper for some time. It will be recalled that Senator Roblin asked some questions about them and we obtained for him some further information. The orders have since been stood because Senator Roblin was interested in receiving further information. I provided him with some information, and I now have further details in terms of breakdown which I will be pleased to send to him.

I understand that Senator Roblin has since been in touch with the Table officers. I am not clear as to what he said exactly, but I understand that he has suggested that we not hold up these orders on his account. I believe Senator Phillips was going to check to see if that is so; but I suggest it will cover the situation if I send this material to Senator Roblin after we have given approval to these budgets.

I therefore move the adoption of these reports.

Hon. Henry D. Hicks: These reports commence at Order of the Day No. 10?

Senator Frith: They are Orders of the Day Nos. 10 through 22, dealing with the sixteenth report through the twenty-eighth report inclusive; that is correct.

[Senator Lafond.]

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

Hon. Senators: Agreed.

Motion agreed to and reports adopted.

BANKING, TRADE AND COMMERCE

FOURTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on Banking, Trade and Commerce (budget re study on tax reform in Canada), presented in the Senate on Thursday, June 11, 1987.

Hon. Ian Sinclair: Honourable senators, the Internal Economy, Budgets and Administration Committee has approved this report. I therefore move its adoption.

Motion agreed to and report adopted.

NATIONAL FILM BOARD

MOTION TO REFER INQUIRY ON REPORT ON FILM ENTITLED: "THE KID WHO COULDN'T MISS" TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—DEBATE ADJOURNED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the motion adopted by the Senate on May 28, 1986, and passed by a vote of 28 for and 17 against, that the Report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: Production and Distribution of the National Film Board Production "The Kid Who Couldn't Miss", tabled in the Senate on 15th April, 1986, be referred back to the Committee with instructions to consider and report upon the following:

Strike out page 20 and substitute

Recommendations

1. That after the titles of the film, the following disclaimer be added: "This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.

   Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne."

2. That the National Film Board be requested to take action to eliminate from the film the unproven allegations, charges and innuendoes against the integrity of Billy Bishop; and further, that consideration be given to the apparent disregard by National Film Board officials to their commitments to the Senate Sub-committee on Veterans Affairs arising out of evidence before the Sub-committee.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, I intend to complete my comments on the Billy Bishop inquiry today, no doubt to the relief of many honourable senators. I have attempted to address a case, which I hope will result in action, that will finally do justice to a Canadian war veteran and war hero, and also to defend his record, his reputation and his rights as a deceased comrade against what I have concluded to have been an unconscionable attempt by a government agency to denigrate, without question and without accountability to anyone—evidently even to the government itself—the record of that war hero, Air Marshal William Avery Bishop, VC, more than 60 years after the fact, and for reasons which I could not, which I cannot now, and which I never will be able to understand.

While I recognize that the original inquiry raised much controversy about the deliberations of the Subcommittee on Veterans Affairs and the investigation of the the action of the National Film Board, I felt that at the time it was a reasonable and justifiable inquiry. I still feel that even more so today.

I suppose I could not use more appropriate words to define my gut feeling, to justify our action, than the words of Billy Bishop himself, who said:

> It is a code of honour to help out any comrade who is in distress and no matter how severe the consequences may seem, there is only one thing to do: dash straight in and at least lend moral support to him.

I think we did that, honourable senators. But could we have done less as representatives of Parliament, who are led to believe that one of our responsibilities is to protect the rights of an individual? And we never had a better opportunity to fulfil that charge.

Honourable senators, I indicated in one of the phases of my inquiry how and why I became involved in the Billy Bishop affair; but over the past year I have become more concerned and bothered as events have proceeded, because it struck me that the controversy over Billy Bishop's heroism goes far beyond the doubt on the merits of his receiving the Victoria Cross, because for me it reaches into the heart and soul of our respect and loyalty to our country. It has to do with our traditional values and our nationhood, which the leaders of our country proclaim almost on a daily basis.

Perhaps I should mention in this regard the proclamation of National Citizenship Week, which was designated from April 12 to April 18 last. That proclamation recognized the entitlement to those rights and privileges, subject to the duties and responsibilities, which flow from being a Canadian citizen. To mark the occasion, we were called upon to reflect on what it means to be a Canadian, and we were asked to celebrate our citizenship and the beliefs and values which that embodies.

But what about the rights of that citizen, Billy Bishop—rights which are destroyed because of "freedom of expression," behind which statement government agencies can hide in order deliberately to raise doubt in the minds of our citizens about only one of 72 acts of heroism in war—and for what purpose?

I am bothered by, and I cannot understand the complacency of, those of our nation who have the influence to show by example how we feel about our country—and here I refer to the writers, critics, journalists and historians, and certainly those who are elected to or appointed by governments, to guide Canadians according to our Constitution, our history, and their duty and responsibility to all Canadians.

While we hear platitudes of how great a country this is and of the freedom we enjoy, we also hear about why our country is so great—and usually the words flow freely. They say that it is because Canadian citizens went to war in far-off lands to defend that freedom, and, as was reiterated time and time again, the battles in which Canadians fought and died represent the beginning of our nation, because of the sacrifice of our youth from coast to coast. It has also been said that it was the turning point in our history.

But, honourable senators, it suits our leaders—those I have mentioned—to allow and support a part of our government to play around with those pledges of loyalty to our veterans. Yet, one man or one small group of individuals can inflict on our traditional values their own version of what those Canadian citizens did in war, and raise doubt in the minds of Canadians, particularly our youth, whom we try to teach about peace and freedom, and try to explain the reasons why their counterparts of the same age, in another era, sacrificed their lives because their country asked them to.

● (1500)

Honourable senators, there are countless other expressions of loyalty and faith that have been uttered in our country which makes one wonder, but it would be too time-consuming to mention them. However, one that struck me very forcibly, and is appropriate to the issue, I found in an article in *Reader's Digest* on Pierre Berton's book *Vimy*. This man is one of our leading writers and authors, and I shall refer to the article. Pierre Berton said two things on two different occasions which, when taken together, strike me as contradictory and inconsistent. Mr. Berton is quoted in *Reader's Digest*—and I do not have the date—as saying the following:

> "When we see pictures of Vimy veterans gathered round a cenotaph on Armistice Day, we forget that in 1917 most of those men were kids." Bob Owen, who joined up at 17, told Berton that, as his train pulled out of the Regina station, weeping mothers ran along the platform, reaching through windows to cling to the teenage sons they might never see again. Berton instantly saw the scene, and he cried when he described it.

Honourable senators, Billy Bishop had a mother, too. Yet, Mr. Berton criticizes the Senate for defending Bishop in most scathing words in a letter in the *Globe and Mail* of December 27, 1985. Mr. Berton said in that letter:

> Instead of following the crowd of "Yahoo" senators who subjected Paul Cowan to an outrageous "kangaroo court", the *Globe* would have done better to hit hard at those shameful proceedings in Ottawa.

And these are the kinds of words that Mr. Macerola uses when he talks about cultural reality and creativity. Evidently, we senators do not have any right to freedom of expression because we happen to be senators. Here is another extract from the *Reader's Digest* article on Pierre Berton:

> "I'd forgotten that the 100,000 Canadians at Vimy all had relatives, and so there are enormous numbers of people who care about Vimy because someone in their family fought there."

Billy Bishop fought there, too, flying overhead and protecting those 100,000 Canadians. He had relatives who cared, too, and his family is still wondering why they should be subjected to the defamation of his character by a government agency and producer whom Mr. Berton supports. Here is another extract from that article:

> What Berton found most difficult was celebrating courage without celebrating war. "Five thousand Canadians died at Vimy," he points out, "and many others were crippled, or haunted by terrible memories, for the rest of their lives. But I recognized that Vimy was a moment of triumph, and that those gallant and ingenious young men who suffered the appalling hardships of trench warfare were heroes. I wrote *Vimy* because I felt their story should be told."

Here is what Mr. Berton said in his letter to the *Globe and Mail* of December 27, 1985, while our committee was hearing evidence and calling witnesses:

> V.C.'s aren't given out with the rations but they are given for political reasons and morale-building reasons. Lesser medals, such as the military medal, are dealt out like cards.
>
> At Vimy Ridge a group of soldiers of the 4th Division drew lots for them.

For Mr. Berton's information, and for the information of honourable senators, I looked up the qualifications for the Military Medal, and this is what the official wording says:

> This medal was instituted in March 1916 for award to non-commissioned officers and men of the army for individual or associated acts of bravery brought to notice by the recommendation of a Commander-in-Chief in the field. The medal . . . bears on the obverse the royal effigy, and on the reverse the words "for bravery in the field", encircled by a wreath and surmounted by the royal cypher and crown. It may be awarded to women for devotion to duty under fire.

This was written back in 1916, some 70-odd years ago, and today we are just considering whether or not we should send women into battle. The description goes on:

> The military medal can be awarded to warrant officers, first class and second class, for acts of bravery in the field in the same conditions as are prescribed for other ranks, as well as to personnel of the RAF for gallant service on the ground.

[Senator Marshall.]

These are the same men whom Pierre Berton was calling heroes—100,000 of them. Yet, he says that at Vimy these medals were dealt out like cards, and that lots were drawn for them. This foremost Canadian also said this in his letter to the newspaper:

> The RFC and Canada both needed a hero in the Spring of 1917. The flying corps had just come through "Bloody April", the worst month of the war. It is quite plausible that "in search for a saint", . . . the corps winked at the lack of evidence and gave Bishop the VC on his word alone. Canada got its hero and it also got a warbond salesman: for Bishop became far too valuable to keep in the air. Back he came to this country on the speech circuit.

If Mr. Berton had been honest, he would have added that after Bishop did the speech circuit, as requested by his superiors, he returned to France and did another tour of duty, and had some 25 more kills, acts of bravery. Pierre Berton is one of our leading Canadian authors, who has been awarded the Order of Canada. I do not know, but maybe they draw cards at Government House for the distinctive award of the Order of Canada.

Honourable senators, I apologize for having probably spent too much time on Mr. Berton's contradictions on heroism, but those contradictions are so inappropriate for a historian and veteran who should be consistent in describing Canadian heroes.

I shall put on record some words that may seem appropriate about Canadians when I read an excerpt of comments by one of our own senators in this chamber. "The Canadian habit of selling our country short and demeaning our accomplishments tends to undermine our confidence as a nation." We should, rather, counteract—and I am paraphrasing—this negative influence, and we as Canadians must lead the way by demonstrating our optimism, our vitality and our pride in ourselves and in our country and in those who fought for us.

Honourable senators, I shall not be much longer, but I want to put on record two items from the evidence given before the committee. One excerpt is from Mr. Cowan's evidence, and one excerpt is from Mr. Macerola's evidence. I shall begin at a point in the evidence where Senator McElman is asking questions of Mr. Cowan:

> **Senator McElman:** Explicitly, Mr. Cowan, what was the purpose that you expressed in that proposal of making the film on Billy Bishop?

A copy of that proposal was presented in evidence. Continuing with the quotation:

> **Mr. Cowan:** I wanted to make a film which told the story of Billy Bishop as it has entered into legend in Canada; the story which essentially was told by the play, by the book, and which is in the history books of Canada.
>
> **Senator McElman:** A short while ago you stated that when you began this exercise, you started to deal with Billy Bishop as a hero, and that in the course of your research you found witnesses who provided rumour or

information that did not fit that picture. Therefore, the initial purpose changed as you proceeded.

What became the purpose, as you developed that research? What was your final conclusion as to the purpose of the film? What was its purpose as the act requires in the Canadian interest?

Mr. Cowan: I would say that the film's purpose was twofold: (1) to tell the story of Billy Bishop, and (2) to deal with the nature of heroism.

Senator McElman: What exactly does the "nature of heroism" mean?

Mr. Cowan: Specifically, in the film, it was to deal with how in the First World War this group of men were used as heroes to at least some degree to take people's minds off what was happening on the ground. It was to show how we needed to create heroes, because, in that particular war, the reality was just too terrible to deal with—at least for part of the population—directly. One of the ways that the population at that time was dealing with it was through heroes.

Senator McElman: Well, in the course of your research, you came to the conclusion that Billy Bishop was part of the process used by the authorities to make heroes for the Canadian people.

Mr. Cowan: I wouldn't use the word "process"; I would say it is a natural tendency to want to do that.

He is the expert. The quotation goes on:

Senator McElman: A natural tendency?

Mr. Cowan: Yes, in a country at wartime, among the high command during the war, absolutely.

Senator McElman: Then, when heroes didn't happen, they were made; is that your conclusion?

Mr. Cowan: Well, to some extent they were made. Of course there were real heroes; there is no question about it.

Honourable senators, there are many other descriptions which I have referred to before and, time being of the essence, I will skip over them. However, I think I made the point in the other phases in which I have spoken and in this short question and answer session by Senator McElman.

Mr. Macerola also gave evidence, and I have picked out some of the things that he said. The following is one of them:

> It is our job to make films which reflect the cultural reality of our country and sometimes those films are controversial. Controvesy means that people will differ, often strongly, even violently. Some of you will come down on one side of the controversy, some on the other. Surely you would not suggest that controversy be eliminated. There is no one here who will deny the importance of preserving freedom of expression; to do otherwise would be to go against a fundamental principle which is one of the underpinnings of democracy in this country.

He went on to say:

> Our objective was rather to question, and to do so in good faith and with a great deal of respect for the events and individuals involved. We acted responsibly and professionally, and firmly believe that the Canadian public is aware enough, and adult enough, to make its own judgment. And that is precisely what this film asks them to do.

Honourable senators will be aware that 3,000 Canadians, mostly from the RCAF Association, judged what they had done pretty quickly, and wrote letters accordingly.

Mr. Macerola then went on to say, and put some emphasis on the fact that:

> The film was conceived as a docu-drama, shot as a docu-drama, and in our own minds—

that is, in Macerola's mind, and talking about his colleagues—

> clearly released as a docu-drama. As with some other docu-dramas released by the National Film Board, I have decided to label it as such. The film will carry a statement that it is a docu-drama presenting a perspective on the nature of heroism and the legend of Billy Bishop.

Honourable senators, I put on the record the following: How is it that Symansky and Cowan both made the same statement, and the film is still being shown without a disclaimer? They denied that they would use our disclaimer, and said they would use their own, but they are still not showing it. Honourable senators, why did they call this film a documentary, and accept awards for it as a documentary, when Mr. Macerola says so clearly that the film was conceived as a docu-drama, shot as a docu-drama, and in their own mind clearly released as a docu-drama? Perhaps they should give back the awards.

Mr. Macerola went on to say:

> One of the most important functions expected of me as Commissioner of the National Film Board is to be the guarantor, the watchdog so to speak, of the independence of the Board in all aspects of the creative process of filmmaking. If I failed to fulfill this task, Parliamentarians would be the first, and rightly so, to criticize my performance.

Honourable senators, we, as members of the Subcommittee on Veterans Affairs, and many others complied. He then went on to say:

> My duty is to live up to these legal and conventional obligations. If Parliament wishes to give itself the power to shelve, or the power to order the National Film Board to make specific films in a specific way, then Parliament must amend the National Film Act to reflect such a change.

Honourable senators, he hit the nail right on the head! We as parliamentarians should be able to do that, and we should not wait for the minister responsible for communications to say that the National Film Board is at arm's length and the government cannot do anything about it.

> Until such changes are made, and I doubt whether any Senator would want to see such changes made,—

Honourable senators, he is wrong there. We want to see changes.

> the responsibility for releasing or recalling films rests with the National Film Board of Canada. It is a responsibility I will continue to assume and fulfill as long as I hold the position entrusted to me by the Government under an Act of Parliament.

Honourable senators, someone said that the service and deeds of Billy Bishop were real. However, in the National Film Board film reality has become such a commodity that it can be twisted to make statements that must be called into question. The same writer said that Paul Cowan meddled with Billy Bishop's life with artistic licence when, in fact, he had cut the underpinning of art—the truth.

Before I conclude, honourable senators, there are at least four good reasons why this chamber should re-commit the report on the production and distribution of the National Film Board Production "The Kid Who Couldn't Miss" to the Standing Committee on Social Affairs, Science and Technology.

First, the status of the Senate's recommendations has been left in doubt. It might indeed be argued that, in effect, the Senate has adopted no recommendations, if the matter is left as it stands.

Second, the film "The Kid Who Couldn't Miss" is still being shown without any disclaimers or explanations of the techniques used to give authority to Mr. Cowan's opinions, and this is still continuing. Consequently, viewers of all ages, and school children in particular, continue to be misled. Honourable senators, they disregard what they agreed to when they appeared before our committee, and continue to show the film without disclaimers.

Third, two governments and several Ministers of Communications have been unwilling to act in this matter and to instruct the National Film Board to withdraw, re-edit or even to attach a disclaimer to the film. As I have shown, there is sufficient controversy over the docu-drama style of film-making for the government to, at least, adopt a general policy that all such films, made at public expense, should contain a brief disclaimer outlining the techniques used by the film-maker to dramatize his or her work and point of view.

In closing, honourable senators, I can do no better than to use the words of my colleague, Senator Molson, prior to his motion on May 13, 1986:

> The report of the Senate committee clearly indicates that damage has been done by the film, "The Kid Who Couldn't Miss." Damage has been done to our national image, to our pride, to all those who served to protect our liberty and our way of life, to the families of those who gave their lives and, last, but not least, to the members of Billy Bishop's family. Perhaps I should add that damage has been done to the National Film Board itself.

Honourable senators, the National Film Board has a great reputation, but they made a serious mistake and it should be corrected to their own advantage. Senator Molson continued:

> There are undoubtedly millions of Canadians who look to us to have the courage and clarity of vision to correct the unjust and unjustified attack on this country's leading hero of World War 1. We must accept our responsibility.

Therefore, honourable senators, I move, seconded by Senator Phillips, that this inquiry be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

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

Hon. Jean Le Moyne: Honourable senators need not worry; I shall be very brief. My esteemed colleague, Senator Marshall, knows how deeply I sympathize with him in the matter of the NFB's film "The Kid Who Couldn't Miss", as I do with those of our colleagues who spoke so vigorously their indignation, and also with the learned and distinguished witnesses he called to the defence of Billy Bishop's honour during the hearings of his Subcommittee on Veteran's Affairs last year. I welcome the opportunity to assure him that my feelings about that false documentary of the NFB remain the same, that I still consider it as a mean and lousy piece of work on all counts. I want to tell him again that I deplore the stubbornness of the NFB's management concerning the rectification asked by the subcommittee.

● (1520)

In a previous speech the honourable senator quoted the three ministers successively competent in this matter, the Honourable Francis Fox, the Honourable Marcel Masse and the Honourable Flora MacDonald, who all declined to intervene, because they said it would be inappropriate. Senator Marshall called that the "standard line," and that is what it is. It is also, I regret to declare, the line I had adopted resolutely, though reluctantly, during the preparation of the report, and then modestly developed in my speech of April 22, 1986.

It is still my position. It does not at all correspond to my feelings, but I am bound to keep it. Despite the outrage felt by Senator Marshall, his friends and a large portion of the Canadian public, I think a hands-off policy regarding our cultural agencies is wise. It is not, of course, without risks, but in my view we must accept them or inaugurate a regime of cultural censorship. We must find some more evolved means, if I dare say so, of ensuring the proper cultural uses of public money. In that spirit, I second the motion of my colleague.

In conclusion, I wish to say that Senator Marshall has always been of a great forbearance with me. He has, indeed, always been for me the kindest of Liberals.

On motion of Senator Petten, debate adjourned.

VISITORS IN GALLERY

REPRESENTATIVES OF NATIONAL PRISONERS OF WAR ASSOCIATION

Hon. Jack Marshall: Honourable senators, I should like to bring to the attention of the Senate the presence in the gallery of a gallant group of people from the National Prisoners of

War Association. Representatives of that association presented a brief to the Senate Subcommittee on Veterans' Affairs.

The group is led by Mr. Ray Smith, President, and includes Mrs. Dulcie Johnson, Women's Brief Chairman; Mr. Robert Large, Past President; Mrs. Dorothy Musgrove, Widow of the Past President; Mr. Bruno MacDonald, Service Officer; and Mr. Des Ewin, Editor of the publication "The Journal".

Hon. Senators: Hear, hear!

POST-SECONDARY EDUCATION

REPORT OF NATIONAL FINANCE COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the consideration of the Seventh Report of the Standing Senate Committee on National Finance (post-secondary education) tabled in the Senate on 25th March, 1987.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to say that I do not intend to speak on this item. I think that next week we should finally say, "If no other senator wishes . . . ," et cetera. I am simply holding this open for someone else. As a matter of fact, I do not know who originated the motion, but that person may want to close the debate.

Order stands.

SENIOR CITIZENS

OBSERVATION OF SPECIAL WEEK IN TRIBUTE

On the Order:

Resuming the debate on the motion of the Honourable Senator Croll, seconded by the Honourable Senator Robertson:

That the Senate recommends to the Government of Canada and to individuals and organizations in Canada that, in honour of the senior citizens of this country, the last complete week of August of this year and of each and every year thereafter, be kept and observed throughout Canada as "Senior Citizens' Week" as a way of paying tribute to the diverse contributions being made to Canada by the older citizens of our society.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, when I was acting government whip, I adjourned this item in my name. I am not going to say anything on the matter. If any other senators wish to speak on the item, they are welcome to do so.

The Hon. the Speaker *pro tempore:* If no other senator wishes to speak on this order, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE SUBCOMMITTEE ON TRAINING AND EMPLOYMENT TO MEET DURING SITTING OF THE SENATE WITHDRAWN

On the calling of Motion No. 6:

By the Honourable Senator Gigantès:

That the Sub-Committee on Training and Employment of the Standing Senate Committee on Social Affairs, Science and Technology have power to sit while the Senate is sitting on Monday, June 29, 1987, and that Rule 76(4) be suspended in relation thereto.

Hon. Philippe Deane Gigantès: With leave, honourable senators, I should like to withdraw this motion.

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

Hon. Senators: Agreed.

Motion withdrawn.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION RE WITNESSES' EXPENSES ADOPTED

Hon. Royce Frith (Deputy Leader of the Opposition), pursuant to notice of June 16, 1987, moved:

That the provisions of rule 83 of the *Rules of the Senate* with respect to the payment of expenses of witnesses shall apply to witnesses appearing before the Committee of the Whole.

Hon. Orville H. Phillips: Honourable senators, on a point of order; the Scroll I received terminates at Motion No. 7.

Senator Frith: But the order paper does not. If you look at the *Minutes of the Proceedings of the Senate*, you will see that there are three motions standing in my name; they are Motion No. 8, Motion No. 9 and Motion No. 10.

Honourable senators, rule 83 states:

The Clerk of the Senate is authorized to pay every witness invited or summoned to attend before a select committee a reasonable sum for living and travelling expenses of the witness, upon the certificate of the clerk of the committee attesting to the fact that the witness attended before the committee by invitation or summons.

The definition of a "select committee" is:

"select committee" means a committee composed of less than the whole body of senators and includes both a standing committee and a special committee;

That does not include the Committee of the Whole, but since we have established a Committee of the Whole on the Meech Lake accord, it seems reasonable that if the steering committee invites or summons a witness to attend, the same provision should apply. That is why I move this motion.

Motion agreed to.

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION RE SEATING OF WITNESSES ADOPTED

• (1530)

Hon. Royce Frith (Deputy Leader of the Opposition), pursuant to notice of June 16, 1987, moved:

> That any witnesses called before the Committee of the Whole be permitted to sit on the floor of the Senate at a special table provided for that purpose.

Hon. Fernand-E. Leblanc: Honourable senators, I would like to know why they would sit on the floor and not a chair.

Senator Frith: In this case the word "floor" is used to distinguish between the floor of the Senate, the seats of the senators, and the gallery. However, Senator Leblanc's point is well taken. If I had moved the motion in French, this ambiguity might not have arisen.

Honourable senators, we have had the experience of witnesses, other than ministers, appearing before the Committee of the Whole which dealt with the agreement on fisheries and boundaries between Canada and France. Usually, when a minister appears before the Committee of the Whole in regard to a bill, he sits in one of the seats allocated to senators, with his experts seated at a table on the floor of the chamber. When dealing with the Canada-France Agreement, we used the system which we have in place now, that is, the table in the middle between the English reporters' desks and the Senate table where the Mace is placed.

This motion is simply to provide that accommodation shall be given to the witnesses in that portion of the Senate, namely, the centre aisle.

Senator Phillips, Senator Doody, some other senators and I have reservations about how well this system worked. Although someone reading the debates may have trouble visualizing the problem, it is that the table is placed virtually in the middle of the aisle, which means that the witnesses must have their backs to certain senators. The solution, it would seem to me, would be to have the witnesses either sit close to where Black Rod sits or, if we can arrange it, at the other end of the chamber. I agree with Senators Doody and Phillips that we should discuss this matter.

This motion merely moves that the witnesses be permitted to sit on the floor of the Senate, but I accept that when the motion is passed it will be understood that we will talk about improving the actual location of the table.

Hon. Orville H. Phillips: Honourable senators, I would agree with the motion, subject to a relocation of the table. On the previous occasion when this method was used, half of the senators were unable to see the witnesses, and it strikes me as being similar to having the witness with his back to the members of the jury. I believe that would be entirely out of place as it relates to our procedure, and that there should be a relocation of the table.

Senator Frith: Honourable senators, I am prepared to put that undertaking on the record. If the motion passes, it will merely establish that the witnesses will be seated on the floor of the Senate, and the understanding is that we will improve the location of the table in relation to where it was situated when dealing with the Canada-France Agreement.

Motion agreed to.

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE ADJOURNED

Hon. Royce Frith (Deputy Leader of the Opposition), pursuant to notice of June 16, 1987, moved:

> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.

He said: Honourable senators, I should explain that as this motion is worded it does not contemplate a round-the-clock televising of our proceedings in Committee of the Whole, as is the case with televising proceedings in the House of Commons. The House of Commons rules are invoked, but not for the purpose of establishing the system that is used there. That is a system which I think we ought to introduce into the Senate, but I think it requires further investigation since there are associated costs. There are no costs to the Senate associated with the proposal I am making, because the lights are already installed. I suppose, to be strictly correct, there would be the cost of the electricity for the lights, but that is the only cost that would be incurred so far as the Senate is concerned if this motion is adopted.

Honourable senators, the motion is that ". . . pool television cameras be permitted . . ." The motion is not that they be installed but that they be permitted to come in when, and for whatever reasons, the media wish to report our proceedings. At that time up to three cameras could be placed in this chamber, but they would be placed with the restrictions that apply in the House of Commons. The ground rules are those established in the second paragraph of the motion that ". . . the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons."

It is important, honourable senators, to note the two paragraphs. In the first paragraph the key words are "be permitted", and in the second paragraph the key words are "pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons."

The steering committee or the Committee of the Whole would designate someone to deal with the television networks. It could be Mr. Lovelace, the Clerk, the Clerk Assistant, Mr. Greene, or whoever we want to designate. That person would be contacted by the network or the networks who wish to

televise, and they would be permitted to televise in accordance with the established ground rules.

I understand that those ground rules include such things as no wandering cameras to televise empty seats, no televising of reactions, and so on. The ground rules are that they televise the witnesses and the people who are speaking.

I have been told that Senator Murray did take the position, although not here, that he had no objection to the televising of the proceedings of the Committee of the Whole, provided the Senate could afford it. Perhaps Senator Phillips, or one of Senator Murray's colleagues, might confirm whether that is Senator Murray's position. I would point out again, honourable senators, that I think we can afford the cost of the electricity for the lights, and I believe Senator Murray would agree to that.

Honourable senators, the purpose of the motion is to permit the television networks to televise those portions of the proceedings in which they are interested during the proceedings of the Committee of the Whole on the Meech Lake constitutional accord.

Hon. Orville H. Phillips: Honourable senators, may I direct a question to Senator Frith?

Would he include, as an appendix to today's *Debates*, a copy of the rules covering broadcasting of the proceedings of the House of Commons? I believe honourable senators should have the benefit of seeing that before proceeding with the motion.

Senator Frith: Honourable senators, I think that is a good idea. I will attempt to have that circulated for Monday, or have it appended if I can get it in time. However, I will see that all senators have it before we continue with the debate. I believe that is a reasonable request.

On motion of Senator Phillips, for Senator Flynn, debate adjourned.

The Senate adjourned until Monday, June 22, 1987, at 2 p.m.

THE SENATE

Monday, June 22, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

PATENT EXTENSION (ASPARTAME) BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-259, to extend the term of a patent relating to a certain additive.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave, at the next sitting of the Senate.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before His Honour asks if leave is granted, I wonder if I might ask a question of the Deputy Leader of the Government about this bill. According to the proceedings in the other place, this bill received three readings in one sitting. I believe it was last Thursday. It is a private members' public bill, if that is the right designation. The Deputy Leader of the Government is asking for an abridgement of the time to one day instead of two days. That gives the impression that this bill is now a government bill.

If this bill is to remain as a private member's public bill, I wonder whether the Senate should consider expediting such a bill when we have a couple of private bills of some importance to us languishing in the other place. In particular, one of the Senate bills is Bill S-5, which deals with laws prohibiting marriage between related persons, and it is languishing there now in its third incarnation. This bill is important to us, because our intention is to avoid having such petitions coming to us for exemptions from the general law on marriage. I am told that presently there is a long line-up of such petitions waiting to be presented, and, of course, they would be unnecessary if this bill were passed.

Senate private bills, be they private or public private bills, do not receive, to put it mildly, a high priority or expeditious treatment in the other place. In fact, House of Commons Standing Order 41(1) reads:

> The order for the first consideration of any subsequent stages of a bill already considered during Private Members' Business, of second reading of a private bill and of second reading of a private Member's public bill originating in the Senate shall be placed at the bottom of the order of precedence.

Honourable senators, since we have those two bills over there and another private bill coming up, perhaps, if the other place expects us to give speedy treatment to their bills, it is time that we did a bit of negotiating with them and reminded them that they give the opposite treatment to our bills. Is this bill going to become a government bill?

Senator Doody: No, honourable senators. To my knowledge, this bill is still a private member's public bill and will be treated as such. The urgency of this particular bill at this time relates to the particular patent for the artificial sweetener mentioned in the bill which will expire in early July. There is great interest in the particular part of the country involved in having this patent protected. It involves erecting a new building, creating new jobs, and so on, and to that end we are hoping to have the bill expedited. However, I can well understand the concern of my honourable colleague—

Senator Frith: It is a sort of mini Bill C-22.

Senator Doody: —across the way. This is not a patent medicine. This is an artificial sweetener or a food additive. It is quite separate and distinct from Bill C-22.

Senator Frith: Only in a chemical sense; not in a legislative or political sense.

Senator Doody: Then further along the same line of linkage, as the honourable senator suggests, I certainly will take it up with the leadership in the other place to see if steps cannot be taken to expedite the bills that have gone from this place to the House of Commons, and I shall report back.

However, in the meantime, if leave is not given for this particular bill today, it will take its normal place on the order paper.

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

Some Hon. Senators: No.

The Hon. the Speaker: Is it then the wish of honourable senators to have this bill placed on the Orders of the Day for second reading on Thursday next, June 25, 1987?

Senator Frith: You do not need leave for that.

Hon. Senators: Carried

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, June 25, 1987.

TAX REFORM

WHITE PAPER AND RELATED DOCUMENTS—NOTICE OF MOTION

On the tabling of documents:

Hon. Ian Sinclair: Honourable senators, with respect to the white paper on tax reform and the series of documents that have just been tabled by the Deputy Leader of the Government in the Senate, the Standing Senate Committee on Banking, Trade and Commerce is subject to a motion to study the principles that were enunciated.

Therefore, I give notice that at the next sitting of the Senate I will move to have all of these documents that have been referred to today dealing with the subject of tax reform referred to the committee.

Honourable senators, I may have a few more words to say when the motion is called, but I should say that this whole matter of tax reform is not as marvellous as some of the rhetoric would have everyone believe. However, suffice it to say that I will be moving to have this matter referred to the Standing Senate Committee on Banking, Trade and Commerce in due course.

CHILD CARE

NATIONAL POLICY—NOTICE OF INQUIRY

Hon. Mira Spivak: Honourable senators, I give notice that on Thursday next, June 25, 1987, I will call the attention of the Senate to the question of a national policy on child care.

THE CONSTITUTION

CONSTITUTION AMENDMENT, YEAR OF PROCLAMATION (NEWFOUNDLAND ACT)—NOTICE OF MOTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I give notice that on Thursday next, June 25, 1987, I will move:

That, whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

1. (1) Section 3 of the *Newfoundland Act* is renumbered as subsection 3(1).

(2) Section 3 of the said Act is further amended by adding thereto the following subsection:

"(2) A reference to this Act, or a reference to the Terms of Union of Newfoundland with Canada set out in the Schedule to this Act, shall be deemed to include a reference to any amendments thereto."

2. (1) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is renumbered as Term 17(1).

(2) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is further amended by adding thereto the following:

"(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in Newfoundland all the same rights and privileges with respect to denominational schools and denominational colleges as any other class or classes of persons had by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (*a*) of paragraph one of this Term and the words "all such colleges" in paragraph (*b*) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland."

3. This amendment may be cited as the *Constitution Amendment, year of proclamation (Newfoundland Act)*.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not with us today. He is away on business.

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION

Hon. Lorna Marsden: Honourable senators, last week the Leader of the Government in the Senate was asked if there were any women serving as members of the income tax advisory group or the sales tax advisory group to the Minister of Finance. I do not know whether there is a response forthcoming in Delayed Answers. We now have the list of the people who served on those committees. It is impossible to tell from the list whether they are men or women. When the Leader of the Government is seeking a response to that question, I wonder if he would also seek a response to the following question.

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—ADVISORY GROUP—FEMALE REPRESENTATION

Hon. Lorna Marsden: The Prime Minister has an advisory group in connection with the trade initiative. I understand that that committee is composed of Canadians from coast to coast. Could we have a list of members serving on that committee, with their gender identified?

Hon. C. William Doody (Deputy Leader of the Government): I shall make inquiries, senator.

AGRICULTURE

SPECIAL GRAINS PROGRAM—REQUEST FOR EXPEDITING OF PAYMENTS

Hon. Daniel Hays: Honourable senators, I would like to direct a question to the Deputy Leader of the Government in the Senate relating to the payment to farmers under the Special Grains Program.

There was $1 billion set aside last year, $300 million of which was paid out last year. The balance should have been paid by now, and I believe most of it has been paid. The balance of the money was sent out during the week of June 8. The payments were sent out pursuant to statutory declarations completed by the applicants, which were to have been returned by March 31. Some farmers have not received the payment, because there was a change in the assumption that was made by the government and the actual information received at the time the statutory declarations were filed. These farmers have been advised that it will be some three weeks before this matter is addressed by the appropriate department.

My question is this: Will the deputy leader do what he can to see that this process is expedited so that the farmers who have amended their returns, in most cases to claim a lower amount than originally allocated to them, receive these payments as soon as possible, particularly in light of the tremendous financial stress that is being experienced in that community now?

Hon. C. William Doody (Deputy Leader of the Government): I thank Senator Hays for his concern. I will see that the minister is so informed.

Hon. John B. Stewart: Honourable senators, perhaps the Deputy Leader of the Government would get us additional information with regard to this payout of funds. Honourable senators will recall that the bill which provides authorization for this payout of money was before us just before the end of March. At that time we were told that the bill had to be through before the end of the fiscal year. Could the Deputy Leader of the Government provide the Senate with a list of the dates on which the major payouts to farmers under that Appropriation Act were in fact made?

Senator Doody: I shall ask for such a list, senator.

BELL CANADA BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Kelly, seconded by the Honourable Senator Bielish, for the second reading of the Bill C-13, An Act respecting the reorganization of Bell Canada.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am not ready to proceed today, but hope to do so tomorrow.

Order stands.

● (1410)

NATIONAL TRANSPORTATION BILL, 1987

SECOND READING—DEBATE ADJOURNED

Hon. Heath Macquarrie moved the second reading of Bill C-18, respecting national transportation.

He said: Honourable senators, if during the next few minutes some of my colleagues who are versed in Scripture think of a well-quoted portion of Genesis 27, verse 22, I will be the first to understand.

Honourable senators, our transportation system is vital to the everyday lives of Canadians in all regions of our country, and it plays a special role in tying together this vast country, both socially and economically. More than 1.4 million tonnes of freight now move by rail, truck or water every day in Canada, not including the freight that is moved by private trucking. Passenger traffic on Canadian airlines has more than tripled since 1967, to a total of 24 million people in 1984. Our transportation system also has a great potential to add to our economic growth and development in the future.

This legislation will increase competition in air, rail, marine and trucking. It will set out the framework for our transportation industry to provide the best possible service at the best price to shippers and air passengers throughout the country. The benefits go beyond a more competitive transportation system; cost-efficient transportation will create opportunities for expansion and development in industries across Canada. That means more jobs for Canadians in primary production, in resource processing and in manufacturing in all regions of this great land.

Honourable senators, this bill was the subject of very thorough study in the other place. It was referred to the Standing Committee on Transport, which held hearings all across Canada. Prior to that, in 1985, the same committee heard witnesses from one end of the country to the other on the basic policy principles in the "Freedom to Move" paper. In addition, the Minister of Transport and his officials conducted extensive consultations with provincial and territorial governments, hundreds of shippers and carriers and dozens of interested groups on all aspects of the bill and received countless written submissions. As a result, every interested party in the country has

been heard and, more important I believe—and this is obvious—listened to.

The bill tabled in the house contained elements which differed from the "freedom to move" proposals. Most notable is the special regime of regulation to protect air services in the north.

The bill, as approved by the House of Commons, contains some further modifications resulting from submissions to the standing committee and the minister. I can cite two examples, and they are protection to the disabled persons to access the transportation system in a fair and dignified manner, and the deletion of terminal running rights for railways due to the potential impact on smaller, federally-regulated railways, such as the Algoma Central Railway and the Essex Terminal Railway. I apologize for not being able to give a Prince Edward Island example!

We have before us a made-in-Canada transportation policy that reflects this country's special needs and concerns. I have no hesitation in recommending approval of this bill, and trust that its approval will be forthcoming, since all viewpoints have been thoroughly considered in the lower house.

This bill is about economic efficiency, but the government and the Minister of Transport have a responsibility to ensure a safe as well as an efficient, transportation system. The first priority will always be, and must always be, safety. We have an excellent safety record in all modes of transport. That record must be maintained, and improved wherever possible. The government has taken, or soon will take, action on this priority on all transportation modes. This Parliament has already passed major amendments to the Aeronautics Act and the Canada Shipping Act.

Comprehensive regulations for the transportation of dangerous goods were introduced in 1985. Last October the federal-provincial and territorial Ministers of Transport endorsed a uniform national safety code for trucks and buses. In March of this year they signed an agreement including the details of the code, the timing of its implementation, and the funding arrangements associated with it.

In the fall a new rail safety act will be proposed to set the right stage for maintaining and improving our safety record in rail, and legislation will be introduced to create an independent board to investigate accidents in the air, rail and marine modes. For the first time, the clear commitment of the government to safety in all modes will be enshrined in clause 3 of Bill C-18.

That policy statement also reiterates that our transportation system must be efficient, effective and adequate—this sounds something like "western senatism", but it is not. It goes on to add the two important principles missing in the current act—principles which are critical to our future economic growth.

Transportation exists to serve the needs of shippers and travellers. Competition and market forces, wherever possible, should be the prime agents in providing viable and effective transportation service. These principles, hardly revolutionary, represent a major shift in the philosophy of regulation of transportation in Canada.

The current regulatory regime was put in place in 1967. Since then, honourable senators, the world economy, Canada's economy and our transportation industry have changed significantly and profoundly. The regulatory regime for transportation in Canada has not kept pace. As a result, our regulatory regime today tends to impede rather than support economic development. It reduces the competitiveness of our producers and the free movement of goods and people. That is why this bill is known as the "freedom to move" legislation. It will affect air travellers, consumers and businesses throughout Canada. Businesses of all types, from small family operated concerns to large integrated corporations, from manufacturers to primary resource producers, will finally have some alternatives for getting their output to market. Such a system is needed for overall economic growth and for enduring development in our regional economies.

Bill C-18 recognizes that transportation is the key to regional economic development, and that commercial concerns should be balanced with regional development concerns. An efficient, effective and competitive transportation system is a prerequisite for lasting economic development in any and all regions. The new National Transportation Act gives us such a system.

Enduring and meaningful jobs will be created or maintained in all regions wherever better transportation service, at a better price, will make a resource producer, a manufacturer, or other business, more competitive in the marketplace.

I would now like to turn, honourable senators, to the specifics of Bill C-18, the National Transportation Act of 1987.

This bill contains reforms in air, rail, trucking and marine transportation. It creates a new regulatory agency and establishes effective dispute-resolving mechanisms.

In the air mode, economic regulation of air services will be significantly reduced. No longer will virtually every aspect of airline operations be regulated, from the setting of fares and tariffs to the establishing of routes, schedules and the type of aircraft to be used. The test of public convenience and necessity that has been used to limit entry and restrict competition in the airline industry will be abolished. A new airline company will have to be Canadian controlled and obtain adequate liability insurance. More importantly, it will have to prove that it can meet the safety standards of the Aeronautics Act, modern, strict standards, thanks to the amendment passed by Parliament in 1985. Thus, every airline must be safe in order to get and to keep an operating licence.

● (1420)

There will be no ongoing regulation of domestic tariffs. The fare increases on routes served by only one carrier will be appealable to the National Transportation Agency. Confidential contracts for air cargo will be allowed.

These reforms will encourage new companies to enter the air transport market and existing companies to offer new services. They will encourage competition and innovation in both prices

and services that will benefit air cargo shippers as well as travellers.

For our many small communities, this new freedom to move will mean much better service and competitive fares. Large carriers with large aircraft and inconvenient or infrequent services will increasingly be replaced by smaller entrepreneurs who know local conditions and requirements to provide convenient and more frequent service. Jet aircraft, ineffecient on short hops or half full, will be replaced by more suitable aircraft, operating efficiently at affordable prices and at more convenient times.

This change is already occurring in many parts of the country, and frequent flyers are, in large measure, pleased with the greater choice they now have. Since I arose at the crack of dawn today to come to the Senate from Charlottetown to honour my responsibilities, I took note of the fact that in the Charlottetown airport this sort of thing is happening right now. We had four offerings of airlines; different sized planes serving the centres that are not so far apart. It seemed to me to be an efficient development, which will, I believe, be helpful economically, and most certainly will be of value to the passengers desiring service.

In addition, many of the new regional air carriers are using Canadian-made aircraft, in particular, the Dash-7s and Dash-8s made by de Havilland. These are splendid aircraft. This is a terrific spinoff, creating jobs in another important sector of our economy.

For the northern parts of the country, Bill C-18 contains some very important safeguards for the special interests of the northern shippers, carriers and communities. Many northern communities depend on regular air service to obtain medical supplies, food and other necessities of life. Often air service is the only year-round means of transport. As in the south, airlines will have to be Canadian controlled, have insurance and, above all, be safe.

In addition, any interested party who feels that a new service in the north would jeopardize existing essential services may file an objection with the new National Transportation Agency. If the objector can demonstrate that the proposed new service would lead to a significant negative impact on the existing service, the licence will not be issued.

To ensure that fares remain at reasonable levels, the National Transportation Agency may, on complaint, reduce any fare it finds to be unreasonable.

Northern shippers, carriers and residents have all indicated that they would welcome increased competition, but at a gradual and controlled rate. This regime is designed to do just that.

Many northern communities also rely on marine transport for vital re-supply services, and the shipping season is short in the north. As a result, it is doubly important that marine operations be reliable. The new provisions for northern marine service have been tailor-made with this special consideration in mind.

[Senator Macquarrie.]

Honourable senators, Bill C-18 also alters significantly the ground rules for Canada's railways, shippers and carriers. Under the current legislation, competition between the railways is limited and, in practice, often non-existent. For example, railway companies are now free to discuss jointly and set freight rates, and all rates must be made public through the Canadian Transportation Commission. In other words, a shipper and a carrier cannot privately negotiate a contract in the way in which businesses ordinarily do. As a result, our railways now operate below maximum efficiency. They lose business to rail carriers in the United States, where private contracts are permitted, and to trucking. Bill C-18 will provide for such contracts as part of an overall plan to encourage efficiency and competition in the rail sector.

With respect to branch line abandonments, the new agency and the Minister of Transport will be given many more options for dealing with applications than heretofore existed. The options now are to order the abandonment of branch lines which are losing money, or to order them retained and subsidize the railway's losses. Under Bill C-18 short line operators will be encouraged to take over branch lines. In addition, the Minister of Transport will be able to use moneys, which otherwise would be spent to subsidize the line, to help shippers and communities adjust to an alternate service such as trucking.

Bill C-18 also contains two competitive access provisions—extended interswitching limits and competitive line rates—which are designed to give greater bargaining power on rates and service to captive shippers. Railways will in future have to compete with one another for traffic from these shippers. The dispute resolution provisions, mediation and arbitration are an especially important feature of the legislation. They place the onus squarely on the parties involved to attempt to settle conflicts before turning to the agency.

Honourable senators, the government is committed to a viable railway industry, without which we could not get many products to market. Financial viability of the railways can be compatible with competition, despite the railways' assertion to the contrary. Provided that they offer an efficient service to meet the shippers' needs, railways can compete effectively, and their financial viability will not be jeopardized.

Turning to trucking, honourable senators, there are again some important regulatory reforms. The new National Transportation Act contains provisions which would greatly reduce the regulation of extraprovincial trucking if it were applied. They will not be applied, because since 1954 the federal government has delegated its regulatory responsibilities for extraprovincial trucking to the provinces. Each province subsequently developed its own regulatory regime. In different provinces there are different requirements for entry, for routes, for rates, for commodities, for safety precautions, and so on. Through extensive consultations over many years, the federal and provincial governments, the industry, the producers and the shippers reached a broad consensus that we need less regulation and more uniformity in regulation of trucking across Canada.

An historic agreement on regulatory reform of the trucking industry was signed in February 1985 by all of the provinces, the territories and the federal government. The new Motor Vehicle Transport Act, Bill C-19, will put that agreement into law. Since that bill will shortly be considered, it will not be necessary to go into its provisions at this time.

Honourable senators, this "freedom to move" legislation is designed to meet the unique transportation needs of our country and our circumstances. It is truly a "made-in-Canada" policy, which balances the interests of all and benefits all Canadians. It will contribute to a vibrant economy, where businesses can get their products to market at competitive prices without facing unnecessary obstacles. It will lead to more jobs in stronger regional economies—stronger because there is a more reliable, efficient transportation system serving businesses there. It will provide for road, rail, air and marine services that can deliver goods and people efficiently and effectively. It will bring about competitive fares for air travellers. It will result in flexible transportation networks that can adapt to new demands for services and new market opportunities. It will protect those who need protection, at all times safeguarding the public interest, including the highest public interest, that of safety. That is an important part of the "made-in-Canada" package.

The government has recognized the need for change and has developed the necessary legislation in consultation with all concerned. As I said at the outset, everyone has been listened to and many adjustments have been made.

The government places a high priority on this legislation, and it believes that now is the time to get on with the job of making these reforms a reality.

• (1430)

Hon. L. Norbert Thériault: Honourable senators, I want to make it clear that I am not speaking on behalf of the Liberal Party or anyone else. I am speaking only for myself. I am concerned about this legislation, because this deregulating spree that we are on in Canada could cause hardship in the maritime and Atlantic provinces. The honourable senator has talked about flying in the new Dash-7 and Dash-8, which are Canadian built. I can tell honourable senators that one effect that can be seen right now is that the two main airlines are gradually leaving the airports in New Brunswick. They are being replaced by Air Atlantic and Air Nova, and they have hired people at lower wages—and this is only the beginning.

I am concerned, because this country was built on transportation and transportation subsidies, which made it possible for rail transportation to operate from both the western and eastern ends of this country. I hope that I am wrong, but I am afraid that we will see happening in the Atlantic provinces that which has already happened in some parts of the United States, where the major companies have gobbled up all of the traffic and have bought up the smaller companies, and those areas are left with either a poorer service or no service at all.

I am afraid that in the long run the only people who will be left in the transportation business in the Atlantic provinces will be the major companies, who eventually will be able to charge whatever the traffic will bear. I do not believe that this is the way to go in helping economically areas that are in need of support at either end of this country. I cannot speak for the western part of the country. I know that it has a greater population and probably more traffic.

I repeat that I hope that I am wrong. I listened very carefully to what was said at those meetings of the committee which I was able to attend. I know that this is something that was started by the other government. I believe that the people of the Atlantic provinces have good reason to feel concerned, and I can only hope that all of the good things mentioned by my colleague from Prince Edward Island will come about, and that we shall see none of the bad things about which I am concerned. However, I am not anxiously waiting to see this kind of legislation come into effect in my part of the country.

Hon. George van Roggen: Honourable senators, perhaps the mover would permit a question. Did I take it from his remarks, when he was referring to the matter being dealt with promptly and said, "Since all viewpoints have been dealt with in the committee of the other house, extensive hearings have been held and everyone has been listened to"—does that mean that we are to contemplate passing this 184-page piece of legislation without proper committee study in this house?

I will simply remind honourable senators that one of the last occasions that we had a transportation bill of this magnitude was in connection with the Canada Shipping Act amendments of some years ago, which were equally carefully examined in the other house. It went to a committee of the Senate, and we found that it was such a shemozzle that we came up with 114 amendments of which the government of the day accepted 104. So I do hope that there is no suggestion here that this bill should not go to a proper Senate committee to be thoroughly examined.

Senator Macquarrie: In response to that question from my colleague, naturally I am not suggesting that any legislative body should refrain from questioning legislation if such questioning is considered necessary. I was merely bringing honourable senators up to date on what had taken place in the other chamber. There was an enormously lengthy questioning process in the other place. I quoted what was clearly the view of the government spokesman that many views had been heard and had been carefully listened to. Therefore, in bringing the legislation to this chamber, I was bringing the Senate up to date on the investigatory role that had already been done in the other place.

• (1440)

Hon. Ian Sinclair: Honourable senators, I wonder if the honourable senator would permit a question.

Senator Macquarrie: Yes.

Senator Sinclair: The honourable senator said on more than one occasion that the purpose of the bill, and, indeed, it is a necessary part of the Canadian web and woof, was a viable rail industry. He also said that Bill C-18 would improve and enhance competition and "cost efficiency". I wonder if the

honourable senator would help us by defining "cost efficiency", as it applies to rail transport in that bill.

Senator Macquarrie: Honourable senators, if the honourable Senator Sinclair wants a lesson from me on such things as cost efficiency in transportation, or in any other area of economic activity in this country, he may not be asking the right person. However, if he wishes to put any specific questions to me, I guarantee him that I shall go to authorities whose knowledge is even greater and fuller than my own and get him authoritative answers.

Senator Sinclair: Honourable senators, I have one such question, and that is with respect to redundancy as applied to plants and people in rail transportation.

Senator Macquarrie: Honourable senators, I became interested in railways when I was in knee socks. There was an argument going on then about efficiency, about regulation and about competition. I remember the phrase "amalgamation never, competition ever," that sounds like the great Robert Manion. I see in this bill an effort on the part of those who have promoted the legislation to increase efficiency by allowing more competition and more practical measures to deal with things that have gone into economic problem areas. I do not think it takes a genius or a tycoon to know that flying great, large jet aircraft from Sydney to New Glasgow, or from Truro to Charlottetown, given the small geographic area and small population of the maritimes, as opposed to the process whereby Air Nova makes short runs from New Glasgow to Charlottetown, or Air Atlantic makes short runs from Yarmouth to Saint John, is a project worth looking at. I think the new system will work. I have seen evidence of it. The commuter age is upon us, and I think it is practical to start such a project.

Senator Sinclair: My question was about rail. I do not know how we got to Air Nova. It is not a rail operation. At least, it was not when I looked at it.

Senator Phillips: It is the question; it was not very plain.

On motion of Senator Turner, debate adjourned.

PATENT ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Cogger, seconded by the Honourable Senator David, for the second reading of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto.—(*Honourable Senator Doody*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before we stand this order, Senator Doody has consistently pointed out that he does not intend to intervene in the debate on this bill and has invited anyone else who wishes to speak to do so. I assume that he has been standing it awaiting the report of the special committee studying the subject matter of this bill.

[Senator Sinclair.]

May I ask the Deputy Leader of the Goverment what the government's plan is for this bill? We are now awaiting a report of the special committee on the subject matter of the bill, and the same order that referred the subject matter to committee also provided that the bill itself be referred to the committee. Will the government be asking the Senate to pass this bill before we have had an opportunity to consider the proceedings before the committee, the report of the committee on the subject matter, and the committee report after second reading? Will it be asking the Senate to hurry this bill and pass it, for example, before the summer recess scheduled for June 30?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it will come as no surprise to the honourable senator to hear that the government is indeed very anxious to have this bill passed this session. It would be most pleased if the Senate dealt with it before the end of the session. If it takes longer to deal with it, then we will have to face that situation when we come to it. As of this moment it is the desire of the government, as it has made abundantly clear to everyone who is interested, that they want to have the bill attended to before the adjournment.

With regard to the committee work, it is my understanding that the hearings of the special committee have concluded, and that the members of the committee are currently working on a report on the subject matter. I expect that report to be brought to us very soon. I understand it will be within the next day or so. The sponsor of the bill is prepared to speak to second reading at that time, be it tomorrow or whenever. The disposition of the bill, following second reading debate, will then, of course, be entirely in the hands of honourable senators. If the Senate wishes it to go back to the committee again for further study, then so be it, and we will be prepared to take as much time into the summer as is necessary to deal with the bill.

Senator Frith: Honourable senators, am I right that the House of Commons has made permanent the rules it has been examining so that it will be adjourning automatically on June 30?

Senator Doody: I understand they have done something along that line. I am not entirely clear on what the House of Commons has done or intends to do. I know pretty well in my own mind what the Senate is doing and hopes to do, and that concerns me more than what is going on in the House of Commons. We have undertaken to deal with Bill C-22 as promptly, efficiently and effectively as we can. I think we are bound to do that, as it is our responsibility. What the House of Commons rules are and how they pertain to our responsibility, of course, is another matter, and I am not going to comment on it.

Order stands.

NATIONAL FILM BOARD

MOTION TO REFER INQUIRY ON REPORT ON FILM ENTITLED: "THE KID WHO COULDN'T MISS" TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the motion adopted by the Senate on May 28, 1986, and passed by a vote of 28 for and 17 against, that the Report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: Production and Distribution of the National Film Board Production "The Kid Who Couldn't Miss", tabled in the Senate on 15th April, 1986, be referred back to the Committee with instructions to consider and report upon the following:

Strike out page 20 and substitute

RECOMMENDATIONS

1. That after the titles of the film, the following disclaimer be added: "This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.

   Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne."

2. That the National Film Board be requested to take action to eliminate from the film the unproven allegations, charges and innuendoes against the integrity of Billy Bishop; and

   further, that consideration be given to the apparent disregard by National Film Board officials to their commitments to the Senate Sub-committee on Veterans Affairs arising out of evidence before the Sub-committee.

And on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Le Moyne, that the inquiry be referred to the Standing Senate Committee on Social Affairs, Science and Technology for study and report.—(*Honourable Senator Petten*).

Hon. William J. Petten: Honourable senators, I moved the adjournment of this debate in case other honourable senators wished to take part in it. It is not my intention to take part in the debate now, so if any other honourable senator wishes to speak, I ask that he or she feel free to do so.

Order stands.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and

That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.—(*Honourable Senator Flynn,P.C.*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I ask of Senator Flynn leave to deal with what is, in effect, a leftover from the last debate on this order. After I introduced the motion, Senator Phillips asked that we find out what the ground rules are in the House of Commons for televising their proceedings. His question arose because I stated that the proposal was not to have an electronic *Hansard* but simply to make our proceedings on the Committee of the Whole available to the media, subject to the ground rules obtaining in the House of Commons. Senator Phillips quite reasonably asked what those ground rules are. I undertook to provide some information. I would like to tell you of the information I have. I received it about an hour and a half ago, and I have been unable to reproduce it in time. Also, I am not sure that the Senate would want all of it.

I would like to read a memorandum I asked Mr. Gord Lovelace to prepare. Mr. Lovelace is the Information Officer of the Senate and its contact with the press. The memorandum is addressed to me, and it reads as follows:

> There is nothing specific written down regarding guidelines for TV coverage of Commons sittings.
>
> The original motion of years ago made reference to the planned TV coverage being as close as possible to an "electronic Hansard."
>
> Interpretation of that intent has always been left in the hands of the Commons Speaker, who subsequently provides appropriate direction to employees in the Broadcasting Branch.
>
> The understanding of the media, however—in dealings with the Senate on the increasing number of occasions which have seen cameras admitted to our committees—has been as follows:
>
> —Stationary cameras must be in place before a meeting begins and not be removed until after it is over.
>
> —Cameras should focus on the person speaking.
>
> —In the case of the Senate Chamber, camera crews shall wear coat and jacket or other appropriate dress.
>
> The main control on the media in such situations is their very real understanding that, if there are complaints about their professional conduct under the circumstances, they might not be invited back.

● (1450)

Honourable senators, that is the end of that memorandum. However, I also have an extract from the House of Commons *Votes and Proceedings* dated January 25, 1977, and November 23, 1977, remembering that most of these conditions apply to the electronic *Hansard*.

I also have an extract from an article by a former Clerk of the House of Commons, Alistair Fraser, entitled: "Televising the Canadian House of Commons". On page 67 of that article, he outlines some of the principles enunciated following those proceedings.

Honourable senators, I do not know whether we want all of this material appended, but I am certainly prepared to have photocopies of it made for everyone before we proceed with the debate. Senator Flynn may have some things to say, even apart from that, and then adjourn the debate until I have made that material available. I am quite happy to suggest that the material be appended, but perhaps the better way is for me to have enough copies made for all senators and have those copies distributed to their offices. Thereafter, we can proceed with the debate, either continuing with Senator Flynn or having Senator Flynn start, having adjourned the debate today. I leave that up to him.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I do not intend to say everything I have to say about this motion today. In fact, I will move the adjournment of this debate because I would like some additional information. Meanwhile, perhaps I may make a few comments on the principle involved in this motion.

For some time the Senate has been considering whether it would be appropriate to televise its proceedings. It has yet to reach a decision on this question.

Senator Frith's proposal would mean that on this particular occasion and, I suppose, on an experimental basis, the debates of the Senate will be televised. I don't really like the idea that this particular way is being used to further the cause of TV coverage of our proceedings. If the Senate agrees to have its proceedings televised, let it say so clearly and frankly and make the necessary arrangements.

The proposal concerns the proceedings of the Committee of the Whole on the Meech Lake Constitutional Accord. I suppose that is not quite the same thing as the Senate, but to all intents and purposes, it means televising the proceedings of the Senate. That is my first concern about this motion.

My second is that Senator Frith tells us this will not cost a penny. I am quite prepared to accept his opinion, but it seems to me we should know more about it and that the Committee on Internal Economy, Budgets and Administration should look into the matter and see whether no cost is involved. Again, even if it is just an experiment, I think that if the experiment should prove to be a very costly one, senators would be inclined to take a more cautious approach.

My third concern is that I wonder why we do not let the Committee of the Whole or at least its steering committee

[Senator Frith.]

make the necessary arrangements for the proposed study and recommend TV coverage of these proceedings. It seems to me there is something here that does not fit what should be the logical sequence of events.

If we are talking about following the example of the House of Commons, again, I fail to see how this could not entail significant costs, as well as creating a precedent that would allow TV coverage of the proceedings of the Senate without the Senate itself having actually agreed to the principle.

Honourable senators, I suppose I could adjourn the debate now and see how the sponsor of the motion reacts to the few comments I just made, and perhaps we could resume debate at another time.

On motion of Senator Flynn, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Committee on Social Affairs, Science and Technology (supplementary budget concerning report of Nielsen Task Force—Service to the Public—Veterans), presented in the Senate on June 16, 1987.

Hon. Arthur Tremblay: Honourable senators, this is the sixth report of the Committee on Social Affairs, Science and Technology. The report has to do with the request for a supplemetary budget which would enable the Sub-committee on Veterans Affairs of the Committee on Social Affairs, Science and Technology to continue the proposed study in connection with the document which analyzed government expenditures in a number of sectors, including veterans affairs.

The project went through all regular stages provided for such a request: the sub-committee itself, the Committee on Social Affairs, Science and Technology, and finally, the Committee on Internal Economy, Budgets and Administration which, in turn, gave their authorization.

So to the extent that the regular procedure has been followed, I propose that the report be adopted and the expenditures involved approved.

Motion agreed to and report adopted.

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE

On the Order:

> Senate in Commmittee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have discussed this matter with the Leader of the Government in the Senate, and I propose that we resolve ourselves into a Committee of the Whole, that Senator Molgat be chairman, and that we then deal with the election of a

steering committee in order to organize the work of the committee. I will not be proposing that we do anything more today, but, of course, I cannot speak for anyone else who may want the committee to do more today. However, I think we have agreed that we want that much done today.

Hon. Orville H. Phillips: Honourable senators, on a point of order, I believe our rules call for the Chair to name the chairman of the Committee of the Whole, do they not?

Senator Frith: I understand that there has been that practice, but then, with reference to a previous Committee of the Whole, we actually moved the election of Senator Bélisle. Therefore, we have two precedents: One being that the chairman is named, and the other being that the chairman is elected on motion. Therefore, if I have understood Senator Phillips correctly, if we are proposing this to the Speaker, we get the best of both worlds.

Senator Phillips: Honourable senators, I do not believe that precedents should replace our rule book. Our rule book was printed in order that we could more easily follow the rules.

● (1500)

Senator Frith: No, I say this really combines both, without the precedent interfering with the rule.

The Hon. the Speaker: Honourable senators, there does not seem to be anything in the rule book that I can see that addresses these questions.

Senator Frith: We have used both procedures. In order not to make a choice between the two, I am proposing that Your Honour leave the Chair, that we resolve into Committee of the Whole, and that Your Honour ask Senator Molgat to take the Chair in Committee of the Whole.

The Hon. the Speaker: Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

The Hon. the Speaker: Pursuant to the order of your honourable house, I leave the Chair. The Honourable Senator Molgat will please take the Chair of the committee.

[*Translation*]

CONSIDERATION IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, first, I want to thank you for your confidence in appointing me Chairman of this committee. I am not sure that you are doing me a favour in view of the subject with which we are dealing.

In any event, the first step to take is to establish a steering commitee.

[*English*]

Honourable senators, are there any proposals?

Senator Phillips: Honourable senators, when this matter was being discussed in the regular sittings, I suggested that the whips nominate the steering committee. I move, seconded by the Honourable Senator Petten, that the steering committee be constituted of the Honourable Senators Murray or Doody, Flynn, Phillips, MacEachen or Frith, Hébert, Molgat, Petten and Stewart.

The Chairman: It is moved by the Honourable Senator Phillips, seconded by the Honourable Senator Petten, that the steering committee be established, composed of the following honourable senators: Senators Murray, Flynn or Doody, Phillips, MacEachen or Frith, Hébert, Molgat, Petten and Stewart.

Senator Doody: It is Murray or Doody, not Flynn or Doody.

The Chairman: Murray or Doody.

Senator Frith: A palace revolt while the leader is out of town!

The Chairman: I am sorry. If I may re-word it: Murray or Doody and Flynn and Phillips. Are there any other nominations? If not, is that agreeable, honourable senators?

Senator Frith: Agreed.

The Chairman: Then that will be the steering committee.

Is there any other business before us at this point?

Senator Frith: Mr. Chairman, I hope that the steering committee will be able to meet soon. The reference to the Committee of the Whole is to deal with this material, to hear witnesses, and to report. I hope that we can set up a schedule for witnesses so that we will hear some before we adjourn on the 30th. In that way we can at least get started. My suggestion to the steering committee is that our first witness might well be someone whom the government would like to call to explain some of the detail and answer some questions with regard to some of the constitutional consequences, what might be called the more academic or technical element rather than the political in dealing with this subject. However, that will be a matter for the steering committee. I simply hope that the committee, under your chairmanship, can meet soon so that we can at least start our proceedings before we adjourn on the 30th, and so that we can discuss whether we want to meet during the summer.

Senator Phillips: Honourable senators, if I heard the Honourable Senator Frith correctly, he said before we adjourn on Thursday.

Senator Frith: No, before the Senate adjourns on the 30th.

Senator Phillips: On Thursday I thought you said.

Senator Frith: No. If I said on Thursday, I did not mean that. I meant to say on the 30th.

[*Translation*]

Senator Rousseau: Mr. Chairman, are women not part of the Canadian population? Could a woman not have been appointed to this committee?

The Chairman: Are there any more questions? If not, we can have a meeting of the steering committee tomorrow morning.

[*English*]

Would ten o'clock tomorrow morning be suitable to the members of the steering committee, provided we can find an appropriate room? Perhaps room 263, tomorrow morning at ten? Later this day?

Senator Frith: Shall we invite Senator Rousseau to attend?

Senator Flynn: Certainly.

[*Translation*]

Senator Rousseau: Mr. Chairman, I did not ask this question to be appointed to this sub-committee myself; there are other women who could be appointed.

The Chairman: Senator Rousseau, there seems to be a consensus in favour of inviting you to sit on the committee. Would we have leave to meet when we adjourn the sitting this afternoon? One moment, I see that Senator Corbin wishes to speak.

Senator Corbin: Is it not a fact that all senators are members of all committees of the Senate and are free to attend any sitting of a sub-committee?

The Chairman: Yes, but without having the right to vote. Is there agreement for the steering committee to meet in Room 263-S after we adjourn the sitting this afternoon? Senator Rousseau, you have a special invitation to attend this meeting. Does everyone agree?

[*English*]

Senator Spivak: Mr. Chairman, does this mean that Senator Rousseau is not a member of the steering committee?

Senator Flynn: No.

Senator Spivak: Her question, if I understood it, was whether or not there ought to be a woman, at least, as a representative of that half of the population, to be a member of the steering committee. I do not think that that response of inviting Senator Rousseau to attend satisfies her question adequately.

Senator Frith: My suggestion that Senator Rousseau attend was not to have her take her place on the committee, because I agree that that would not adequately answer the question she raised, but, rather, to have the steering committee meet. She could attend—she is entitled to attend in any event—with a view to rectifying the mistake to which she has drawn our attention. We can nominate a senator now if we wish, but this procedure has been done by the two whips. I suggest that they consult in order to solve the problem that has been raised by Senator Rousseau, and that in the meantime she attend meetings of the steering committee.

• (1510)

Senator Spivak: Honourable senators, is it in order to nominate a senator now?

Senator Frith: Certainly.

Senator Spivak: I, therefore, nominate Senator Rousseau to be a member of the steering committee.

Senator Phillips: Honourable senators, that raises a question as to the distribution of the subcommittee to reflect the division within the Senate. The number is going to make it difficult to maintain a five-and-three relationship. Perhaps there should be some suggestion as to what the membership of the subcommittee will be in the future.

Senator Frith: That is why I suggested the matter be left with the whips for the time being. I hope there will be a solution. I suggested that a more permanent solution be found by the two whips. The whips can speak for themselves, but if I understand Senator Phillips, he wants an opportunity to consider how the problem raised by Senator Rousseau will be solved—that is, that there are no women on the steering committee.

I wanted to leave it with the two whips, but in the meantime to have a woman attend the steering committee today. If that solution is not satisfactory, then let us have a better one.

Senator Petten: Honourable senators, as Senator Frith has said, the whips can speak for themselves, and, speaking on my own behalf, I suggest that Senator Phillips and I sit down and discuss this. I think we can resolve it to everybody's satisfaction.

The Chairman: Honourable senators, it is moved by the Honourable Senator Spivak, seconded by the Honourable Senator Fairbairn, that the Honourable Senator Rousseau be added to the list of senators serving on the steering committee.

Senator Corbin: Honourable senators, I should like to respond to Senator Phillips, who has a problem with balance in terms of party representation. I think we ought to go a step further than simply recognizing that there ought to be room for the "token" woman on such a committee. I think we ought to name two women, one representing the government and one representing the official opposition. I think that would satisfy everyone. After all, this is a Committee of the Whole, and there are many members to choose from on the Committee of the Whole. Let us do away with this tokenism and get on with the task at hand.

I suggest that the Honourable Senator Spivak be named to the steering committee.

The Chairman: Honourable senators, it has been moved by the Honourable Senator Spivak, seconded by the Honourable Senator Fairbairn, that the name of Senator Rousseau be added to the list of senators serving on the steering committee.

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

Hon. Senators: Agreed.

The Chairman: Carried. We welcome Senator Rousseau to the steering committee.

Are there any further matters?

Senator Corbin: Honourable senators, if need be, I move that the Honourable Senator Spivak be added to the list of senators serving on the steering committee of the Committee of the Whole.

The Chairman: Honourable senators, it is moved by the Honourable Senator Corbin, seconded by the Honourable Senator Simard, that the Honourable Senator Spivak be added to the list of senators serving on the steering committee.

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

Hon. Senators: Agreed.

The Chairman: Carried.

Are there any other matters before the committee?

Senator Frith: Mr. Chairman, I move that the committee rise, report progress, and request leave to sit again.

The Chairman: It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Petten, that the committee rise, report progress, and request leave to sit again. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

REPORT OF COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

[*Translation*]

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole to which the Meech Lake Accord and texts subsequently agreed to was referred reports progress and asks for leave to sit again.

The Hon. the Speaker: Honourable senators, when shall this Committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

The Hon. the Speaker: Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

Motion agreed to.

[*English*]

AGRICULTURE AND FORESTRY

THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Agriculture and Forestry (supplementary budget re examination of Farm Finance), presented in the Senate on 10th June, 1987.

Hon. Dan Hays: Honourable senators, Order No. 13 is pursuant to a report of the Standing Senate Committee on Agriculture and Forestry presented by me on June 10. It relates to a budget for the special work of the committee on farm finance.

I ask honourable senators' support for this motion. The budget has been approved by the Standing Committee on Internal Economy, Budgets and Administration. If there are any questions, I will do my best to answer them.

Motion agreed to and report adopted.

● (1520)

VISIT OF SENATE DELEGATION TO JAPAN

DEBATE ADJOURNED

Hon Guy Charbonneau rose, pursuant to notice of Tuesday, June 9, 1987:

> That he will call the attention of the Senate to the visit of a Senate delegation to Japan, from April 13 to 19, 1987, in response to an invitation from the Japanese House of Councillors.

He said: Honourable senators, a delegation from the Senate visited Japan in April 1987 as the guests of the House of Councillors, the Upper House of Japan's Parliament.

The delegation was composed of the following persons: Myself, as Speaker of this chamber and leader of the delegation; the Honourable Orville H. Phillips, Government Whip; the Honourable Ernest G. Cottreau; the Honourable Royce Frith, Deputy Leader of the Opposition in the Senate; the Honourable Yvette B. Rousseau; Mrs. Toshiko Adilman, our interpreter; and Ms. Kay Higgins, Executive Assistant to the Speaker.

The visit was in response to an invitation received from Mr. Masaaki Fujita, the current President of the House of Councillors, following the visit to Canada in 1985 of a House of Councillors delegation led by the then President Mutsuo Kimura.

The delegates arrived in Tokyo on Sunday, April 12, and the official program began on April 13. It should be noted that the delegation's visit took place at a time when trade relations between Japan and the United States were subject to considerable friction arising from the positions taken by the two countries with regard to Japanese exports of semi-conductors. In fact, it was during our visit that the President of the United States announced an embargo against the import into the United States of certain Japanese products as a result of this unresolved problem. These difficulties with the United States inevitably formed one of the themes of discussion during the meetings held over the next several days, together with the high value of the Japanese yen which was dominating the money markets and economic trade relations in general.

A subject of great interest also to our Japanese counterparts, and to the businessmen and financial market people with whom the delegation met, was the free trade negotiations

being carried on between the Canadian and United States governments.

Other themes which emerged will be apparent from this report, but the overriding one was the often expressed interest of our hosts in increasing exchanges at the political and parliamentary levels.

[*Translation*]

On May 13, following a very instructive briefing for the delegation at the Canadian Ambassador's residence, by our Ambassador, Mr. Barry Steers, and members of the embassy staff, the delegation was received at luncheon by the Japan-Canada Parliamentarians Friendship League. The League was represented by its President, Mr. Toshio Komoto, an important member of the House of Representatives and President of the League since 1983, and several members of the League drawn from different political parties. In responding to the President's welcoming address, the delegation expressed its pleasure that its first official meeting of the visit should be hosted by the Friendship League. The activities of the Canada-Japan Parliamentary Association were referred to; and we took the occasion, when referring to Canada's intensified relationship with Japan, to mention matters of particular interest to Canada and to the delegation in the context of its visit, that is: Canada's desire to see an expansion of our two-way trade—with greater access for Canadian products to Japanese markets and more direct investment in Canada by Japanese industry. In the conversation which followed, these matters and the current difficulties in the trade relations between Japan and the U.S.A. were touched on, in a frank and friendly atmosphere, aided by the graciousness of our hosts and the setting, which was a famous Japanese-style restaurant well known for its charm and hospitality, the Fukudaya.

Courtesy calls were than paid on the President of the House of Councillors, His Excellency Mr. Masaaki Fujita, and the Speaker of the House of Representatives, His Excellency Mr. Kenzaburo Hara.

Present at the meeting with Mr. Fujita, our official host, were His Excellency Mr. Hideyuki Seya, Vice-President of the House of Councillors, and the Chairman and members of the Committee on Rules and Administration. After his words of welcome, Mr. Fujita discussed the close and varied relations between Canada and Japan, which could be traced, he said, to "bridges" started by missionaries, early businessmen and immigrants to Canada. He noted that relations between Canada and Japan and between their parliamentarians were intensifying. We referred to the importance the Canadian government attached to Japan in its statement of priorities at the opening of Parliament. We also expressed appreciation for the welcome given to the delegation of the Canada-Japan Parliamentary Association when it had visited Japan in March 1987 and said we looked forward to increased exchanges in many spheres. People-to-people exchanges diversified relations and made us better world citizens. There followed a brief exchange about the current Japan-U.S. trade friction and Mr. Nakasone's forthcoming visit to Washington. Questions were asked about the Canada-U.S. free trade negotiations and the effects such an agreement would have on Canada-Japan Trade. I expressed my feeling that it would have a positive effect. There was an enquiry regarding President Reagan's visit to Ottawa, and the main items on the agenda at that time. Mr. Fujita said that Japan would like close talks with the U.S.A. He also expressed the hope that Japan's international promise to stimulate the domestic economy would lead to the construction of larger houses, using more Canadian lumber. Mr. Fujita also referred to the 1985 visit to the Canadian Senate of a delegation from the House of Councillors—he said they had been very well and kindly received.

The next call was on His Excellency Mr. Kenzaburo Hara, the Speaker of the House of Representatives, who received the delegation at the Diet Building, accompanied by the Vice-President, His Excellency Mr. Shinnen Tagaya, and the chairman and members of the Committee on the Rules and Administration of the House of Representatives. After welcoming the delegation, Mr. Hara referred to the visit to Japan by Prime Minister Mulroney last year, and commented with satisfaction on the growing number of parliamentary exchange visits. He said he would like to see even more exchanges of persons, more relations between universities, more twinning of cities. Parliamentary visits, he agreed, were already increasing; the March visit of the Canada-Japan Parliamentary Association delegation had been very important and impressive in what it had accomplished.

Deputy Speaker Tagaya observed that Canada had a trade deficit with Japan now; he asked in what product areas Canada hoped to expand sales to Japan. The opportunity was taken to request removal of the restrictions on the import of 2 by 4 lumber from Canada and on the construction of 3-storey horizontally-separated buildings. It was suggested that this would help Japan to meet its considerable housing needs. Confidence was expressed on the Japanese side that restrictions on 3-storey buildings would eventually be eased as part of the government's liberalization policy.

[*English*]

Questions were asked about the present situation of oil-sand exploitation in Canada. Our response was that this depended largely on an increase in the price of oil. Japan, of course, has lots of technology for this kind of oil refining, and, in fact, the Saskatchewan government was having discussions on this with the Japanese. Ambassador Steers pointed out that Canadian resources were a source of secure supply for Japan. Mr. Hara inquired about the timetable for the free trade negotiations and was told that currently it was expected to have an agreement by October 5, 1987.

• (1530)

The delegation was honoured to be received by the Prime Minister, His Excellency Mr. Yasuhiro Nakasone, at his office. He welcomed the delegation and expressed appreciation for the opportunity to address both houses of the Canadian Parliament in January 1986.

He stressed the importance he attached to the senators' visit, saying that Parliament-Diet relations were important, and, in

the interest of Japan and Canada, they should be deepened, enriched and expanded. As leader of the delegation, I thanked the Prime Minister for taking time to receive the delegation at a very busy and crucial period for him, as there had been a slight setback for him in local elections on the previous day.

There was a brief discussion of the Kanao Economic Mission to Canada in the fall of 1986, and the Japanese interest in our free trade negotiations. The Prime Minister commented that Japan's interests were essentially that the outcome should not harm third-party countries, and should be consistent with GATT. The Prime Minister, in answer to a question, explained his position regarding the issue of a value added tax, which he felt would loosen up the distribution system, thereby increasing imports to the Japanese domestic market.

Later in the day Mr. and Mrs. Fujita gave a reception in honour of the delegation at the President's residence. It was a very lively and pleasant occasion, during which various Japanese delicacies could be tasted to the sound of Koto music, and toasts to Canadian-Japanese friendship were offered on each side. The delegation had the opportunity of meeting there many more members of the House of Councillors and the House of Representatives, including such members of the House of Councillors as the former President, Mr. Mutsuo Kimura, Mr. Atsushi Akiyama and Mr. Tomoyuki Fukuma, all of whom had visited Canada as the guests of Parliament

On April 15 the delegation had a meeting with the House of Councillors' Committee for Commerce and Industry, presided over by the chairman, Mr. Isao Maeda. Four directors and three members of the committee were present.

The chairman referred to the cordial relations and increasing number of exchanges between Canada and Japan, and to their relations as good neighbours and reliable trading partners. He stressed the contribution that exchanges of opinion between parliamentarians can make to strengthening relations. He welcomed the opportunity for a frank exchange of views. We pointed out that protectionism was a problem faced by both countries, and reiterated that Canada was committed to its trade partnership with Japan, and, except for a few irritants, it could be said that Canada was the least complaining of Japan's partners. The delegation was here today to discuss ways of achieving even closer ties as far as legislative and trade and financial aspects were concerned.

Senator Frith commented that the businessmen often seemed to be ahead of the politicians in exploring ways in which our mutually advantageous relationship could benefit us even more. Our political relations should be deepened in the same way our trade relations have been. Politicians, of course, know Parliament and its processes. Perhaps meetings between our respective committees—for example, the Standing Senate Committee on Banking, Trade and Commerce with the analogous committee of the House of Councillors—could be considered. The chairman agreed that there was room to develop further exchanges at the political level and undertook to consider the suggestion.

Mr. Toyotomi Fukuma contrasted Canada-Japan economic relations, which were generally harmonious, with those between Japan and the United States, where there were currently serious frictions. He expressed hope for more Canada-Japan cooperation in science and technology. In response to our suggestion that a free trade agreement would make Canada more attractive to the Japanese direct investor, who could thereby supply U.S. markets with products manufactured in Canada, Mr. Fukuma felt that although this might help to reduce the imbalance in Japan-U.S. trade, he noted that possible frictions with the United States could occur.

The Canadian delegation confirmed Canada's commitment to maintaining its special trading relationship with Japan in the event of a free trade agreement becoming a reality.

On matters of present concern to Canada, such as small irritants in our relationship, and Canada's desire to see guarantees of security of demand in response to security of supply, there was the matter of the tariff on Canadian SPF lumber. We mentioned that U.S. hemlock was imported into Japan without tariff. This was something, we thought, that could probably be looked at in the context of security of supply between Canada and Japan. Mr. Fukuma pointed out that Japan's tariffs were not the highest among the industrialized countries, and that in processed timber and pressed wood Canada was Japan's largest supplier, supplying 70 per cent of processed timber. Other Canadian imports such as copper, oil seeds, and so on, made Canada one of Japan's major sources of imports. Canada could never be replaced as a country from which Japan imported many things, but Canada is competing in many areas with other countries such as the U.S.A. and Australia.

He mentioned, with regard to Japanese direct investment in Canada, that the figure had increased greatly in the last few years, but direct investment in industry had important effects on the domestic economy; for example, unemployment, which had to be measured and set against other advantages to be gained.

In closing the discussion, Chairman Maeda commented that the politicians should not be letting the industrialists move ahead of them in promoting closer working relationships. He would report to the President that he and his colleagues had had very meaningful exchanges with their Canadian colleagues. As parliamentarians, we had an interest in removing any small irritants that exist. At the same time, he would like to solve the larger problems. He hoped that regular contacts between the parliamentarians of both countries would be realized and the dialogue continued.

Other important meetings took place on April 15. The delegation was received at a luncheon by the Chairman of the Japan-Canada Committee of the Keidanren, the Federation of Economic Organizations, Mr. Minoru Kanao. The luncheon was held at Keidanren House and attended by a large number of leading Japanese businessmen, members of the Keidanren.

In October 1986 Mr. Kanao, Chairman of Nippon Kokkan K.K., had led a high-level economic mission to Canada, under

the auspices of the Japanese government. The findings of the mission, as set out in its report, "Discovery of a New Canada", were very positive. As to the strength of the economy, the education and skill of our workforce, labour-management relations, the world-class level of our high technology industries, and the cooperation between various levels of government, all combined to make Canada a fertile place for Japanese investment. This report was of great significance to Canada, as it put to rest a range of concerns about Canada in the minds of many Japanese.

The delegation took the opportunity to express Canada's appreciation of the personal commitment of Mr. Kanao and his colleagues to improving Canada-Japan relations. Mr. Kanao confirmed that he would be going to Vancouver in May to attend the 10th meeting of the Joint Committee on Canada-Japan Business Cooperation, which was growing year by year. He said that our relations were now facing a new phase. With the sharp appreciation of the yen, Japan was looking at Canada to make investments. With the depressed commodity and resources prices, Canada was now putting greater emphasis on technology. There was a shift to mutual cooperation in industrial development and towards technological exchanges. He welcomed the opportunity to have a frank exchange of views.

The delegation referred to the Canada-U.S. trade negotiations aimed at securing market access, and to the opportunity for Japanese firms to produce in Canada and market in the U.S.A. In this context the significance of the findings of the Kanao report should not be overlooked.

Among the questions raised by the Keidanren members was one concerning the free trade negotiations and the Liberal Party's attitude towards them. Senator Frith replied that comments on a specific text would have to await the full text of an agreement, but, in principle, if the agreement was in the interest of Canada, as could be expected, the Liberal Party—traditionally a free-trade party—would not impede it.

The delegates were impressed by the lively interest shown by the Keidanren members present, and by its slogan: "Please keep your door open—we are keeping ours open," as it appears on a small wooden wedge presented to each delegate before the end of the luncheon.

[*Translation*]

In the late afternoon, there was an opportunity for the delegates to meet members of the Tokyo-based Canada-Japan Chamber of Commerce, composed of Canadian businessmen carrying on business in Japan. The meeting was held at the Canadian ambassador's residence. The delegates were interested in knowing what role they could play as parliamentarians in facilitating and promoting the closer ties which are being formed between Canadian and Japanese governments and businesses. In response, the Canadian businessmen laid emphasis on the need for preparing more specialists in Japan in Canadian business schools, more Japanese language training on a broad scale, more efforts to enable young Canadians to have access to working in Japanese businesses for a year or two, more education of the public in the importance to Canada of Japan—this was very neglected at present; there was a need for a high degree of consciousness-raising, including much more Canadian media (especially TV) coverage of Japanese affairs and our relationship with Japan. For example, the CBC did not have even one correspondent or representative stationed in Japan. Businessmen should be targetted particularly; the opportunities in Japan were vast, but they must be prepared to make time and efforts to study the market. Parliamentarians wishing to support these efforts at consciousness-raising could obtain material through the Canadian Embassy or through the Canada-Japan Chamber of Commerce in Tokyo.

[*English*]

The delegation also had a meeting at Nomura Securities, the largest investment and securities brokerage firm in the world, which, incidentally, has recently acquired a seat on the Toronto Stock Exchange. There was a general discussion with Mr. Yoshio Terasawa, Executive Vice-President, and his colleagues about inducements that the appreciation of the yen and the Canada-U.S.A. free trade talks provided for Japanese direct investment in Canada, and about the prospects for an opening of the Japanese financial market to foreign investment dealers and brokers. This was followed by briefings on the Japanese economy and on direct Japanese investment in Canada by Mr. Hirohiko Okamura, Chief Economist of Nomura Research Institute, and included a discussion of the dramatic increase in Japanese capital formation and the possibilities of recycling this capital to help development in all parts of the world, as was done by the United States in the forties and fifties.

[*Translation*]

On Thursday, April 16, the delegation left Tokyo, taking the Shinkansen Hikari train to Osaka, where they were met by the Canadian Consul General, Mr. Michael C. Spencer and Mrs. Spencer. Mr. Spencer briefed the delegation on the activities of the Osaka Consulate General since its opening by Minister Pat Carney in November 1986. Senators will know that Osaka is the nation's original commercial hub and the Kansai region is Japan's second largest industrial, commercial, financial and population centre. All these factors combine to keep the Consulate General extremely busy.

The delegation was warmly received by the President of the Matsushita Electric Trading Co. Ltd., Mr. Kiyoshi Seki, at its Kadoma plant, and toured the video recorder division's facilities. The fine precision-machining involved in the process requires the use of robots, including inspection robots to check the work. Matsushita's product lines include Panasonic, National and Quasar. Here the delegation was happy to be jointed by Mr. Fukuma, a member of the House of Councillors' Committee on Commerce and Industry.

The evening concluded with a performance of Bunraku, the traditional puppet-theatre, for which Osaka is famous.

[*English*]

Before leaving Tokyo for a three-day visit to the Kansai area, the delegates visited the Abiko plant of NEC, where they saw a new generation office automation plant featuring NEC's "Computers and Communications" technology and various types of voice and data communications systems.

The Canadian ambassador hosted a reception in the delegation's honour on April 15, at which the guests included members of the Diet, the Canadian community in Tokyo, visiting representatives of the Saskatchewan government, members of the embassy staff and others.

The next two days were devoted to seeing the ancient capitals of Nara and Kyoto, with visits to some of the many famous and beautiful shrines, temples, gardens and parks, including a fascinating visit to Nijo Castle dating from the early Tokugawa era. The weather was very good, the cherry blossoms were still in full bloom, and it was very pleasant to sit and be entertained by the music of the Koto and a flower arrangement demonstration, and to participate in the traditional tea ceremony.

If I may interject a personal note here—no pun intended—I would add that our colleague, Senator Frith, did us proud by giving a very creditable performance on the Koto. But this will not surprise honourable senators, who have seen him playing upon our heart-strings in this august chamber!

[*Translation*]

The delegation returned to Tokyo on April 18th and the delegates departed Japan on April 19th.

Our hosts, the House of Councillors, organized for the delegation a high-level program, and it would be hard to exaggerate the degree of attention paid to the delegation in terms of the meetings arranged for us and the care devoted to our comfort and well-being. We were accompanied throughout the visit by Mr. Ken Ikebe, the Director-General of the Foreign Relations Department of the House of Councillors, and he and his excellent team of staffers were unfailing in their competence, courtesy and good humour.

Ambassador Steers and his staff were invaluable in offering us their guidance and help, and we are very grateful to them.

Mrs. Toshiko Adilman, our interpreter, was a very valuable member of our group, and Miss Kay Higgins acted as the secretary to the delegation.

Senators Phillips, Cottreau and I were accompanied by our spouses, and Senator Rousseau by her daughter, Miss Jeanne-Mance Rousseau. Special activities were arranged for the spouses by our hosts during the Tokyo program.

[*English*]

Honourable senators, I think you will understand from the foregoing that our visit achieved our main objectives—to meet with and get to know our Japanese colleagues and their institutions; to hear their views and give them ours on matters touching the relations between our two countries; to reiterate Canada's commitment to its important trade partnership with Japan; to explore ways in which we as legislators can help to expand our cooperation in a number of areas, and to confirm what the findings of the Kanao report have made clear: that Canada offers attractive possibilities for direct investment by Japanese industry.

None of this would have been possible without the kind welcome, cooperation and sympathetic hearings we received throughout our visit, and we have, of course, expressed our pleasure and gratitude to our hosts, the House of Councillors of Japan.

Finally, I would like to take this occasion personally to express my most sincere thanks to all the members of the delegation and the accompanying staff for their invaluable contributions to the success of our visit.

Hon. Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

THE PHILIPPINES

CURRENT SITUATION

Hon. B. Alasdair Graham rose, pursuant to notice of Wednesday, June 17, 1987:

> That he will call the attention of the Senate to the situation in the Philippines.

He said: Honourable senators, last month I had the privilege to lead an international observer delegation to the congressional elections in the Philippines. I was also present before, during and after the presidential, or so-called "snap", election of February 7, 1986.

Much has happened in the intervening period. Because the official canvass, or counting of ballots, for the last election is almost complete, I thought it might be timely and useful to share with honourable senators some observations with respect to events in that part of the world.

The country itself is comprised of 13 regions, 74 provinces, over 7,000 islands, and a population estimated at 57 million, of whom over 26 million were registered to vote in the congressional election.

The presidential election of 1986 was referred to as the "snap" election because Ferdinand Marcos still had one year to go in his mandate. It was believed that he called the election early because he felt he could catch a growing and much strengthened opposition off guard.

The 1986 observer team was assembled by both the Democratic and Republican National Institutes for International Affairs based in Washington, D.C. We were 44 people from 19 countries. The delegation witnessed and reported widespread voting irregularities, fraud, intimidation and deliberate manipulation of the official count in order to favour former President Marcos. It was our conclusion that despite extensive interference by Marcos forces, had there been a fair count, Corazon Aquino would have received a significant majority of the ballots cast.

The observer delegation played an important role in alerting the world and setting the record straight as to the true state of

affairs in the Philippines at that time. But I want to emphasize that it was the Philippine people themselves who determined their own fate through the greatest example of peaceful people power in modern history. For them it was a case of "now or never." Enough was enough. Manila became a Parliament of the streets. There was a well organized campaign of economic and political resistance. Officials and diplomats defected. Soldiers mutinied and, in turn, were protected by the people. The stories are endless, and the lessons should never be forgotten. They should be taught over and over, but not just to Filipinos. The dramatic collapse of the Marcos regime has important lessons for the world. There are effective alternatives to violent revolution. The struggle for democracy, for free and fair elections, should never cease, and those of us in the comfortable pew can play a role.

● (1550)

Events which followed the revolution, including overwhelming support for a new constitution in February of this year, are further evidence that Filipinos are on the right path, and that the world can learn much from their progress and achievements.

It was against that background that the Democratic Institute for International Affairs organized another observer delegation for the congressional election on May 11.

I should say a brief word about the institute, which is chaired by former Vice President Walter Mondale. When we talk about lessons to be taught and learned, the work of NDI stands out as a first class example of how non-partisan political development programs can be conducted where they are most needed around the world. NDI seeks to strengthen democratic institutions and pluralistic values in new and emerging democracies.

In the last three years the institute has conducted successful programs in over 30 countries. Its terms of reference are worthy of very close study and examination by Canadians, with a view to establishing our own programs in order to pursue and, indeed, share to a much greater extent in the promotion of freedom and democracy.

Last year's events, and President Aquino's efforts to consolidate the Philippine democracy, have provided an important base of information and an incentive to advocates of democracy in many corners of the globe.

The major goal of this year's mission was to learn from the successful Philippine experience. The delegation was comprised of political parties, labour, business and religious leaders. We were 24 people from 11 different countries, including Panama, Paraguay, Pakistan, Bangladesh, Taiwan, South Korea, Chile, Haiti, Northern Ireland, the United States and, of course, myself from Canada. We were invited, as we had been before, by Comelec, the Philippine Commission on Elections, with the approval of Namfrel, the National Citizens Movement for Free Elections.

In organizing the new mission, NDI invited influential supporters of democratic reform from countries seeking to promote or strengthen the electoral process at home. I am convinced that the mission achieved its purpose. It is a tribute to NDI President Brian Attwood, Executive Vice President Ken Wollack and those others responsible for organization—to those who participated and the countless people in the Philippines who opened their minds and their hearts to members of the mission. Worthy of special mention is Canada's distinguished Ambassador to the Philippines, His Excellency Russell Davidson, who played a key role in the success of our program.

We had the benefit of extensive briefings from Comelec, Namfrel, government officials, political party leaders and individual citizens. It was an interesting mix of people, with the right chemistry, and with one common objective, namely, to learn by observing.

One of the most interesting parts of the entire program was a forum on our final day, when delegation members reflected on the relevance of their observations to the situation in their respective countries. Without exception, they stressed the value of lessons learned, and individually they spoke positively of how those lessons could be put to practical use in their own countries.

As to the election itself, the difference between 1986 and 1987 was like night and day. The changes and improvements reflect enormous credit on Comelec, Namfrel and, in general, the new system of government under President Aquino. Let me give you an example. Because I was one of the few returnees from the 1986 observer delegation, I thought it would be useful to visit again some of the areas which I had observed a year earlier. So, I went back to Mindanao and into coastal and mountain towns and villages.

In 1986 you could sense and feel the tension from the moment we arrived. This time the people were more relaxed, although there was visible evidence of deep concern and precautionary measures against irregularities and violence. Indeed, in some areas of the region many lives were lost.

But to illustrate the change, I recall visiting one village in the mountains very early in the morning on election day last year—a place called Pagalungan. I was told the night before that there would be two voting precincts located there, and that it was worth a visit because there might be some differences of opinion with respect to the voting process. But the village was empty. It had been evacuated on short notice. In fact, not a single vote was cast at those precincts. But I read later that the silent village voted for Marcos. This year when I revisited, about the same time of day, I met 200 happy, smiling, friendly, courteous residents exercising their democratic rights in a festive, holiday mood.

The same could be said about the neighbouring village of Tagpangi, where a year ago we were intimidated and asked to leave in no uncertain terms. Tagpangi, too, voted overwhelmingly for Marcos in 1986, and we were told later by canvassing observers that most of the ballots were signed by the same hand.

There were countless similar situations, but I relate those two merely to illustrate the very significant changes that have taken place in one year.

On May 11 of this year Filipinos felt, for the first time in at least 20 years, that the ballot they marked would be counted, and, indeed, for those who felt intimidated before, they could now vote according to their conscience. To substantiate this point, it is worth noting that of those eligible to vote the turnout was 76 per cent in 1986 and almost 90 per cent in 1987.

While we were in the Philippines, members of opposition parties, particularly the Grand Alliance for Democracy headed by Juan Ponce Enrile, and the residue of the Marcos KBL complained that there were numerous fraudulent electoral practices. This was perhaps to be expected, given the weak showing of opposition members in the election. I want to emphasize that I can only report what we observed. We did not observe any irregularities that would have any effect on the outcome of the election. Of that group to which I have just referred it appears that only Enrile and Joseph Estrada have been elected to the Senate; and it appeared at the time that we were in the Philippines that Enrile would not be successful.

On the other hand, the Communists have not been idle. While attempts at negotiated peace failed, very recently a telling blow was dealt to the insurgency. More than 1,200 rebels surrendered. This represents a sizeable percentage of the total strength of the New People's Army.

While the NPA is becoming less influential than it was before, it is unbearably oppressive in a number of areas where it holds sway. There has been a reaction to this in the formation—apparently spontaneous—of citizen groups and vigilantes, especially on the Island of Mindanao, who have driven the NPA out of some of their strongholds. This is an interesting development which contains an inherent danger. Should these groups become uncontrolled in these actions, and indeed uncontrollable, they could represent almost as much of a threat to the government's efforts to maintain law and order as the NPA. In addition, there remains a hard core of avowed Marxists who are attempting to maintain the NPA, at least in the public eye, by embarking on a number of activities, such as the "Sparrow" unit groups in Manila who are targeting the police and military.

● (1600)

Another source of destabilization which is not ideologically oriented is the problem of the cultural minorities, principally emanating from the Cordilleras of Northern Luzon and Muslim provinces in the south. President Aquino has shown her good faith in dealing with this problem, and the new Constitution recognizes that the culture of these areas is disparate from the rest of the Philippines. Article X, section 15, of the Philippine Constitution provides:

> There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

Honourable senators, I interpret that to mean autonomy, but not dismemberment.

On land reform the government is striving to formulate and implement a genuine and feasible land reform program based on social justice and fairness. I understand that President Aquino is committed to issuing the necessary executive order to implement land reform before congress convenes in July. The Philippines has been negotiating with international financial institutions to obtain the money so that the program can be a successful reality. There is a considerable degree of impatience on the part of rural dwellers with regard to land reform, and it is important that substantive action be taken soon.

The Aquino government inherited a ravaged and debt-ridden economy from the previous administration and is attempting to address economic problems squarely, avoiding cosmetic and half-hearted efforts of the past, which often sacrificed lasting solutions to short-sighted gains. In view of this, the Philippine economy manifested a growth of 1.5 per cent in its gross national product in 1986, after two years of decline. For the first quarter of 1987, the reported GNP growth was 5.53 per cent. Agricultural production grew at 3.74 per cent for the whole of 1986, making good the government's claim that food production is the linchpin of the economic recovery program. Industrial production posted a 3.2 per cent increase in the fourth quarter of 1986, after declining more than 20 per cent over the last two years.

The economic progress evident in the first quarter of 1987 could be attributed to several factors, including a show of confidence in the government, particularly by the private sector. This progress was demonstrated in terms of expanded domestic demand, lower cost of money, a stable peso, and manageable prices for domestic products. The economic scoresheet showed the industry sector as the largest source of growth, with a 9.86 per cent expansion in real terms. The agricultural sector grew at a slower pace of 1.81 per cent in real terms. This was attributed to the drought that resulted in decreased production of corn, coconut, sugar-cane and all other major products of that nature. In the service sector real income from trading activities recorded the highest growth of 9.15 per cent during the first three months of the year.

While the economic growth is very encouraging, it might be difficult to sustain, unless there is greater foreign business investment as well as large scale domestic investment. Continued political stablility and a safe business environment remain essential pre-conditions for such investment. And there remains the sad but factual statistic about the 70 per cent of Filipinos living in poverty.

The Government of Canada has already committed $100 million over five years to a full range development assistance program. Filipinos are deeply appreciative of that help. Trade Minister Jose Concepcion told me last month in Manila that future economic growth in his country would have to rely on trade, not aid. So their long-term plans and objectives are again pointing in the right direction.

Filipinos have one more electoral hurdle to face in the near future. The local elections for governors and mayors have been postponed from August to November. Interest will be intense because of the more localized personalities and problems. The battle for supremacy in provinces, cities and towns will attract well over 20,000 candidates, and, again, an unusual amount of attention from the world.

I had the privilege of meeting President Aquino on my final day in Manila. This remarkable lady continues to inspire the world with her quiet strength, undeniable courage, unwavering dedication, straightforward honesty, uncanny instincts and everyday common sense. Honourable senators, history will record that she is indeed the right person in the right place at the right time.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—RELOCATION OF STEERING COMMITTEE MEETING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the steering committee of the Committee of the Whole was scheduled to meet in room 263-S. I understand that that room is booked, and that the steering committee has been asked to meet in room 256-S when the Senate rises.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, June 23, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

OFFICIAL LANGUAGES

REPORT OF COMMISSIONER TABLED

The Hon. the Speaker *pro tempore:* Honourable senators, I have the honour to table the report of the Commissioner of Official Languages, as required by the Privacy Act, for the period ended March 31, 1987.

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-15, to amend the Criminal Code and the Canada Evidence Act.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

JUDGES ACT
FEDERAL COURT ACT
TAX COURT OF CANADA ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-41, to amend the Judges Act, the Federal Court Act and the Tax Court of Canada Act.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

PRESCRIPTION DRUG PRICES

EFFECT OF PROPOSED PATENT ACT AMENDMENT—
PRESENTATION OF PETITIONS

Hon. Joyce Fairbairn: Honourable senators, I have the honour to present the following petition:

TO THE HONOURABLE THE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the cost, already high, of the provincial health care programs, and

WHEREAS the monopoly granted to innovative pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug cost and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your Petitioners humbly pray and call upon Parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your Petitioners will ever pray.

Honourable senators, these petitions contain over 370 names of Albertans from Calgary, Edmonton, Red Deer, Jasper, Hinton, Blackfolds, Leduc, Devon, Sherwood Park, Sylvan Lake, Cochrane, Olds, Sundre and Bowden. I shall not read all the names, but I request that they be recorded in the *Minutes of the Proceedings of the Senate* and appended to the *Debates of the Senate* at a later date, depending on the printing schedule of the Senate.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. M. Lorne Bonnell: Honourable senators, I have four petitions which are basically in the same terms as those read by the honourable Senator Fairbairn, except that they are from other provinces. I suggest that we follow the same procedure, that is, that they not be printed today but, rather, that they be printed as an appendix at a later date so that the Printing Bureau may take its time in printing them, thereby not holding up the printing of today's *Hansard*.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. L. Norbert Thériault: Honourable senators, I rise on a point of order. It seems to me that two or three weeks ago the Leader of the Government made the point, to which the Senate agreed, with regard to petitions that they would not be dealt with in this way. During that discussion I introduced a motion covering the suggestion that had been discussed. I thought that the Senate had agreed that from that point on we would not print the names in petitions as appendices to the reports of the Senate. I have no objection to the petitions of Senators Fairbairn and Bonnell being printed. My point is that if we proceed in this way today, we will have to go back and do what I suggested three or four weeks ago.

Senator Flynn: Your point of order was well taken.

Senator Bonnell: Honourable senators, on the same point of order, Senator Thériault is correct up to a certain point in what he has said. At that time I believe the names were being printed in the *Minutes of the Proceedings* and *Hansard*, which resulted in a hold-up in the printing of *Hansard*—because of translation, and so on—which delayed the delivery of these documents the next day. The Leader of the Government in the Senate had suggested that we find some other method. That is why, in my motion today—and I suspect that the same reasoning is behind the Honourable Senator Fairbairn's suggestion—I suggested that the petitions not be printed in *Hansard*, because to do so might delay the printing of *Hansard*, but that they be printed as an appendix at a later date. I also suggest that Senator Thériault's suggestion is proper, and that his list of names should be added to our lists and put in the one appendix at some later date.

Senator Thériault: If there is agreement, fine.

Hon. Jacques Flynn: Honourable senators, I do not think that decision was made in Senator Thériault's case. I remember very well that I objected at the time Senator Thériault introduced his petition. I did not object today because I thought that Senator Bonnell would have taken congnizance of the fact that we had decided that these petitions should not be printed in any way, that they should merely be tabled. Anyway, if we want, we can change it every day.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I think I should add just a word. I was not present in the Senate when this matter came under discussion. However, I have read the proceedings of that discussion. It seems to me an agreement was reached at the time that these petitions would indeed be tabled. It seems that the Senate rules are not very clear on this matter, but it was agreed, or there seemed to be agreement, that they would be tabled. At least, there was no contradiction of the suggestion that the rules of the other place would be followed in this case, which is our practice. It is my understanding that the printing of names, petitions, and so on, is not done in the other place. It certainly was not done in the House of Assembly from which I came. The presenter of the petition was given five minutes to speak to the prayer of the petition, and others could speak to the petition as well for the same length of time. Certainly the petitions and the names were not printed. I think it might be in the best interests of the Senate in the future if we were to follow the precedents established in other places.

● (1410)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, perhaps we could ask Senator Fairbairn and Senator Bonnell if they would withhold their motions until we have inquired whether we did make an agreement. Then we can do whatever we agreed to do.

Hon. Eymard G. Corbin: Honourable senators, there is another reason for not printing the names of the petitioners at this time. There is such a position as Petitions Clerk in the Senate as there is in the other place, and the task of the clerk in charge of petitions is to ensure that petitions conform to the general practice and the rules. It seems to me that if we agreed that petitions could be published, they could only be published after the clerk has reviewed the text of the petition to ensure that it conforms to parliamentary style, practice, and what have you.

Senator Thériault: Honourable senators, if I may just comment, I have no strong feelings on this matter. I thought we had agreed to something. My point is that I would like my petitions to be treated in the same way as everyone else's petitions.

Senator Bonnell: I think we are agreed that your petition should also be printed in the appendix.

Senator Thériault: It is very generous of you.

Senator Fairbairn: Honourable senators, if it is the wish of the Senate, I have no objection to withholding those petitions. However, in listening here to the discussion, it seems to me that there is some confusion as to what the policy is, and I would enter that as a caveat. I would withhold the petitions, pending clarification of what the position is on petitions.

Senator Frith: That is not quite what I was suggesting. I was not suggesting that you withhold the petitions but simply that you withhold the printing of those petitions until we find out what our agreement was. If we made an agreement, it should apply to everyone.

Senator Fairbairn: I am agreeable to withholding the printing of those petitions.

Senator Bonnell: Honourable senators, on a point of order, I would like to suggest to the honourable senators that once a decision has been made by the Senate—which happened this afternoon—that the honourable senator's motion is put and carried, and then we get into a discussion on that motion.

Therefore, I would suggest to honourable senators, on a point of order, that all we can do now is carry out the wishes of the Senate, which is to print the petitions presented by the honourable senators as an appendix, together with the motion put by myself. Then I suggest that we refer the whole matter to the Standing Committee on Standing Rules and Orders for

a ruling on the procedure for the future so that honourable senators will know how, why, when and what we should do with respect to the presentation of petitions.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that the printing of the petitions presented this afternoon be withheld until a ruling as to the procedure can be obtained from the Standing Committee on Standing Rules and Orders?

Hon. Senators: Agreed.

CONSTITUTION ACT, 1867

BILL TO AMEND (QUALIFICATION OF SENATORS)—FIRST READING

Hon. Len Marchand presented Bill S-12, to amend the Constitution Act, 1867 (Qualification of Senators).

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

Some Hon. Senators: Explain!

Hon. Eymard G. Corbin: Honourable senators, at this stage can we not have a brief explanation of the purpose of the bill?

Hon. Len Marchand: Honourable senators, it is really quite a simple matter. When I was first appointed to this place, the first words out of the mouth of the Prime Minister, Pierre Trudeau at the time, were, "Do you own $4,000 worth of property in the Province of British Columbia in freehold, fee simple?" Luckily, I said yes.

The purpose of this bill is to change that ridiculous law, because, in my situation, I have some property on the reservation as well. That property does not qualify for that $4,000 senatorial property requirement. I suppose at the time of Confederation $4,000 worth of property meant something. Today it really means nothing. It was a silly requirement then; it is a silly requirement now. I think we should do away with it.

Some Hon. Senators: Hear, hear!

Hon. Jacques Flynn: On a point of order, the Law Clerk of the Senate, Mr. du Plessis, should look into the problem raised by presenting a bill to amend the BNA Act. I believe it can only be done by resolution. I would like the Law Clerk to look into it and find out if the way Senator Marchand wants to proceed is correct.

Senator Marchand: I am not sure of the significance of the intervention by Senator Flynn, but I am advised that we do not need to proceed by way of resolution. This amendment could be effected by this bill, through this institution and the Commons.

Senator Flynn: We have another problem with the resolution moved by Senator Godfrey that affects the qualification of senators. Senator Godfrey is moving by way of resolution, not by way of a bill. In substance, it may seem to be the same to the honourable senator, but, from a procedural viewpoint, you have to conform with the provisions related to the amendment of the Constitution, which require a resolution and not a bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, it seems to me that this is a rather extensive debate at first reading, but since we have come this far, there is one amendment to the Constitution that can be made not by a resolution but by a law under section 44.

> 44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

I agree with Senator Flynn that we should be sure that this falls within section 44. However, apparently it is possible to make that narrow range of amendments without a resolution.

Senator Marchand: Honourable senators, before presenting the bill, I was assured by the legal adviser of the Senate that this was the proper way to proceed.

The Hon. the Speaker *pro tempore:* May I suggest that we proceed to the second reading of the bill? It may be that when the bill is referred to the regular committee of the Senate this question of the Constitution will be discussed. Should we proceed in this way?

Senator Flynn: It is simply a warning.

The Hon. the Speaker *pro tempore:* Yes, but I have to put a motion before the Senate for second reading. Honourable senators, when shall this bill be read the second time?

Senator Doody: With leave, at the next sitting.

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

Some Hon. Senators: Agreed.

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*Translation*]

THE ESTIMATES, 1987-1988

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand E. Leblanc: Honourable senators, I have the honour to present the twelfth report of the Standing Committee on National Finance regarding the estimates for the fiscal year ending March 31, 1988. I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 1361.*)

The Hon. the Speaker *pro tempore:* When shall the report be taken in consideration, honourable senators?

On motion of Senator Leblanc (Saurel), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1420)

[*English*]

SHIPPING CONFERENCES EXEMPTION

REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ON SUBJECT MATTER OF BILL C-21 TABLED AND PRINTED AS APPENDIX

Hon. Léopold Langlois: Honourable senators, the Standing Senate Committee on Transport and Communications has the honour to table its fifth report respecting the subject matter of Bill C-21, Shipping Conferences Exemption Act, 1986.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 1363.*)

CANAGREX DISSOLUTION

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ON SUBJECT MATTER OF BILL C-2 TABLED AND PRINTED AS APPENDIX

Hon. Daniel Hays: Honourable senators, the Standing Senate Committee on Agriculture and Forestry has the honour to table its fourth report respecting the subject matter of Bill C-2, to dissolve Canagrex and to amend certain acts in consequence thereof.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "C", p. 1365.*)

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

AVAILABILITY OF TRANSLATION OF REPORT OF COMMITTEE

On Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, it is my wish to table the report of the Special Committee on the Subject Matter of Bill C-22, but I have yet to receive the French translation. Rather than proceed with only the English translation at this time, I would ask for unanimous consent to revert to Reports of Committees later today, when the French translation comes in, so that I can table both versions at the same time.

[The Hon. the Speaker.]

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe that Senator Hastings finds himself in the same position with regard to reports of the Energy and Natural Resources Committee. He will also be asking for leave to revert to Reports of Committees later today.

FRESHWATER FISHERIES

RESPONSE OF FEDERAL AND PROVINCIAL MINISTERS TO INTERIM REPORT OF FISHERIES COMMITTEE—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Thursday next, June 25, 1987, I will call the attention of the Senate to the responses of the federal and provincial ministers to the recommendations made by the Standing Senate Committee on Fisheries in its Interim Report on the Freshwater Fisheries.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Thursday next, June 25, 1987, at two o'clock in the afternoon.

Motion agreed to.

TAX REFORM 1987

BANKING, TRADE AND COMMERCE COMMITTEE AUTHORIZED TO CONDUCT STUDY

Hon. Ian Sinclair: Honourable senators, yesterday I made reference to the documents that were tabled by the Leader of the Government in the Senate dealing with tax reform. With leave of the Senate, I now move:

> That the Standing Senate Committee on Banking, Trade and Commerce, which was authorized by the Senate on May 26, 1987, to study and report upon tax reform in Canada, or any matter relating thereto, be further authorized to examine and consider the documents tabled in the Senate on June 22, 1987, relating to tax reform 1987, (Sessional Papers No. 332-402).

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

TERRORISM AND PUBLIC SAFETY

SPECIAL SENATE COMMITTEE AUTHORIZED TO PUBLISH AND DISTRIBUTE REPORT DURING ADJOURNMENT

Hon. William M. Kelly: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

> That the Special Committee of the Senate on Terrorism and Public Safety be authorized to publish and distribute its report on its consideration of matters relating to terrorism as a real or potential threat to Canada and to Canadians as soon as it becomes available, even though the Senate may not then be sitting.

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

Hon. Senators: Agreed.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Perhaps Senator Kelly would explain why he is asking for permission, and also tell us if there are precedents for it.

Senator Kelly: Honourable senators, as you may recall, the commitment of the committee was to complete its work by not later than June 30. I am pleased to report that the work has been done. Both the hearings and the report have been completed.

However, we have a technical problem that may frustrate our intention to table our report by June 30 as promised. The reason I offer this motion is to protect us in such an event. At the present time we still feel that we may meet our deadline. The report of the committee has been completed, and so far as the work of the committee is concerned it is within its budget. I believe it kept its commitment not to interfere with other committees. In doing so it met on weekends and in the evenings. It did not meet on Tuesday, Wednesday or Thursday evening. It met on Friday and Monday evening. If we miss in the timing of the tabling of the report, it will really be a near miss.

Senator Frith: Did you find any precedent for it?

Senator Kelly: Yes, honourable senators. I refer you to the *Debates of the Senate* of June 27, 1984, where, on a motion by, I believe, Senator Frith, the following committees were given leave to publish and distribute their reports as soon as they became available: the Standing Senate Committee on Foreign Affairs; the Special Committee of the Senate on National Defence; the Standing Senate Committee on National Finance; the Standing Senate Committee on Agriculture, Fisheries and Forestry. I have a few more. There are several of them.

Senator Frith: With that sponsorship, that precedent is irresistible.

Hon. Jacques Flynn: Is the honourable senator saying that the committee may need an extension of the date to present its report?

Senator Kelly: No. The reason for leave is that there is an outside possibility that the translation will not be completed in time for the report to be tabled.

Senator Flynn: So there may be a problem in presenting the report. If the terms of reference provide that the report should be tabled before June 30, and it is not ready on that date, you may need an extension of a few days.

Senator Frith: This, in effect, is an extension.

Senator Kelly: Honourable senators, it is just so long as I can be sure that we are safe. Let us not have a technical argument later on whereupon we shall have to scrap the whole thing and start all over again.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not with us today. He is in Atlantic Canada. I will be pleased to take any questions as notice on his behalf, and I will do my best to obtain answers.

Hon. Eymard G. Corbin: Honourable senators, on a point of order, would Senator Doody please clarify the term "Atlantic Canada"? Is that a new province?

• (1430)

Senator Doody: That is an area represented geographically by at least four provinces, and sometimes Quebec is included. Generally speaking, that refers to the maritime provinces and Newfoundland, although not exclusively. As I said, sometimes Quebec is included.

CANADA-FRANCE FISHERIES AND BOUNDARIES AGREEMENT

NEGOTIATIONS TO ESTABLISH FISHING QUOTAS IN CANADIAN WATERS

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I ask Senator Doody to take notice of

the following questions: Has the Government of France postponed the negotiations on the establishment of fishing quotas in Canadian waters? If so, has there been a date set for the resumption of the discussions? Is the postponement related to the closing of Canadian ports to vessels of the Metropolitaine fleet and the Saint Pierre and Miquelon fleets, and has the Government of France used those two events as a reason for the postponement?

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, I will make inquiries to seek an answer at the earliest opportunity.

BRITISH COLUMBIA

SOUTH MORESBY—ESTABLISHMENT OF NATIONAL PARK—STATUS OF NEGOTIATIONS

Hon. Len Marchand: Honourable senators, I ask Senator Doody to take notice of the following question: I learned via the news media that discussions between Prime Minister Mulroney and Premier Vander Zalm have taken place regarding the setting aside of South Moresby Island as a National Park. I am not sure what that means, but I wonder if Senator Doody could bring to the Senate a report as to what is going to happen and tell us whether formal negotiations are going to take place. I am interested in knowing how this whole matter will proceed.

The news of the discussion between the Prime Minister and the Premier last evening was indeed good news, because every effort should be made to set aside this world heritage site for the use of all mankind.

Hon. C. William Doody (Acting Leader of the Government): I appreciate the senator's concern, and I will try to obtain information for him.

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, will Senator Murray be in attendance on Thursday and Friday?

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, Senator Murray will certainly be present on Thursday.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. H.A. Olson: Honourable senators, I have tried for several days to get an answer from the Honourable Senator Murray regarding whether or not the government intends to have an acreage deficiency payment for the 1987 crop year.

I now ask the Acting Leader of the Government to make inquiries of the Minister of Agriculture and the minister responsible for the Canadian Wheat Board to relieve the anxiety western grain farmers now have as a result of not knowing whether or not the government intends to bring in a plan for the 1987 crop year.

[Senator MacEachen.]

Hon. C. William Doody (Acting Leader of the Government): I will attempt to get an answer for the honourable senator.

DELAYED ANSWERS TO ORAL QUESTIONS

THE CABINET

CONFLICT-OF-INTEREST INQUIRIES—ASSUMPTION OF MINISTERS' LEGAL COSTS

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, I have a delayed answer to a question raised in the Senate on March 12, 1987, by the Honourable Senator Stewart, regarding the Cabinet—Conflict-of-Interest Inquiries—Assumption of Ministers' Legal Costs.

(*The answer follows:*)

A judicial committee of inquiry has been established, under the Federal Inquiries Act, to investigate allegations that Mr. Stevens violated government conflict-of-interest guidelines.

As these allegations were made while Mr. Stevens was serving as a minister of the Crown, and related to his performance in that capacity, the government decided it was appropriate that he be assisted in defraying the costs of his legal counsel.

In similar circumstances, previous governments have paid the legal fees of ministers, i.e. Francis Fox, Warren Allmand and Jean-Pierre Goyer.

TRANSPORT

POSSIBLE ABANDONMENT OF MONTREAL-SUDBURY RAILWAY SERVICE—GOVERNMENT POLICY

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on May 26 last by the Honourable Senator Le Moyne regarding Transport—Possible Abandonment of Montreal-Sudbury Railway Service—Government Policy.

(*The answer follows:*)

Under pressures of a keen financial and competitive market, each railway is taking a very hard look at its railway network and in particular any uneconomic lines, with a view to maintaining commercial viability. For example, CN has stated on several occasions that about one-third of its total trackage carries 90 per cent of its traffic; another one-third carries only 1 per cent of total traffic.

However, any move by a railway company to abandon a line would first require application to the Canadian Transport Commission or its pending successor under Bill C-18, the new National Transportation Agency, which

would give careful consideration to economic factors, public and private interests, alternative modes of service, et cetera, before making a decision to either authorize or disallow abandonment of a railway line.

CN applications to abandon two lines between Montreal and Sudbury have not been filed with the Canadian Transport Commission (CTC). Another point worthy of mention is that the CTC would very probably convene public hearings should indeed CN file applications to abandon the lines in question.

Meanwhile, the railway is obliged, under the existing Railway Act or the pending National Transportation Act (C-18), to accommodate all traffic offered to it on the line.

ABORIGINAL PEOPLES

POST-SECONDARY EDUCATION—STUDENT ASSISTANCE PROGRAMS

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on May 27 last by the Honourable Senator Marchand regarding Aboriginal Peoples—Post-Secondary Education—Student Assistance Programs.

(*The answer follows:*)

On May 14 of this year, the Honourable Bill McKnight, Minister of Indian Affairs and Northern Development, announced a budget of $93.7 million to be used for Indian post-secondary education assistance for the 1987-88 fiscal year. This amount is approximately $12 million more than what was set aside for Indian post-secondary education for the preceding fiscal year. In addition, the May 14 announcement stated that additional moneys would be made available for Indian students registered pursuant to Bill C-31. In making the above announcement, the Minister of Indian Affairs and Northern Development also indicated that, unlike previous years, during the 1987-88 fiscal year there would be no further increases in the amount provided for in the budget.

The Government of Canada has demonstrated its commitment to post-secondary Indian education by providing post-secondary educational assistance to Indian and Inuit students over the years. During the last 10 years the budget has grown from $8 million to $81 million, or ten times what it was a decade ago. Similarly, the number of Indian students attending post-secondary institutions has also increased over the years. Ten years ago there were approximately 3,500 Indians in post-secondary institutions, now there are approximately 12,000.

However, in spite of the $12 million budget increase for this fiscal year, the federal government may find itself in a position of having more applicants for assistance than it can support. The Minister of Indian Affairs and Northern Development must therefore take measures to ensure that the available budget is allocated fairly and sensibly, and stretched as far as possible. For this reason, the following system of priorities has been announced for the 1987-88 fiscal year.

- All Indian and Inuit students who were enrolled in post-secondary studies in 1986-87 and are continuing in 1987-88 will continue to receive their post-secondary educational assistance. Students whose applications were deferred in the 1986-87 fiscal year will also be approved as submitted.

- Eligible high school students or mature students who are enrolling for the first time, and Indian and Inuit students enrolling in college preparation programs or in post-graduate and professional courses, will be eligible for assistance, providing there are sufficient funds available.

- Eligible applicants who are returning to post-secondary studies after having previously dropped out of college or university will only receive assistance once the applicants in the previous categories have received assistance, if there are funds available.

- Where students are refused assistance this year due to a lack of funds, these applicants will be deferred, and they will qualify as second priority students in the following year. As well, additional moneys have been made available for students who have now been registered as Indians pursuant to Bill C-31.

As announced on May 14 by the Minister of Indian Affairs and Northern Development, the above priority system has been established to ensure that the funds available be used in a fair and sensible manner.

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION
WHITE PAPER—TWENTY CONSULTANTS—NAMES AND GENDER—REQUEST FOR TABLING

Hon. C. William Doody (Acting Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 18 last by the Honourable Senator Marsden and also in response to a supplementary question asked by the Honourable Senator van Roggen regarding Tax Reform—White Paper—Twenty Consultants—Names and Gender—Request for Tabling.

(*The answer follows:*)

Department of Finance Tax Advisory Group

Income Tax Panel

R.D. Brown, Toronto	R. Linday, Toronto*
M.A. Carten, Calgary	G. Lord, Montreal
G. Coulombe, Montreal	R. MacLellan, Truro
R. Couzin, Toronto	M. Morin, Montreal
W. Crawford, Toronto	L. Murray, Toronto

S. Edwards, Toronto
D.S. Ewens, Calgary
C. Fien, Winnipeg
R. Germain, Montreal
E. Harris, Halifax*
H.J. Kellough, Vancouver
W. Lefebvre, Montreal
M. O'Keefe, Vancouver
S.R. Richardson, Toronto
D. Smith, Toronto
W.J. Strain, Toronto
D.Y. Timbrell, Toronto
G. Webb, Toronto
G. Williamson, Toronto

Sales Tax Panel

T. Akin, Toronto
I. David, Toronto
C. Desaulnier, Montreal
L. Doane, Halifax
R. Freisen, Vancouver
W. Goodman, Toronto
N. Guérin, Montreal
J. Millar, Toronto
J. Nichol, Calgary*
A. Taitz, Toronto
A. Wilson, Toronto

All of the persons listed above are male.

*means members not present at the meeting of June 17, 1987

ANSWER TO ORDER PAPER QUESTION

CANADA-UNITED STATES RELATIONS

STATE DINNER IN HONOUR OF PRESIDENT AND MRS. REAGAN

Question No. 12 on the Order Paper—**By Hon. Jack Marshall**

8th April, 1987—What were the names of those invited to the State Dinner at Government House in honour of President and Mrs. Reagan on 5th April, 1987?

Reply by the Offices of the Prime Minister and the Privy Council:

USA Official Party

The Honourable George P. SHULTZ
Secretary of State

The Honourable Caspar W. WEINBERGER
Secretary of Defence

The Honourable Howard H. BAKER, Jr.
Chief of Staff to the President

The Honourable Clayton YEUTTER
United States Trade Representative

The Honourable Frank C. CARLUCCI
Assistant to the President for National Security

Mr. Kenneth M. DUBERSTEIN
Deputy Chief of Staff to the President

Mr. Marlin FITZWATER
Assistant to the President for Press Relations

Mr. William HENKEL
Assistant to the President

The Honourable Lee M. THOMAS
United States Environmental Protection Agency

His Excellency the Ambassador of the United States of America and Mrs. Thomas NILES

The Honourable Alan WALLIS
Under-Secretary of State for Economic Affairs

The Honourable Rozanne RIDGWAY
Assistant Secretary of State for European and Canadian Affairs

The Honourable Charles E. REDMAN
Assistant Secretary of State for Public Affairs

Mr. Dwight N. MASON
Minister, Embassy of the United States of America and Mrs. Mason

The Honourable Peter MURPHY
Special Negotiator for US-Canada Trade
Office of the US Trade Representative

The Honourable William BODDE
Deputy Assistant Secretary of State for European and Canadian Affairs

Dr. Tyrus COBB
Director, European and Soviet Affairs
National Security Council

Mr. Dwight ALLISON
Presidential Protective Division, US Secret Service

GUESTS

Prime Minister of Canada
and Mrs. Mila Mulroney

Mr. Leopald AMYOT
Secretary to the Governor General
and Mrs. Amyot

Mr. A. Bram APPEL
President and CEO Canmont Investments Toronto
and Mrs. Appel

Mr. Theodore ARCAND
Chief of Protocol
and Mrs. Arcand

The Honourable Perrin BEATTY, PC, MP
Minister of National Defence
and Mrs. Beatty

Mr. Laurent BEAUDOIN, OC
President and CEO Bombardier Inc.
and Mrs. Beaudoin

The Honourable J. Edward BROADBENT, PC, MP
Leader of the New Democratic Party
and Mrs. Broadbent

Mr. Jacob BROUWER
Chairman of the Board
Brouwer Claims Canada & Co.
and Mrs. Brouwer

Mr. John BULLOCH
President
Canadian Federation of Independent Business
and Mrs. Bulloch
Mr. Derek H. BURNEY
Chief of Staff to the Prime Minister
and Mrs. Burney
The Honourable Patricia CARNEY, PC, MP
Minister for International Trade
The Honourable Guy CHARBONNEAU, Senator
Speaker of the Senate
and Mrs. Charbonneau
The Right Honourable Joe CLARK, PC, MP
Secretary of State for External Affairs
and Ms. Maureen McTeer
Mr. Ronald COREY
President
Montreal Canadians Hockey Club
and Mrs. Corey
Mr. Thomas D'AQUINO
President and Chief Executive Officer
Business Council on National Issues
and Mrs. D'Aquino
Mr. Jonathan DEITCHER
Vice-President
Dominion Securities Pitfield Limited
and Mrs. Deitcher
Mr. Moses DEITCHER
Retired Businessman
and Mrs. Deitcher
The Chief Justice of Canada
and Mrs. Brian DICKSON
Miss Céline DION
Singer
Dr. J.A. DOUCET
Chairman
Organizing Committee for International Summits
and Dr. Alina Doucet
Mr. Fredrik S. EATON
Chairman, President and Chief Executive Officer
T. Eaton Company Limited
and Mrs. Eaton
Mr. George EATON
Deputy Chairman and Executive Vice-President
and Mrs. Eaton
Mr. Peter B.M. EBY
Vice-Chairman
Burns Fry Limited
and Mrs. Edy
Mr. J. Trevor EYTON, OC, QC
President and Chief Executive Officer
Brascan Limite
and Mrs. Eyton
The Honourable John A. FRASER, PC, QC, MP
Speaker of the House of Commons
and Mrs. Fraser
Mr. Gerry SAINT-GERMAIN, MP
Chairman, Progressive Conservative National Caucus
and Mrs. Saint-Germain
Mr. Allan E. GOTLIEB
Ambassador of Canada to the United States of America
and Mrs. Gotlieb
The Honourable Larry GROSSMAN, MP
Leader of the Opposition of Ontario
and Mrs. Grossman
Captain Eric W. HARDY
Canadian Helicopter Pilot
Awarded US Medal for rescue
and Mrs. Hardy
The Honourable George H. HEES, PC, MP
Minister of Veterans Affairs
and Mrs. Hees
Mr. Michael HORNSTEIN, CM
President, Federal Construction Incorporated
and Mrs. Hornstein
Mr. John LYNCH-STAUNTON
President
John de Kuyper & Fils (Canada) Ltée
and Mrs. Lynch-Staunton
The Honourable Donald F. MAZANKOWSKI, PC, MP
Deputy Prime Minister and
President of the Queen's Privy Council for Canada
and Mrs. Mazankowski
The Honourable Thomas McMILLAN, PC, MP
Minister of the Environment
and Mrs. McMillian
Mr. Michael MEIGHEN, QC
Lawyer, McMaster Meighen
and Mrs. Meighen
The Right Honourable Roland MICHENER, PC, CC, CMM, CD, QC
Mr. J. Patrick O'CALLAGHAN
Publisher, The Calgary Herald
and Mrs. O'Callaghan

Mr. Brian ORSER, CM
Figure skating world champion
His Excellency Monseigneur Angelo PALMAS
Papal Pro-nonce and Dean of the Diplomatic Corps
Dr. Dimitri PIVNICKI
Psychiatrist, Allan Memorial Institute, Montreal
and Mrs. Pivnicki
The Honourable Maurice RIEL, CP, CR
Senator
and Mrs. Riel
Mr. Stephen B. ROMAN
Chairman and Chief Executive Officer
Denison Mines Limited
and Mrs. Roman
Mr. Alan K. SCALES, QC
Senior Partner
Scales, Jenkins, McQuaid
and Mrs. Scales
Mr. James H. TAYLOR
Under-Secretary of State for External Affairs
and Mrs. Taylor
Mr. Paul TELLIER
Clerk of the Privy Council and
Secretary to the Cabinet
and Mrs. Tellier
Mr. Peter TRUEMAN
Anchorman
World Report, Global T.V.
and Mrs. Trueman
The Right Honourable John N. Turner, PC, QC, MP
Leader of the Opposition
and Mrs. Turner
Mr. George W. VARI
Chairman of the Board
Sefri Construction International
and Mrs. Vari
Mr. Michel VENNAT
Lawyer
Stikeman, Elliott, Montreal
and Marie-Anne Tawil
Mr. W. Galen WESTON
Chairman and President
George Weston Limited
and Mrs. Weston
The Honourable Michael H. Wilson, PC, MP
Minister of Finance and Mrs. Wilson

[Senator Jack.]

BELL CANADA BILL

SECOND READING

On the order:

Resuming the debate on the motion of the Honourable Senator Kelly, seconded by the Honourable Senator Bielish, for the second reading of the Bill C-13, An Act respecting the reorganization of Bell Canada.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, last Thursday Senator Kelly introduced Bill C-13 and in so doing set up its background and emphasized the several favourable things that are to be said for this bill, as he should since he is sponsoring it. He did not refer, and I do not criticize him for not doing so, to some of the controversy that has surrounded this bill. He did not highlight areas of concern.

He also did not refer to the report of the Standing Senate Committee on Banking, Trade and Commerce on the subject matter of the bill. I propose to draw the attention of the Senate to some of the concerns about this bill and to refer to the report of our committee and how it dealt with those concerns.

As Senator Kelly said, the requirement of this bill is based on two events. One was the placing of Bell Canada under the general law of corporations in Canada, and the second was the reorganization of Bell Canada and the establishment of Bell Canada Enterprises.

One is inclined to think about the bill in terms of two sides: one in favour of the bill, that is, Bell Canada; and the other against the bill, that is, the consumer advocate societies and others. In fact, both Bell Canada and others appearing at the hearings connected with the bill had criticisms of it.

The complaint of Bell Canada essentially is that they would be over-regulated by the CRTC under Bill C-13 and that their competitiveness would thus be hindered. Some consumer and public advocacy groups, however, believe the bill does not go far enough. We have Bell Canada taking a position that the bill goes too far and others saying that it does not go far enough.

The concern, essentially, of those who feel that the bill does not go far enough is that the parent company, BCE, would be able to use Bell Canada and its subscribers as—to use the rather colourful and bucolic metaphor—"a cash cow." Honourable senators, that is not my phrase, it is a phrase that was used by the opponents of the bill. The concern is that BCE could use Bell Canada, the regulated company, as a "cash cow", and the income from that regulated company, with its monopoly, could be used for enterprises that are not regulated.

The CRTC was asked to study the bill, and it took the position that the bill was made necessary, as I have said, because of the Certificate of Continuance pursuant to the Canada Business Corporations Act, 1982, bringing Bell

Canada under the same corporate laws as are applicable to other federally incorporated corporations, and because of the corporate reorganization.

If we consider the positions that were taken on this bill, we will see that they fall into four categories. The first is that the bill is fair and does nothing but restore the commission's regulatory power over the telephone operations of Bell Canada. That was the position taken by the CRTC and CNCP. The second is that the bill does not go far enough and will allow Bell Canada and its parent, BCE, to avoid the regulation it always had to respect. That was the position of the public interest advocacy group. The third is that the effect of the old bill, Bill C-19—and this is essentially the same—would be to over-regulate Bell Canada and hinder its ability to perform in a world that is becoming more and more competitive. The fourth is that the bill should be dropped altogether until the government makes up its mind on the question of deregulation in the telecommunications sector.

As Senator Kelly pointed out, the objective—in view of those two background factors, that is, the business corporation and the reorganization of Bell—was to try to enable Bell Canada to stay in the regulated area and keep its monopoly on telephone service, but to allow the overall and parent company, BCE and other subsidiaries to engage in competitive activity.

As I mentioned, the CRTC examined Bell Canada's reorganization with a view to determining its effect on the rates of Bell subscribers and on the ability of the CRTC to regulate Bell Canada. With one notable exception, Bill C-13 incorporates those recommendations of the CRTC, which require legislative provision. Senator Kelly pointed that out. The notable or sole exception was the recommendation that a legislative provision be enacted empowering the CRTC to direct that a minority shareholding interest in Bell be established, if necessary. The CRTC argued that a minority shareholding could provide a significant incentive for Bell's directors to conduct the company's activities, especially intercorporate transactions, in the best interests of both its subscribers and shareholders.

• (1440)

This eventually became what Senator Kelly and others have referred to as the "in" and "out" provisions. The scheme of the act—and some say that it did not go far enough—was to permit the CRTC, where necessary, to get information and deal with activities that flowed from the monopoly and regulated area through to the non-regulated and non-monopolistic or competitive area. Senator Kelly felt that those sections satisfied the "in" and "out" requirements and the ability of the CRTC to reach beyond the Bell Canada Corporation, which is clearly within its regulatory power whereas the other emanations would not be.

There were other objections to the bill other than clauses 11, 12 and 13, although they were the principal ones. There was some concern, for example, with clause 6 which provides for a six-month prepayment. The position generally taken on that provision was that it would never happen but that the power should be there.

There was also some concern about clause 7. Clause 7, in the eyes of some critics, provided a possibility for BCE, for example, to become involved in cable television. The Canadian Cable Television Association expressed the fear that a gap in clause 7 could have a major impact on members of the Canadian Cable Television Association and, therefore, on the industry. Its concern was expressed to the minister, but the minister did not take those concerns seriously. If the word "affiliate" were added to the clause, it might solve the problem of the cable industry. However, the government was not prepared to make that change.

Clause 11 of the bill provides that any sale by Bell Canada Enterprises of more than 20 per cent of the shares of Bell Canada must receive CRTC approval. That clause was welcomed by critics of the bill who previously felt that there would be no limit in the bill as it appeared at the outset.

Another objection was that the requirement in clause 11 for CRTC approval could be circumvented if a company acquired control of BCE itself. I believe that that is why that clause was provided for regulation by the CRTC in the case of more than 20 per cent of the shares of Bell being acquired.

There was also an objection that there was a lack of effective mechanism to obtain information, which brings us to clauses 11, 12 and 13. In closing, I will turn to the report of the Standing Senate Committee on Banking, Trade and Commerce.

Our committee heard quite a large number of witnesses in the course of its pre-study in December. If honourable senators are interested, they will find the report in the *Minutes of the Proceedings of the Senate* No. 17, for Tuesday, December 16, 1986, at pages 176 to 179. On page 179 there is a list of the witnesses who were heard and the dates of the hearings. That occupies a full page and carries over to page 180.

The committee confirmed the analysis of the bill by Senator Kelly that the essence of the bill was as we have described it and focused on clauses 11, 12 and 13. At page 177 it states as follows:

> Clause 11 would require BCE to obtain CRTC approval for the sale of Bell Canada shares if such a sale would reduce BCE's ownership of Bell to less than 80%. This would enable the Commission to review any future reorganization of Bell to ensure that the interests of subscribers are safeguarded.
>
> Clause 12—

As we have noted—

> —would empower CRTC to obtain from BCE such information as it deems necessary for the regulation of Bell Canada.
>
> Clause 13 would authorize CRTC to direct Bell Canada—

And this is important—

> —to divest itself of any competitive telecommunications activity, or to take over from an affiliate activities which are not sufficiently competitive. The purpose of this power

is to ensure that Bell could not a) subsidize competitive activities with revenues from monopoly services, or b) escape regulation of certain activities by shifting them to non-regulated affiliates.

The committee says that:

> With the exception of Bell Canada, all the witnesses appearing before the Committee expressed support for the Bill with few reservations.

The strongest criticism was directed to clause 13, which is the one that gives the CRTC that extra power to order divestiture over affiliates.

On page 178 it goes on to state that:

> All other witnesses before the Committee argued that the "in" and "out" powers under clause 13 are necessary to safeguard the interests of subscribers and competitors from predatory practices by Bell. They made the point that, in the absence of the "in" powers, it may be possible for Bell to remove from regulation certain monopoly activities by shifting them to unregulated affiliates.

The next paragraph states:

> The one other section of the Bill which received substantial comment was clause 12. Most witnesses took the view that the wording of that clause should be amended to state explicitly that CRTC will have authority to obtain information not only from the controlling parent of Bell but also from Bell's affiliated companies. CRTC officials, however, testified that such an amendment was unnecessary because the present wording in clause 12 would provide CRTC with authority to obtain, through BCE, any relevant information pertaining to a Bell Canada affiliate. They cited the case of *Interprovincial Pipe Lines Ltd. v. The National Energy Board [1978]* 1 F.C. 601 in which the Federal Court of Appeal ruled that IPL had to provide to NEB, in a meaningful form, information involving an IPL subsidiary located in the U.S. In light of this, it is the Committee's view that the provisions of clause 12 as they stand are adequate for the purpose intended.

The committee closed by saying that:

> Your Committee has reviewed the subject-matter of Bill C-13 in accordance with the Order of Reference and, except as noted above, has no comment to make.

Honourable senators, it is clear that our committee, in making its study of the subject matter of the bill, took into account the various reservations and concerns that I have located through the research that I have done. I am sure that the CRTC recognizes its responsibilities, as does the government, to monitor the concerns that were expressed during the many hearings held on this bill.

Since our committee has heard witnesses when studying the subject matter of the bill, I see no reason to have the bill go back to that committee, nor do I see any reason why the bill should not, subject to these reservations, receive second reading today.

[Senator Frith.]

Motion agreed to and bill read second time.

• (1450)

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

PATENT ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Cogger, seconded by the Honourable Senator David, for the second reading of the Bill C-22, An act to amend the Patent Act and to provide for certain matters in relation thereto.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, as I have indicated on various occasions, I have no desire to speak to this order. However, Senator Cogger, who introduced the bill, is prepared to speak at second reading. When he speaks it will have the effect of closing the debate at second reading. I understand that other members of the Senate would like to participate in the debate. Perhaps this order could be stood in the name of one of the honourable senators on the other side who wishes to speak.

Hon. Sidney L. Buckwold: Honourable senators, I am quite prepared to speak in this debate today.

Senator Doody: Then I yield to Senator Buckwold.

Senator Buckwold: Honourable senators, it has been my privilege to be a member of the Special Committee of the Senate on Bill C-22 which has crossed Canada to hear the views of Canadians on this important matter. That committee has reported to you. I think its report is a very factual one, though it really does not make the kind of recommendations that I personally would like to make in talking to you about Bill C-22.

Let me refer to the committee. In spite of protests from some members of this chamber that the committee was an extravagant waste of public funds, in almost every city we went to, and we visited the capital cities of all the provinces, people making representations indicated their extreme pleasure and appreciation that the Senate was there to listen to them. The representations were on both sides of the subject. Some presentations were strongly in favour of the bill. A great majority of the representations were in opposition to the bill. I shall not go into too much detail, because it is outlined in the report, and undoubtedly our chairman will do this in due course. I am not quite sure of the mechanics of the procedure, but I felt it incumbent upon me to speak today before the debate was closed.

In my opinion, Bill C-22 is probably one of the worst pieces of legislation to be presented to this chamber or this Parliament of Canada in many years. It upsets what has proven to be a very effective plan which was devised in 1969 by the

Government of Canada to allow, for the first time, generic competition in the drug industry. Until that time drug prices in Canada were among the highest in the world. Drug prices were so outrageous that several commissions and studies were undertaken to review prices, the causes of these prices, and possible solutions. Canada, in its own unique way, came up with a system for allowing generic competition. I do not have to tell you that the scheme was not popular with the multinational pharmaceutical manufacturers. Any of you who were around at that time will recall the intense lobbying that went on and the dire predictions of what would happen to health care in Canada if the competition of generic drugs was allowed.

The last report commissioned a few years ago was chaired by Dr. Eastman. There had been pressure again for yet another review. Dr. Eastman presented his report with which many of you are familiar and which was highly recognized across the country. After an extensive and very inclusive review of the prescription drug situation, Dr. Eastman made several recommendations. First, let me tell you some of his general comments. He said that since 1969 Canada has enjoyed continuing lower prices on drugs than what otherwise would have been the case. Because of generic competition, prescription drug prices are lower now than they have ever been on a competitive basis. Dr. Eastman concluded that the Canadian legislation was the reason for these lower prices. In addition to the fact that we have lower generic drug costs as a result of the competition, patent drug prices are also lower in Canada than they are in the United States. Let me give one example. I am sure that we are all aware of the drug Valium. I have used these statistics in the committee hearings several times, and they have never been challenged. I think they are correct. If one bought Valium at a supermarket in the United States, one would pay $32.09 Canadian for 100 pills. If one bought name-brand Valium in Canada, one would pay $14.57 cents. The price of the generic brand would be $5.96. What I am saying is that as a result of the competition of generic drugs, we not only have lower priced generic drugs but we have also brought down the cost of the name brand drugs. If we pass Bill C-22, many of these lower prices will be eliminated. I am the first to admit that the generic drugs now on the shelf will continue to be for sale. On the other hand, about 40 new drugs are in the pipeline right now ready to go on to the market, after years of extensive research and testing to meet Canadian requirements, and they will not be available for purchase. In his report Dr. Eastman recognized that something had to be done to help protect the patent rights of companies with those patented drugs. He suggested a four-year period of exclusivity and, in addition, that a substantial additional payment of 10 per cent should be charged to the generic company, which would go to those companies that do a portion of their research in Canada. This would be in addition to the 4 per cent royalty which is already levied on generic companies. In assessing the program, Dr. Eastman said that in 1983 Canadians were estimated to have saved $211 million because of this competition.

So, why is the government suddenly changing the rules? I must admit that if I were sitting on the other side I would wonder what the government's reasoning is, when almost everybody is happy with the situation that we have in Canada, and when we enjoy the envy of the world in the way we have handled our drug pricing. There is no nation in the free world, other than the United States and South Africa, that does not have some form of control over drug prices, though their control is not the same as Canada's, which is unique. However, most of them have price controls, review boards—most of which are not very effective, but, nevertheless, limit profits—and various other means to counteract the monopoly power of multinationals with respect to patented drugs that can save lives. As we pointed out in our committee report, patent protection for drugs is different from patent protection for a mousetrap, or—as Senator Cogger recalls—a doorknob.

● (1500)

Honourable senators, what I am saying to you is that we have had a very successful piece of legislation in Canada. We have been able to provide drugs to Canadians at reasonable prices, and the drug corporations have continued to be as profitable as they have ever been. Here I am speaking of the multinationals. Also, they have continued to give their modest contribution to research and development, namely, approximately 4.5 to 5 per cent of sales.

Canada is not a major player in the drug field in that we use approximately 2 per cent of the world's drugs. On the other hand, the cost of promoting drugs—as pointed out by Dr. Eastman—is really amazing. The companies spend approximately 4.5 to 5 per cent on research and development; they make approximately 15 per cent profit at the end of the year, and they spend 21 per cent of their sales on promotion and advertising of their drugs. To me, honourable senators, that is a little bit astounding.

The industry has said: "Give us this new bill and we will spend $1.4 billion on research in the next ten years." I have to believe them. Some people doubt it, but I am one of those who said: "Yes, they can do it." However, overall, let us look at it. Will it make that much difference to Canadian health? According to the drug lobby, it will provide 3,000 jobs in Canada by the end of the next ten years, and that is beneficial. However, the price that we are going to pay, honourable senators, is hardly worth the promises of drug companies to do the research that they say they will do.

Honourable senators, it hurt the committee on several occasions to have individuals appear before the committee and plead with us to pass this bill because, if we did not, their child, who had some disease, would not get the kind of health care through drugs that otherwise might be available; that in refusing to pass this bill, Canada would not enjoy the high standard in drug availability that we have come to expect. Time and time again in the committee I asked: "Due to the legislation on our books, has Canada suffered a poor quality of drug care or poor availability of drugs?" The answer is that there may occasionally have been some delay, but not because of the legislation. Rather is it because of the problems in

proving generic drugs through the normal channels, and delays sometimes take place due to Canadian regulations.

Therefore, honourable senators, I think all of us, even those who fully support this bill, would agree that over the last several years Canadians have enjoyed good prescription drug care; that we are getting the best drugs that are available. I hope that through the research that will be done, either under this bill or otherwise, the multinationals will come up with significant discoveries that will help the people of the world. But again, as I say, Canada is generally a small player.

Dr. Eastman pointed out in his report that geographically Canada is really not a place where the multinationals are likely to do significant and important research. I am not minimizing what is being done, but the drug companies, multinationally, generally do their major research in their home countries, whether it be the U.S., Switzerland, West Germany or the United Kingdom. Those countries are, in fact, where a good deal of that research is being carried out.

Therefore, honourable senators, what I am really saying to you is that we have a fine scheme; we have an acceptable scheme; we have a scheme that has made possible drug prices in this country that are the envy of the world. It has encouraged provincial governments to finance prescription drug plans for their citizens, and I will touch upon that later when I get into the provincial reactions to this bill.

Honourable senators, I wonder really why the government has taken this step. I must admit that I have not seen any documents and I have not had anyone brief me, but during the hearings of the committee brief after brief said point-blank—and it has never really been denied—that this bill is part of the free trade deal; that somewhere along the line the U.S., which is irked by the fact that Canada has not, in their opinion, protected intellectual property in a satisfactory way, is insisting that the level playing field has to be established in order that free trade between our two countries can be looked at seriously. Document after document that I have seen and statements by some of our friends in the United States in positions of authority have indicated that that is the case. In fact, the multinational drug lobby in the U.S. has been very effective in making sure that the American authorities have used this leverage of free trade to bring in Bill C-22, which will add, as I will point out later, hundreds of millions of dollars over the next few years to the cost of drugs in this country.

Honourable senators, it would be a very sad commentary, indeed, if, by any chance, we did not manage to reach a free trade agreement. In that event, if this bill is passed, the citizens of Canada who are drug users will be burdened with drug prices, as a result of Bill C-22, that would otherwise not be necessary. It seems to me that the least we can do is wait until we have a free trade deal, then perhaps we can take another look. At the moment we are putting into legislation something that could be very costly and expensive for the citizens of Canada.

[Senator Buckwold.]

Honourable senators, who uses the drugs? The elderly are the main drug users. In fact, 10 per cent of the population buys 25 per cent of the drugs. So we are really looking at the effects of this bill on those who are least able to afford higher drug prices. We who sit in the Senate, representing our regions, our groups and our communities, have a responsibility to make sure that undue burdens are not placed on those people.

The committee had a series of representations made by the provinces, and I think the Senate must be aware of the provinces. They are the ones who are financing major drug programs. The three provinces that support the bill did not appear before the committee nor did they send in any representation. I was not present at the hearings in Quebec, and I am not sure if there was official representation made at that time. However, it is clear that the Government of Quebec does support this bill. It supports this bill together with the Governments of Alberta and Saskatchewan on the basis that new industry will come into their provinces and that there will be new jobs. Honourable senators, that is certainly admirable. I can understand their desire to provide and develop some industry. However, in my opinion, it is a very short-sighted policy.

Honourable senators, I look at my own province of Saskatchewan that is ready to support this bill. However, a few days after our committee was in Regina, the Government of Saskatchewan put a new burden on the people of Saskatchewan by changing what was probably the best prescription drug plan in Canada in which there was universal coverage. In other words, everyone had free drugs on the payment of a small prescription fee, which I believe was $3.95. Honourable senators, as I say, that was the best program in Canada.

In order to save money, the Government of Saskatchewan has now changed that plan to conform with the Manitoba plan whereby there is a deductible of $125 per family and a lower amount for senior citizens, and so on. I will not go into the details. However, honourable senators, at the very same time as the Province of Saskatchewan, desperate for funds to maintain its basic health services and dealing with the pressures of government deficits with all kinds of closings, firings and elimination of programs, to my shame as a citizen of that province, supports this bill—at the same time it changes its drug plan so that it will cost the citizens a great deal more money for their drugs than it has in the past; particularly those citizens who can least afford to pay.

Honourable senators, I am not attempting to take away from the discussion by our chairman, but let me read from our report. The Province of Ontario indicates that in their opinion the cost of the program in the next ten years could be up to $1 billion. This is in spite of the fact that the minister, Mr. Andre, says that we have a drug price control board, and that that control board will make sure that the costs will go no higher than increases in the Consumer Price Index. I heard him say in the House of Commons that there was just no way drug prices would exceed the cost of living. Within the next few weeks the Government of Canada announced $100 million for the prov-

inces, to cover them during the next four years for additional costs which they will have in their provincial plans, because generic drugs that were expected to be on the market will not be there as a result of this legislation. I cannot imagine a more blatant admission of what is happening; that is, on the one hand, prices will not go up, and, on the other hand, providing $100 million to the provinces.

• (1510)

Every province and the two territories that appeared before us—and I will not go through the list—indicated that their costs were going to be considerably higher. They advised us that drugs are not necessarily the major cost of health care and admitted that good drugs will cut down on the need for hospitalization. Drug therapy is a very important part of treatment today. Nevertheless, they said that it was absolutely essential to maintain the system we have and keep generic drugs available.

The drug prices review board is what the government places its confidence in, proclaiming that we will live in a world where drug prices will be very modestly increased, if at all. What control do we have with prices today? New drugs come on the market. There is no generic competition. It takes up to six years to develop a new generic drug, but at least there is that kind of protection.

Our friends of the government have pointed out that the drug prices review board would have an opportunity to review those drug prices that are too high. However, I would like to remind honurable senators that new drug prices are not going to be reviewed, but only increases in prices would be subject to scrutiny. There is nothing in the legislation that really gives teeth to the drug prices review board. All they could do, after a series of hearings and studies, would be to take away the protection given that drug against generic competition. Believe me, by the time these complaints get through the courts, that drug will be outdated. There will be something else on the market.

In my opinion there is little real protection. There are a lot of other variables on how prices are judged, and I will not take the time of the Senate to give you a list of the criteria that are required in order to justify price increases. There is a whole series, one of which is the Consumer Price Index.

You are dealing with multinational drug companies. There is what is called transfer pricing on drugs brought from one country into another, and who knows what they really cost? Who knows what the research and development costs are worldwide? It is a very important and powerful industry, and one which, in the past, Canada has recognized as necessary to control.

Honourable senators, in my opinion, if we pass this bill we will be doing a great disservice to the people of Canada. We will be adding to the problem of health costs. We will be denying drugs to people who otherwise would have bought them, and who desperately need them. I plead with my fellow senators at this time to take a very good look at this bill; read the report carefully; read what the people of Canada have had to say, from consumers' associations to the Canadian Legion, from old age pensioners to hospital groups. Find out what they tell us. I believe there were over 200 representations made to the committee.

I think you will agree with me that to pass this legislation now would be to place a burden on the citizens of this country which is unnecessary and uncalled for.

Hon. Charles McElman: The Honourable Senator Thériault is absent at this time for medical reasons. He has asked me to adjourn the debate in his name, which I do.

On motion of Senator McElman, for Senator Thériault, debate adjourned.

DOME PETROLEUM LIMITED

PROPOSED SALE—REPORT OF ENERGY AND NATURAL RESOURCES COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Earl A. Hastings: Honourable senators, I have the honour to present the Fifth Report of the Standing Senate Committee on Energy and Natural Resources pertaining to the proposed sale of Dome Petroleum Limited.

(For text of report see Appendix "D", p. 1366.)

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

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

DOME PETROLEUM LIMITED

PROPOSED SALE—REPORT OF ENERGY AND NATURAL RESOURCES COMMITTEE ON EXTENSION OF REPORTING DATE PRESENTED

Hon. Earl A. Hastings: Honourable senators, I have the honour to present the Sixth Report of the Standing Senate Committee on Energy and Natural Resources as follows:

Tuesday, June 23, 1987

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

SIXTH REPORT

Your Committee, which was authorized to study and report upon the proposed sale of Dome Petroleum Limited with particular reference to the impact of the sale on Canada, or any matter relating thereto, respectfully requests that the date of presenting its final report be extended from 30th June, 1987 to no later than 31st March, 1988.

Respectfully submitted,

EARL A. HASTINGS
Chairman

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

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

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

AVAILABILITY OF TRANSLATION OF REPORT OF COMMITTEE

On Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, the French translation of my report has not yet arrived. If the Senate were to agree, I could give my report in English, and when the French translation comes in I can table it. In the meantime, with unanimous consent, I would like to make a few remarks today to get this report before the Senate in order to proceed with this legislation. If you agree unanimously that I may table the English text now and table the French text when it comes in, I would like to proceed.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, I do not know when the French version of this report will reach us. If it comes to within ten or fifteen minutes, I shall not object to our proceeding, but if it is not ready before Thursday, I would like to adjourn consideration of the report until we have received it.

Hon. Fernand-E. Leblanc: I do not think it will be that late.

[*English*]

The Hon. the Acting Speaker: Honourable senators, is it your pleasure to grant permission?

Senator Bonnell: Honourable senators, to the best of my knowledge, according to my clerk—if you can depend on your clerk—

Senator Doody: If you cannot depend on your clerk, who can you depend on?

Senator Bonnell: —I am told that it should be ready by 3:30 p.m. It is now 3:35 p.m. He is a little late. Perhaps I can speak in English for a few minutes. I do want to help the government as much as possible by proceeding and not waste another day. Otherwise, we would have to wait until Thursday, because Wednesday is St. Jean Baptiste Day.

An Hon. Senator: Wait for it!

Senator Bonnell: However, I will wait, since that is the wish.

[*Translation*]

Senator Leblanc (Saurel): Honourable senators, I do not want us to proceed immediately with this report if we do not have it in both official languages. I believe that we should wait until we have the two versions.

[Senator Hastings.]

• (1520)

[*English*]

Hon. Duff Roblin: Honourable senators, I believe we have two points of order here. One has to do with the translation of the report into the other official language, and the other has to do with the timing of the debate. As a rule, I think we have to table reports in this house and then proceed to discuss them at a later date, after members have had a chance to read them.

I think that two questions of leave are involved here. I do not like to be difficult about this, but this is a lengthy report comprising some 22 pages. I think it is unusual to have the debate commence before members who are not on the committee have had a chance to read it. Unless there are very important reasons which the chairman of the committee might state, I would be inclined to think that we should wait until the report has been distributed and read.

The Hon. the Acting Speaker: Is it the wish of honourable senators to wait until the report is presented in both official languages?

Hon. Senators: Agreed.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:
>
> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.—(*Honourable Senator Flynn, P.C.*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe that the steering committee met yesterday under the chairmanship of Senator Molgat. I suggest that we resolve into Committee of the Whole to receive a report.

Hon. Gildas L. Molgat: Honourable senators, on a point of order, I believe that we are on Order No. 5.

Hon. Jacques Flynn: I would like this order to stand, because it has something to do with the report.

Senator Frith: Senator Flynn and I agreed that this order would stand.

The Hon. the Acting Speaker: Order No. 5 stands.

Order stands.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—
CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake constitutional accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, your steering committee met yesterday afternoon and has agreed to call two witnesses, it is hoped by the end of June. Following that, the deliberations may be adjourned to the fall, depending on what the steering committee decides. The steering committee recommends that the first witness be a spokesman for the government, and that the second witness be our former colleague, the Honourable Eugene Forsey. Senator Doody was to arrange for the appearance of the government witness. In a conversation with me earlier today, he reported that it may not be possible to get witnesses within the next few days; that is, before the normal summer adjournment of the Senate. Senator Forsey, on the other hand, is available whenever we wish to have him.

What is the wish of honourable senators?

Senator Frith: Honourable senators, I discussed earlier with Senator Doody the fact that it may not be possible for someone on behalf of the government to respond to the invitation extended by the steering committee to appear to explain or take us through the Meech Lake accord and the Langevin agreement. We have, for example, suggested Mr. Spector. I understand that the government feels it might be well represented by Mr. Spector, perhaps the Deputy Minister of Justice and perhaps someone else.

Senator Doody: Senator Murray.

Senator Frith: Yes, Senator Murray. That, I think, is understandable. In that case, however, I think that we should proceed with Senator Forsey.

I should also say that Senator Doody and I suggested the possibility of a witness from the world of academe, such as Professor Beaudoin of the University of Ottawa. He, like Senator Forsey, is a recognized expert on constitutional matters. I believe that Senator Doody is taking that question under advisement and may wish to speak to Professor Beaudoin. In the meantime, I suggest that we find a convenient time this week or at the beginning of next week to hear Senator Forsey.

If I may, I should also say that because of the connection between Order No. 5 and this order, I discussed with Senator Flynn the standing of Order No. 5, which is the motion that we televise our hearings. He and I have tentatively decided to consider televising the hearings at which Senator Forsey and Professor Beaudoin, for example, will appear. We might agree to the televising of those two hearings without agreeing to the motion contained in Order No. 5. In other words, we might first permit the televising of those two hearings and use that as an experience to see how it works.

Senator Flynn is going to think about that over St. Jean Baptiste Day, and we will talk about it again on Thursday. We have not come to any agreement about that, but I do think senators might be interested to know that that is a possibility we are considering.

Senator Doody: Honourable senators, if I may add a point of clarification on the very lucid explanation given by Senator Frith, I want to make it clear that Senator Murray, Mr. Spector and the other gentlemen have not declined to appear. It is just that in view of the several days available between now and June 30, it would be impossible for them to fit that appearance around their particular timetables. They are quite prepared to appear and, indeed, are anxious to appear.

As for Professor Beaudoin, that name was mentioned to me. I would be reluctant to approach him myself. Just about everybody else in this chamber is far more qualified, both in terms of academe and in terms of law, to persuade the honourable gentleman to appear. I would leave that to our chairman.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I do not know whether Professor Beaudoin is to appear as a sort of vicarious spokesman for the government or not. I thought that our understanding was that the most orderly way to proceed was to have the government take us through this document, stating its understanding of it. I have no objection to the appearance of two or three spokesmen, because it may well be that one is more competent on one section than another. But we are beginning to proceed in a less than efficient manner when we have two private sector persons coming in before the government has had a chance to put its views before this house. Are we being told that representatives of the government will not be able to appear before the summer adjournment of the House of Commons?

Senator Doody: Honourable senators, I was not trying to tell anybody anything. I reported this morning to our chairman on the message that I received from Senator Murray to the effect that it was impossible for the three prospective witnesses to get their various timetables to coincide with our schedule. I was asked to inquire of them if they could be available on Thursday or Friday of this week or on Monday or Tuesday of next week. They checked and found that their timetables were such as to make that impossible. I am not saying that the government spokesmen have refused to appear or are not going to appear. I am simply saying that the dates that I was given for their appearances were not given to them in sufficient time to allow them to make the necessary arrangements. They are not at all averse to coming. I was not suggesting that Professor Beaudoin would be a government spokesman, vicarious or otherwise. I simply suggested his name because it was passed on to me by someone else. I would not for the world ask the professor to become a government spokesman.

● (1530)

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, it is highly desirable that before the adjournment we have a statement from the government; and if the three persons whose names have been mentioned by Senator Doody are not available, then perhaps two of them could find a day on which they could come, or perhaps one could come on the understanding that he or she could say, "Well, there are certain parts of the agreement on which I am not the highest authority." But surely the government can find someone to come forward before the adjournment to state its understanding of this important agreement.

Senator Doody: As a messenger, I have delivered the message. If the chairman and Senator Stewart wish to pass on these observations, and so on, to Senator Murray, then certainly, by all means, they may do so. I would not attempt to interfere. I was given certain directives at the steering committee. I was given a message to deliver. I dutifully did that this morning, and scurried back to my peers with the answer. I have fulfilled my duties.

[*Translation*]

Senator Simard: Mr. Chairman, perhaps the government's representative on the steering committee or the principal majority spokesmen in this house and on the committee, Senators MacEachen and Frith, could tell us what the steering committee has decided in terms of schedules, number of witnesses, and so forth.

If I understood correctly, there are voices in favour of having someone testify on behalf of the government and possibly Professor Beaudoin and others. I believe Senators Frith and Flynn are trying to agree on whether we should have tentative TV coverage of the proceedings.

I would like to know whether the Liberal majority is in a hurry to start the work in Committee of the Whole, and whether you intend to proceed at full speed and work all summer, or whether the Liberal majority intends to produce only a few witnesses, then adjourn for the summer. I would appreciate being given the rules of the game, if there are any.

We read in the papers that Mr. Trudeau may be invited now or later. So what are we going to do with this committee? If there is no rush, then I suppose we will have all summer to settle the problem of TV coverage.

What can the representatives of the majority tell us about the number of witnesses, and when and how often the committee intends to sit?

This morning I read another rumour in one of the papers that the Senate Committee of the Whole might wait until the Joint Committee of the House of Commons and the Senate finished its work and made sufficient progress before proceeding with its own work. I wish we were given some clarification on what the majority intends to do.

Senator Frith: Mr. Chairman, as the majority we have no plan as such. We are merely discussing the matter of letting the steering committee decide on the agenda and how we are to proceed.

[Senator Doody.]

As was pointed out by the committee chairman, my suggestion was to start with two witnesses and then decide whether or not we will sit during July and August. Our only recommendation has been to start the business of the Committee of the Whole with two witnesses. The committee will determine its agenda later on, after we have had two or three witnesses take part in the proceedings.

The Chairman: Does that answer your question, Senator Simard?

Senator Simard: More or less, Mr. Chairman.

The Chairman: As to the steering committee, the decision yesterday was to invite two witnesses, a government representative and another witness, Senator Forsey; after these testimonies a decision would be made. We are now at that stage.

Now it has been suggested today that Professor Beaudoin be invited. Any arguments on this question?

Senator Frith: Mr. Chairman, Senator Stewart (Antigonish-Guysborough) mentioned the possibility of inviting one or two government spokesmen and perhaps even three witnesses.

Mr. Chairman, my suggestion is that the steering committee authorize you to discuss this possibility with the government, as well as the appearance of Professor Beaudoin as a witness. But in the meantime I would suggest that Senator Forsey be invited to participate. If I understand correctly, the position of Senator Stewart (Antigonish-Guysborough) is that we should start off with the government witnesses. So if it were possible to have one or two of the three witnesses, for instance Mr. Spector, the Deputy Minister of Justice and the Leader of the Government in the Senate, after that we might entertain the possibility of inviting Professor Beaudoin. But we must explore this possibility from the outset.

Senator Denis: Mr. Chairman, if we were to have two witnesses appear and since it has been suggested the proceedings might be televised, I would like to know whether the first witnesses will have the same advantage. The other witnesses who will appear later will have that advantage, whereas the testimony of the first witnesses will not be televised.

Senator Frith: Mr. Chairman, it is only an experiment, for the final decision rests with the Senate. It is not a question of allowing TV cameras in the case of one witness and refusing them in the case of another.

It seems to me this is an excellent opportunity to study the impact of television in the Senate. My discussion with Senator Flynn was not to the effect that we should adopt the motion under Order Paper item No. 5 and then amend it later. We simply want to stand the motion under Order Paper item No. 5 so we may have an opportunity to try this experiment.

[*English*]

Senator Phillips: Honourable senators, I feel that we are probably unnecessarily confusing television and the meeting of the Committee of the Whole. The question really now before us is the procedure of this committee. Yesterday it was agreed among the steering committee that the government be the first

witness. Senator Stewart has again expressed that desire today, and I would like to join him in that. I believe that the government should be given the opportunity to explain its position first.

Senator Frith: And so do I. That is what I said.

Senator Phillips: Senator Murray will be back on Thursday. May I suggest that there be a discussion at that time between Senator Murray and the chairman?

Senator Frith: Agreed. That is exactly what I suggested. We should explore that first.

[*Translation*]

The Chairman: Senator Simard.

Senator Simard: Mr. Chairman, I would like some clarification about a reply given by Senator Frith.

Did I understand correctly Senator Frith to say that the proceedings of the Committee of the Whole would begin by inviting two or three government representatives to appear? He then clarified his position by saying that, before deciding whether we should listen to Professor Beaudoin, we should hear the government representatives and later decide whether to wait fifteen days, three weeks or two months.

Mr. Chairman, with all due respect for the honourable senators opposite, I cannot understand the Liberal majority in this place. According to some reports, they ran the risk of embarrassing the leader of their own party, among other people by creating this committee. Did I just hear Senator Frith admit that his colleagues have no specific plan, even though some people are thinking about their holidays? In addition, some of the committees will not be in Ottawa, including the Committee on Fisheries, which will be away from July 5 to July 15.

We do not know whether we could be called back with twenty-four hours' notice. This seems to me a rather strange and unusual way of doing things. If the subject is important and if it is urgent for the Senate to sit in Committee of the Whole to examine this issue, it seems to me that the majority in this house should be able to tell us whether they want to proceed quickly, who the witnesses will be, how many there might be and what their general position is.

Are you now admitting, Senator Frith, that you have no specific plan, that you do not know where you are going and that we should believe the rumour that you may wait for the Joint Committee to submit its own report? I would like all this to be clear so that the Canadian people and the Senate know what to expect.

Senator Frith: Mr. Chairman, today is the second time that Senator Simard has addressed me as though I were Leader of the Government in the Senate. That is very flattering. It is the second time he has asked about the position of the majority in the Senate. He is acting as though it were necessary for the Opposition to have a plan and to announce it. He is asking me what we, the majority, are going to do about this question.

What we are discussing now is simply the way to proceed. We are not discussing the policy or plans of the majority or the plans of the government, of Senator Simard or of Senator Molson. We are simply discussing how the committee will proceed and what the steering committee will decide. That is all. I have put certain suggestions to the steering committee. Senator Stewart and Senator Phillips have made other suggestions. I feel that it is not up to us, in the majority, or to the senators opposite to decide. As I understand it, we agree that it is now up to the steering committee to consider the suggestions the committee will make when it reports today.

Senator Simard: I then take it that there is no plan.

The Chairman: Are there any other comments? As I understand it, you are asking first, as suggested by Senator Phillips, that I speak to Senator Murray and try to get one, two or three spokesmen from the government, and then Senator Forsey and perhaps Professor Beaudoin.

Is it agreed? We shall therefore wait until Thursday and I shall speak with Senator Murray on his return.

However, there remains one question, that of television. If we indeed have our proceedings televised, there are certain physical matters to take care of here, and our staff must get ready. What do you want to do about it?

Senator Frith: Mr. Chairman, the possibility of having television on a temporary basis, as I suggested, is just that, a possibility, and the steering committee will have to make the decision.

Finally, if we are speaking about arranging for the presence of television cameras, this is also up to the steering committee. I think that we should put this question aside for now as we have not agreed on it. If, for instance, we arrange for a witness to appear without there being an agreement on the matter of television, the steering committee can still make arrangements.

The Chairman: Is it agreed, honourable senators?

● (1540)

[*English*]

Senator Roblin: Honourable senators, I have one personal comment to make. We have heard constant reference to "the steering committee will decide." I have no objection to the steering committee making recommendations; that is indeed its function. I think the Committee of the Whole will decide. I wanted to get that point clear.

Senator Frith: Of course.

Senator Phillips: Honourable senators, we still have Order No. 5 on the order paper for Thursday. I think that is when television broadcasting should be dealt with.

The Chairman: Indeed, honourable senators, what I was doing was reporting what the steering committee recommended for approval of honourable senators. I expect that the steering committee will continue to proceed in that way.

Is there any other business before the committee?

Senator Frith: Mr. Chairman, I move that the committee rise, report progress, and request leave to sit again.

The Chairman: It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Denis, that the committee rise, report progress, and request leave to sit again. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

REPORT OF COMMITTEE OF THE WHOLE

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

The Hon. the Acting Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

ENERGY AND NATURAL RESOURCES

THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Third Report of the Standing Senate Committee on Energy and Natural Resources (supplementary budget re examination of the production and use of natural gas in Canada), presented in the Senate on June 11, 1987.

Hon. Earl A. Hastings: Honourable senators, I move the adoption of the Third Report of the Standing Senate Committee on Energy and Natural Resources, being the budgetary requirement to comply with the procedural guidelines for the financial operation of Senate committees.

Motion agreed to and report adopted.

FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Fourth Report of the Standing Senate Committee on Energy and Natural Resources (supplementary budget re examination of the production and use of coal in Canada), presented in the Senate on June 11, 1987.

Hon. Earl A. Hastings: Honourable senators, I move the adoption of the Fourth Report of the Standing Senate Committee on Energy and Natural Resources, being a report to comply with the budgetary requirements of the procedural guidelines for the financial operation of Senate committees.

Motion agreed to and report adopted.

[*Translation*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

VISIT OF DELEGATION TO FEDERAL REPUBLIC OF GERMANY—FIFTH REPORT PRINTED AS APPENDIX—DEBATE ADJOURNED

Hon. Fernand-E. Leblanc rose, pursuant to notice of Thursday, February 12, 1987:

> That he will call the attention of the Senate to the visit of the Canada-Europe Parliamentary Association delegation to the Federal Republic of Germany, from January 15 to 27, 1987.

He said: Honourable senators, with leave of the Senate, I propose that the fifth report of the Canada-Europe Parliamentary Association be printed as appendix to today's *Hansard* to enable honourable senators to read it and be in a position to debate it in the near future.

I would point out that the report was tabled in the House of Commons on Monday, February 16, 1987.

Senators Grafstein and Atkins who accompanied the delegation to Germany indicated to me that they would like to take part in the debate. Therefore I would adjourn the debate in my name so that these two senators and I, and others interested in this subject, might relate personal experiences concerning this trip.

Hon. Royce Frith (Deputy Leader of the Opposition): Which association are you referring to?

Senator Leblanc (Saurel): I am talking about the Canada-Europe Parliamentary Association.

(*For text of report, see Appendix "E", p. 1369.*)

On motion of Senator Leblanc (Saurel), debate adjourned.

• (1550)

[*English*]

INTER-PARLIAMENTARY UNION

SEVENTY-SEVENTH CONFERENCE, MANAGUA, NICARAGUA

Hon. M. Lorne Bonnell rose, pursuant to notice of Wednesday, May 13, 1987:

> That he will call the attention of the Senate to the Seventy-Seventh Conference of the Inter-Parliamentary Union, held in Managua, Nicaragua, from 27th April to 2nd May, 1987.

He said: Honourable senators, the opening ceremonies of the Seventy-Seventh Inter-Parliamentary Conference were held at the Olof Palme Conference Centre on April 27, 1987, with the participation of the President of the Republic of Nicaragua, Commander of the Revolution, Daniel Ortega Saavedra. During the ceremony, which was opened at 10 o'clock in the morning, the delegates heard Mr. Carlos Nunez Tellez, President of the National Assembly and of the Nicaraguan Inter-Parliamentary Group; Mr. Hans Stercken, President of the Inter-Parliamentary Council; and Commander Daniel Ortega Saavedra, President of the Republic of Nicaragua.

The national groups of 90 countries took part in the work of the session along with observers from the United Nations

Relief and Works Agency for Palestine Refugees; the International Labour Organization; the United Nations Educational, Scientific and Cultural Organization; the World Health Organization; the General Agreement on Tariffs and Trade; the United Nations Conference on Trade and Development; the Council of Europe and the Parliamentary Assembly of the Council of Europe; the Latin American Parliament; the Andean Parliament; the International Association of French-Speaking Parliamentarians; the Arab Inter-Parliamentary Union, the Union of African Parliaments; the Parliamentary Association for Euro-Arab Co-operation; the International Committee of the Red Cross; and the Palestine National Council.

There was a total of 710 delegates from the national groups, including 430 members of Parliament and 33 observers.

The Executive Committee of IPU held its 201st session in Managua on 24, 25 and 30 April, 1987, with the President of the Inter-Parliamentary Council, Mr. H. Stercken of the Federal Republic of Germany, in the Chair.

The executive gave considerable attention to the question of the commemoration of the Union's centenary in 1989. It took note of the latest information on events planned in the various member countries to mark that important event, and decided, in particular, to go ahead with the proposal from a leading journalist historian for the preparation of a book highlighting the main features of the Union's history. This undertaking will be under the close supervision of the president of the council. It also decided in favour of the publication of a brochure focussing particularly on the organization's more recent achievements.

It also authorized the Secretary General to organize, at the next conference, a meeting of an informal group, to be led by Mr. Claude Pepper, Congressman from the City of Miami, U.S.A., open to all those parliamentarians wishing to participate, to consider issues relating to the health and well-being of the elderly.

The council also recommended to the Inter-Parliamentary Union that Sudan be re-admitted as a member of the Union, which was agreed to by the Union. As a result, the Union is now composed of 108 national groups.

Other items on the agenda for discussion at the Seventy-Seventh Inter-Parliamentary Conference were the contribution of the Parliaments to the World Campaign for the holding of a peace conference in the Middle East; the implementation of the decisions of the United Nations Security Council on Lebanon; and support to the international efforts to stop the Iran-Iraq war and the consequences for peace in the area, in the Mediterranean basin, and in the world.

The discussion was led off by our own Senator Nathan Nurgitz who did an excellent job on behalf of Canada. He then became the rapporteur for the committee stage and reported back to the plenary session on the results of the drafting committee. Canada received excellent compliments on his contribution to this discussion. The draft resolution, as a whole, was adopted, with 832 votes in favour, 46 votes against, and 79 abstentions.

The next item on the agenda was the contribution of Parliaments to the achievement of fair international trade in all its aspects, including trade in agricultural products, the elimination of tariffs and other barriers, and a better understanding of the socio-economic impact of protectionism, in particular, on the developing countries. Mr. Ricardo Lopez, M.P., Mr. Marcel Tremblay, M.P., and Mr. Dan Heap, M.P., took active part in this discussion and had some amendments put forward to the drafting committee pertaining to Canada's interest in world trade.

During the debate on the political, economical and social situation of the world, I spoke on the topic of AIDS, trying to explain to the 90 countries present that they should spend more money on promoting education in this area with a view to stopping the spread of this serious disease. I also pointed out that in certain countries of Africa, unless something is done on a world-wide scale, 25 per cent of their populations could be wiped out by the year 1995.

The chairman, Mr. Benno Friesen, M.P., spoke on the political and economic situation of the world and Canada's participation therein.

The next item on the agenda was the contribution of Parliaments to the achievement of the aims of peace in Central America, which was covered by Mr. Warren Allmand, M.P., who made a great contribution on behalf of Canada's participation in Central America.

The next meeting of IPU will be held in Bangkok between October 12 and 17, 1987. One of the main items on the agenda for that meeting is the contribution of Parliaments to the respect, development and promotion of human rights; and to the respect for fundamental principles, treaties and obligations governing relations among nations in order to solve the problems of refugees and displaced persons. This item was put forward by Canada on the recommendation of Mr. Oostrom, M.P. It was supported by the Canadian Branch of IPU, then by the Twelve Plus Group nations, and, finally, by the whole Inter-Parliamentary Union in conferences assembled in Managua.

I would like to thank the members of the Inter-Parliamentary Union who participated in the conference at Managua, and especially Senator Bosa who participated in the conference of the Twelve Plus Group in Berlin. I would also like to thank the members who participated in the conference in Managua, Nicaragua, the president of the Canadian Branch, its members, as well as his staff and secretariat. Mr. Stephen Knowles and our adviser, Mrs. Barbara Reynolds, did an excellent job on behalf of Canada.

• (1600)

Honourable senators, I have a lot of documents that I would like to tell you about, but rather than having them printed in the *Debates of the Senate* I ask that they be tabled as the report of the Inter-Parliamentary Union and be kept as a record.

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Documents tabled.

Senator Bonnell: Let me take this opportunity to thank and congratulate Senator Nurgitz on an excellent job, as well as Mr. Ricardo Lopez, M.P.; Mr. John Oostrom, M.P.; Mr. Marcel Tremblay, M.P.; the Honourable Warren Allmand, M.P.; and Mr. Dan Heap, M.P., who excelled themselves in supporting Canada's beliefs and views at this conference.

Let me also say that our Clerk, Mr. Charles Lussier, did an excellent job with their Clerks at the conference, and he should be congratulated as well. Also, Mr. Stephen Knowles and Barbara Reynolds, our secretary and our adviser, who also worked hard during the committee, should be congratulated.

I should also say that the ambassador who represents that area from Costa Rica, Ambassador Gooch, made every effort possible to see that the Canadian delegation was treated well in that country, along with Mr. G. J. Cooney, Georgette Denegri, John Wheatcroft, Emilio Sanchez and Ricardo Calvo.

Honourable senators, with those brief remarks on my part, I thank you for listening.

The Hon. the Acting Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered as having been debated.

THE CONSTITUTION

MOTION TO AMEND THE CONSTITUTION ACT, 1867—DEBATE ADJOURNED

Hon. John M. Godfrey moved, pursuant to notice of Thursday, June 18, 1987:

> That the Senate resolve that an amendment to the Constitution of Canada be authorized to be made by proclamation, issued by Her Excellency the Governor General, under the Great Seal of Canada, as follows:

PROCLAMATION AMENDING THE CONSTITUTION OF CANADA

> Section 31(1) of the *Constitution Act, 1867* is repealed and the following substituted therefor:
>
> "(1) If, for two consecutive calendar years, he fails to give his attendance in the Senate for at least one-third of the sittings in each of those years."; and
>
> That a Message be sent to the House of Commons to acquaint that House thereof and to invite them to join with this House in the aforementioned action.

He said: Honourable senators, you will notice that this is a constitutional amendment in which it is proposed to repeal section 31(1) of the Constitution Act, 1867. I shall, therefore, read that section to you. Section 31(1) of the Constitution Act, 1867 states:

> The Place of a Senator shall become vacant in any of the following cases:
>
> (1) If for two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate.

I remember personally becoming aware of that provision in the Constitution back in the 1930s, when I took a train to Ottawa one day and there was an elderly senator on board in a wheelchair, who was obviously incapacitated from a stroke. I was informed that he was taking his yearly visit to Ottawa to appear once in the Senate so that he could remain a senator.

I recall, after being appointed as a senator, visiting my son in Nova Scotia. He introduced me as a senator to a schoolgirl. She said, "The only thing that I know about the Senate is that you only have to turn up once every two years." That is all that her teacher had ever told her. In that fact she was wrong, because we only have to turn up once every two sessions. A session, as we know, can last for three years, as it did during the Trudeau government. So, during that period, you only had to turn up once every four years.

I recall sitting in the Senate one day some years ago when a senator who had been incapacitated for seven or eight years was wheeled in through the bar of the Senate. He stopped for not more than a minute, was wheeled out, and qualified for another two sessions. Recently, I am informed, the same thing happened with one of our present senators who is completely incapacitated.

This is not good enough. There is no way in which a senator—as long as he is capable of being brought in on a stretcher—can lose his seat in the Senate.

This amendment is for that purpose rather than for those senators who do not ordinarily turn up as often as they should. Those senators can, every two years under this amendment, turn up for one third of the sessions and keep their seats. We all know of some of those. No doubt they will make that extra effort every two years, cursing me, if this goes through, every time they have to come to Ottawa when they would not ordinarily have done so.

Honourable senators, I cannot see any possible reason for any objection to this motion.

I received an opinion from Bruce Carson of the Law and Government Division of the Research Branch of the Library of Parliament. The question of whether this should be proceeded with by way of resolution and a proclamation or by a bill was mentioned earlier by Senator Marchand. I will read to you from Mr. Carson's opinion. He said:

> As this is an amendment which would only affect the conditions of tenure senators, it could be accomplished through the method prescribed by section 44 of the *Constitution Act, 1982*. That is, it need only be passed by the House of Commons and the Senate and does not need the concurrence of any of the provinces. This is an amendment which affects tenure only in an indirect way, and in very specific circumstances. It can be compared to the amendment to the retirement provisions in the Constitution relating to senators. This amendment, which changed

> the tenure of office for a senator from life to age 75, was brought into being in 1965 by the central Parliament without reference to the provinces. Therefore, it would seem that an amendment dealing with the terms of terminating that tenure would be within the competence of the federal Parliament to enact on its own.

I must confess that I did something that I tell all the young lawyers in my law firm never to do, namely, never to rely on someone else's legal opinion. When you get someone to do some research for you, you should always check up on it. It shows that I am getting old, because I accepted Mr. Carson's legal opinion without going any further. I can now see that there is a question as to whether or not this is the correct procedure, and whether this amendment should be dealt with by way of a bill rather than by a resolution. I am not in a position to go into that right now, but I would suggest that that can be studied later on and the best procedure decided upon.

I should point out that this is not an original idea of mine. Back in 1980 there was a report on certain aspects of the Canadian Constitution. It was called the Goldenberg-Lamontagne report—although Senator Goldenberg did not have anything to do with it, except for the fact that he was chairman of the Legal and Constitutional Affairs Committee. Senator Lamontagne was responsible for the first part of the report which, in effect, recommended a federal-provincial council. The second part dealt with a renewed Senate, and it reads at page 38:

> Third, any senator who fails for two successive years to attend at least one-third of the sittings of the Senate in each of those two years should forfeit his or her seat. (This would replace the present section 31.1 of the British North America Act, under which the seat is forfeited if the senator fails to give any attendance whatever for two consecutive sessions.)

Senator Stanbury, on at least two occasions, gave speeches in which he said that we should take some action with respect to the recommendations of this report.

● (1610)

While I am on my feet, I would like to discuss other aspects of Senate reform. I would like first to refer to the question of a suspensive veto, which is also mentioned in this report. At page 39 of the report, it reads:

> We feel for this purpose the present absolute veto power is not necessary; indeed, the very fact of its absoluteness makes the Senate reluctant to reject any bill, however bad, even temporarily. We believe that a six months' suspensive veto would give the Senate all the power it needs. The government, and the House of Commons and the country would be compelled to think again. The Senate would have enough time to put its case squarely before the public. If, when six months were up, the government and the House of Commons were so convinced of public support for the bill that they insisted on re-passing it in the House of Commons, then the Senate would have done its duty and could acquiesce with a clear conscience. It would be essential, of course, that the bill be re-introduced in the House of Commons and repassed there. A mere lapse of six months, after which the bill would come into effect without any reconsideration by the Commons, would destroy the whole purpose of the suspensive veto.

In 1972 the report of the joint committee, chaired by Senator Molgat and the Honourable Mark MacGuigan, recommended a suspensive veto of six months. They also said in their report that

> any period where Parliament is prorogued or dissolved shall not be counted in computing the six months.

Bill C-60, in 1978, recommended a 60-day suspensive veto, although its provisions would have allowed a period of up to 120 days between the original passage of a bill by the House of Commons and the date on which it would come into effect, despite the Senate veto. As we are all aware with respect to the Constitution Act of 1982, section 47(1) in an amendment to the Constitution provided for a suspensive veto of 180 days. In January 1984 the joint committee, chaired by Senator Molgat and the Honourable Paul Cosgrove, reported. They recommended a suspensive veto for a maximum of 120 sitting days, divided into two equal periods of 60 days. In practice, and depending on the time of year, the maximum length of delay would be between seven and nine months. The Senate would have no power to hold up appropriation bills, including the Main, Interim and Supplementary Estimates.

That report also contained a section on what reforms should be made now. I would like to read into the record what they say at page 37:

> With the exception of constitutional amendments, the Senate's consent is required before any bill, including a money bill, can become law. This requirement is commonly called the Senate's absolute veto. We have already noted that the Senate has been increasingly unwilling to use that veto. Many people have suggested, however, that an appointed Senate would feel less inhibited about using a suspensive veto, and that if it did, senators would be able to play a more important and useful role in their review of legislation emanating from the House of Commons.
>
> We agree that a suspensive veto would be a more suitable instrument in the hands of an appointed Senate than an absolute veto, and would probably be used. We also believe that the availability and occasional use of such a veto would help to facilitate the transition from an appointed Senate to an elected Senate, where a suspensive veto is likely to be used more readily.
>
> The Senate's present absolute veto could not be converted to a suspensive one without a constitutional amendment involving the use of the general amending procedure, because such a change would affect the Senate's powers. However, it has been suggested to us that the Senate, without diminishing its constitutional powers,

could adopt a procedure for the more flexible use of its veto, a procedure that would have the effect of making it suspensive.

This procedure could work in the following way. The debate on any bill in the Senate could be adjourned to a subsequent date on the motion of any senator, provided the motion was approved in the debate that followed. Such a procedure is already allowed under the Rules of the Senate. An adjournment of the debate would give notice to the government that the Senate wanted time to negotiate changes to the legislation. If the points at issue were resolved, the bill would be brought back for completion of debate and ultimate disposition. The Senate would, of course, have to approve the bill before it could become law.

This procedure would work best if everyone, in both houses of Parliament, understood the rules: that is, the circumstances in which the procedure would be invoked, the length of the delay for different kinds of bills (if the delay is not to be decided separately for each bill), and other relevant matters.

These rules could be incorporated in the existing Rules of the Senate or, with more formality, in a federal statute requiring the consent of both houses. Although a statute would not bind the Senate constitutionally, it would have the advantage of signifying that the procedure laid down was acceptable to both houses.

That points up the fact that we do not need a constitutional amendment if the majority, particularly on this side of the house, agreed that from now on we will operate on the basis that we only have a six months' suspensive veto. So, every time we amended a bill, the government could not rear up its head and say, "You have no right to block the will of the voters in the House of Commons." If we had previously said that, we would never hold up a bill for more than six months. In the meantime, negotiations could be carried on. In the case of some bills, if they are repassed immediately by the House of Commons, such as the gating bill, and if the Senate decides that its amendments are not that important, we would pass it right away. Other bills we might hold up for two or three months. A perfect example right now is Bill C-22, the pharmaceutical patents bill. It is no secret that that bill was brought in to appease the American government. If the Senate decided to bring in amendments to the bill, and announced beforehand that it would not hold up the bill for more than six months, the government could say to the American government, "Look, don't worry. The bill will pass in six months." In the meantime, if the free trade negotiations were to break down and there was no longer any point in appeasing the American government, our government could very well decide after the six-month period is up that they will withdraw the bill. So that is a very practical way in which a six-month suspensive veto could help.

Senator Roblin: I think you are dreaming in technicolour.

Senator Godfrey: While I am still on my feet—

[Senator Godfrey]

Some Hon. Senators: Oh, oh.

Senator Godfrey: I have made various other efforts, without a great deal of success, suggesting reforms in the Senate. I can recall that way back in March of 1982 I wrote a letter to Senator Perrault, the then Leader of the Government. The purpose of the letter was to raise five matters before a meeting of the chairmen of committees. It was finally considered at a meeting on Thursday, November 4. I will refer to the headlines from the notice of that meeting. The first item is pre-study of bills. At that time the Banking, Trade and Commerce Committee was the only committee pre-studying bills, though occasionally other committees would conduct pre-studies, and I was advocating that we go into the whole question of pre-studying bills and do more of it. I can chalk that suggestion up as one that came to pass.

The second item is provincial government representation. I proposed a motion that when a Senate committee considered bills of particular interest to a particular province or any province, that province or any province should be invited to make representations before the committee. The committee decided not to adopt my formal resolution but to try the practice in an informal way. I withdrew the motion. It proved its usefulness for six or seven months, whereupon I re-introduced the motion. It passed, and has been operating as a principle of the Senate very successfully.

The third item on the agenda was a human rights question. Five years later, I still have a motion, though it passed a couple of years ago, before the Senate that a committee of the Senate—two years ago it was the Standing Joint Committee on Regulations and other Statutory Instruments—should look at all bills to see whether or not they offend the Charter of Rights and Freedoms. Unfortunately, since the Regulations Committee was a joint committee, that motion had to be approved by the House of Commons. We still do not have that approval. On March 31 I introduced a new motion to the same effect. The debate is adjourned in Senator Nurgitz's name. He has said that he will go ahead with it this week. I hope that he does, as a special present to me before I retire at the end of the week. We have changed the motion in that it no longer refers to the Joint Committee on Regulations and other Statutory Instruments but refers to the Legal and Constitutional Affairs Committee, so we do not need the approval of the House of Commons.

● (1620)

The next item is enabling clauses in bills, which we wanted for the Standing Joint Committee on Regulations and other Statutory Instruments. Again, we finally got that through two years ago, but the House of Commons did not do anything about it. However, if we pass it again, and if the Leader of the Government in the Senate were to be more aggressive, I am sure that the House of Commons would agree to it.

Finally, I suggest that we should have regular meetings of committee chairmen to discuss the investigative work of committees and whether or not we should recommend investigations in certain areas. Up to that time—and I think it is still true—practically every investigative committee is inspired by

one senator. The consensus comes when one senator gets other senators to agree to the setting up of a committee and to serve on that committee. Honourable senators, if the two motions I have referred to go through this week, I am not batting too badly on my five suggestions for reform.

However, honourable senators, on the broad question of reform of the Senate, I must tell you that I was on a panel at a meeting of the Canadian Learned Society in Hamilton a couple of weeks ago. Professor C.E.S. Franks was the chairman of that panel, and he supplied me with a paper which he had written in April and revised in May of 1987. It is entitled: "At the Still Point of the Turning World: The Canadian Senate in an Age of Reform." This paper is very favourable to the Canadian Senate. I think it is probably one of the most favourable papers that I have read. To give you a taste of it, I will read a paragraph from it. It says, on page 7:

> These investigations are usually of a higher standard than those by committees of the House of Commons. Reasons for the differences include: first, many extremely able and experienced Canadians sit in the Senate and contribute to this investigative work; second, investigations by the Senate are usually non-partisan; third, Senate investigations do not suffer from excessive exposure in the media; fourth, senators have the time and leisure to conduct diligent research and exhaustive analysis; and fifth, investigators can work on for many years, immune from the vagaries and demands of the electoral process. The work procedures of Senate committees are far better than those of the House, and ensure that witnesses are given the time to present their case, and are questioned carefully. Competence, freedom from competing demands on energy, low partisanship, and an absence of pressures of time and fears about re-election, are the keys to successful Senate investigations.

However, on page 14—and this is really why I am mentioning this—he says:

> Nevertheless, in other areas where it was expected to be useful,—

And he is still talking about the Senate:

> —especially in representing the interests of the provinces and regions, the defence of minorities, and the protection of human rights, its record has not been impressive.

At page 15, he says:

> The most interesting thing about these proposals is that they have not changed for several generations:

Here he is referring to proposals for reform of the Senate.

> —like the weather, everybody talks about Senate reform but nobody does anything about it. The Senate has undergone fewer reforms than the Commons. For a body with such obvious faults this stability is somewhat surprising. The Senate continues unchanged . . .

Honourable senators, at this stage I must say I have often wondered why does it always have to be me? When the House of Commons brought in its reforms, one would have thought that some of our leaders would have looked at them and wondered how they might apply to the Senate, and, if so, that perhaps we should adopt some of them. However, nothing happened until I started bringing in motions to adopt in the Senate some of the House of Commons reforms. I think I only batted about 300 on the various proposals I made that were looked at by the Standing Committee on Standing Rules and Orders.

I cannot tell you how delighted I was when Senator Marchand got up today and presented his bill on a constitutional reform of the Senate, even though it gave me some qualms that my motions may not be in order. Really, as he says, this provision that a senator must own $4,000 worth of real estate is just ridiculous in this day and age; yet, in all these years, no one has done anything about it until Senator Marchand got up today and moved first reading of his bill.

Honourable senators, as I am retiring—and Thursday will be my last day—all I am pleading for is that there be someone else around to carry on in my absence my proposals for reform of the Senate and that they will not die.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Jacques Hébert: Honourable senators, I am honoured to move the adjournment of this debate which may be the last raised by our distinguished and passionate colleague.

[*English*]

POINT OF ORDER

Hon. Duff Roblin: Honourable senators, before the debate is adjourned, perhaps we have a point of order that should be looked at. The Constitution, I think, deals with questions of the power, method of selection and numbers of senators. However, I think there is a good case to be made that an amendment of this sort could be handled by a bill rather than a constitutional amendment, which would invoke the interest of the provinces. If we had a resolution that passed, that would then automatically call in provincial interest in the matter, and that might be exceedingly difficulty to handle.

However, if it is merely a bill, then the two houses of the federal Parliament can settle the matter. Therefore, I request that some study be made of the matter to see whether we can help Senator Godfrey.

Hon. John M. Godfrey: I certainly agree. Having now read section 44 for the first time and the wording of other sections, I have doubts as to whether this is the proper procedure. I think we certainly should get an opinion from the Clerk before anything else is done. Then when that opinion is received, I will rely on Senator Hébert, in my absence, to propose, if necessary, a bill to regularize the procedure. It will be a very simple bill, and I am sure it can be prepared for Senator Hébert by the Law Clerk.

On motion of Senator Hébert, debate adjourned.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

THIRD REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, as chairman of the Special Committee of the Senate on the Subject Matter of Bill C-22, I have the honour to present, in both official languages, the third report in respect of the subject matter of the bill. I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "F", p. 1375.*)

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Bonnell: Honourable senators, this report is approximately 26 pages in length and is in both official languages, as I have said. I intend to make a two-hour speech with respect to this report, which I cannot do this afternoon since the hour is late. However, I would be grateful if the Senate would grant me permission to say a few words about the report this afternoon, and then I will adjourn the debate until Thursday next.

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Senator Roblin: I have already refused leave on this matter.

Senator Frith: Senator Bonnell is asking for a little time to explain, but not to make a speech today. Perhaps his explanation will help you in your consideration of the report.

Senator Roblin: Senator Bonnell is so persuasive, perhaps I will listen.

Senator Bonnell: Honourable senators, do I have your leave?

Senator Frith: Yes, you have leave. Go ahead.

Senator Roblin: Perhaps there should be a time limit on this.

Senator Bonnell: I can assure the honourable senator I will be finished by 5.30 this afternoon.

Senator Roblin: You had better get started, then!

• (1630)

Senator Bonnell: Honourable senators, let me say first that as I travelled across this beautiful country of Canada, I saw not only the magnitude of the country, I saw the magnitude of the problem of Bill C-22. I also saw the magnitude of the many other problems facing us as Canadians. I would like to go on about that, but I will keep specifically to this report.

[Senator Godfrey.]

Basically, we heard from many people that the reason this bill was presented to the House of Commons and to the government was because the Americans wanted a level ballfield for free trade.

Senator Phillips: Come on!

Senator Bonnell: That is what we heard. I did not say it was true. Senator Phillips must believe it is true, because he said, "Come on."

Senator Phillips: I am sure you said that was the reason.

Senator Bonnell: No, I said we heard from many witnesses that that was the reason.

We were also informed that before 1969 Canadian drug prices were among the highest in the world. The government of the day set up three commissions to look into this. Each of those commissions recognized that the price of drugs was high. Those three commissions were the Restrictive Trade Practices Commission, the Hall Commission and the Harley Commission. After hearing from these commissions, the Liberal government of the day passed the Patent Act of 1969 allowing for compulsory licensing so that generic drugs could be made in Canada. This started the establishment of a Canadian drug manufacturing industry in this country which grew much faster than the multinationals were growing in the United States or had ever grown in Canada before.

The passage of the changed Patent Act at that time allowed for the generic drug companies to be established in Canada, and allowed drug prices to become among the lowest in the industrial world so that Canadians could benefit from a $311 million savings annually in drug costs, according to the Eastman report in 1983.

It was the view of the Consumers' Association of Canada that pharmaceuticals constituted part of the health care field, along with medicare and hospitalization. They stated that Canada has decided that health care should not be left to the private sector. Therefore, the drug industry should have a high degree of government involvement. They also suggested that the Canadian model of compulsory licensing is well thought of in the world, and even some Congressmen in the United States are trying to copy the Canadian plan, as are some other countries in the free world. It has been suggested by others that it is the fear of other nations copying the Canadian plan, which is considered to be one of the best in the world, that really worries the American government. It was also the view of the Consumers' Association that the 10 per cent research goal should be enshrined within this legislation.

A Mr. D.A. Hill suggested to the committee that Bill C-22, which deals with the patent system in general, will affect far more patents than those provisions dealing specifically with the drug industry. Under this new Patent Act, Canada is moving from a first-to-invent system of patents to a first-to-file system of patents. This change in the act creates unnecessary confusion, and he suggested that Bill C-22 may make Canada a patent infringement haven. There were suggestions that the bill does not grant equal national treatment and, thus, may contravene international accords. He suggested the part deal-

ing with general patent provisions should receive far more scrutiny.

The Canadian Labour Congress agrees that the changes to the Patent Act made by the Liberal government in 1969 gave Canada some of the lowest drug prices in the world. It was suggested that the drug industry fears that the Canadian model is liable to become a pattern for the rest of the world, and is consequently pressuring the government to pass Bill C-22. The Canadian Labour Congress expressed the view that Canada has the government-controlled universal medicare and hospitalization scheme and it also should control drug prices and have a drug control scheme. They further believe that drug prices would rise substantially if Bill C-22 is passed, and they further believe that the bill has been forced upon Canada as a pre-condition for the free trade negotiations with the United States in order to give a level ballfield. The CLC recommends that the bill be withdrawn.

Dr. Harry Eastman, who has already been appointed as chairman of the drug prices review board and has agreed to accept this position, says that all countries intervene in some way in the drug industry. He further suggested that he preferred the approaches taken in his own report, but he views Bill C-22 as acceptable.

On balance, most of those who appeared before the committee felt that the costs of the bill exceeded any benefits it might produce. The 1969 changes to the Patent Act were clearly of great benefit to the health care system provided for Canadians, saving individuals, taxpayers, insurance companies and hospitals hundreds of millions of dollars per year. In fact, the benefits of compulsory licensing and the availability of generic equivalents are considered to be so great and so obvious that many witnesses questioned the motivation for introducing such legislation in the first place. To many, this bill represents clear evidence of the external pressure brought to bear on the federal government by the United States in the advent of the free trade negotiations.

This bill, according to many, will threaten the $211 million in annual savings estimated by the Eastman report. It will threaten the loss of the $14 million saved by Manitobans in 1986, and it will significantly reduce the savings enjoyed by Ontario hospitals which amounted to $12 million in 1983. It could threaten the viability of the Ontario Drug Benefit Plan, costing that province possibly $1 billion over the next ten years.

Most Canadians, especially seniors, are members of drug reimbursement plans. This does not mean that they are necessarily shielded from any price increases. They must still pay part of their drug bills, and provincial governments are already reducing the coverage of their plans in the face of fiscal restraint. Bill C-22 will increase the pressure for such co-insurance. There is already evidence that the privately run drug reimbursement plans are increasing premium requirements, and this will likely increase in the future.

The bill will increase the period of exclusivity enjoyed by brand-name drugs. It is this delay in the introduction of generic equivalents which prevents drug prices from falling as rapidly as otherwise would be the case. Certain new drugs are proving to be extremely popular, and the delay in introducing their generic counterparts will result in millions of dollars in higher drug expenditures.

In exchange for these higher costs, Canadians are to benefit from the increase in research and development activity promised by the innovative firms and the creation of a drug prices review board which is to ensure reasonable prices for all drugs in Canada.

The medical and pharmacological research community supported this bill vigorously on the grounds that more research activity in Canada was needed to provide employment opportunities to Canadians, and to ensure that new medical information and treatment are readily available here. The bill was cited by these groups as a positive contribution to the Canadian health care scheme.

● (1640)

There were few who challenged the need for more Canadian medical and pharmacological research, but many questioned the usefulness of this bill in achieving those goals. The fact that the bill offers no guarantees of added research activity worried many. Others thought that the bill and the increased levels of exclusivity were far too high a price to pay for increased research. An alternative, which was endorsed by a wide range of opponents to Bill C-22, was the implementation of the recommendations contained in the Eastman report.

The creation of a prices review board was also of little comfort to the majority of witnesses opposing this bill. They noted that compulsory licensing was itself the most effective means of ensuring fair pricing, and that there really would be no need for such a regulatory board if Bill C-22 were never to be brought into force.

This board was seen as a powerless body when it comes to controlling prices set by multinational drug companies. The board will lack resources, financial and legislative, to control new drug prices. It is these new drugs which will account for the bulk of any future pharmaceutical market. The past Canadian experience with pricing boards and the international experience with drug pricing bodies all point to the impotence of such a body.

Honourable senators, I could go on for a long time, but I would like to adjourn this debate and to continue it at the next sitting of the Senate. I would inform senators that most of the members of this committee do not support the bill. But we did not at this stage recommend any amendments, nor did we recommend that the bill not be passed, because we were only doing a pre-study. We could not amend what we did not have, first, and, second, we thought that we could not very well agree to accept it because we could not reach consensus. We leave it with honourable senators and, on second reading, we ask that

they do not proceed until they have at least studied this report. That is why I wanted to present it today, before second reading was completed. In that way senators will have an opportunity to study the report tomorrow and to continue with the debate on second reading on Thursday.

On motion of Senator Bonnell, debate adjourned.

The Senate adjourned until Thursday, June 25, 1987, at 2 p.m.

APPENDIX "A"

(*See p. 1335*)

THE ESTIMATES, 1987-88

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE

TUESDAY, June 23, 1987

The Standing Senate Committee on National Finance has the honour to present its

TWELFTH REPORT

Your Committee, to which the expenditures proposed by the Estimates for the fiscal year ending 31 March, 1988 were referred, examined the said Estimates and presents, in obedience to the Order of Reference of March 10, 1987, an interim report as follows:

INTRODUCTION

On May 28, 1987, this Committee tabled its Eleventh Report the subject of which was the Estimates of the Government of Canada, 1987-88. Following tradition the Committee had used this opportunity to examine the overall fiscal plan of the government, as illustrated in Part I of these Estimates. The Committee also examined the extent to which the government has responded to recommendations it made in previous reports.

In this report, the Committee wishes to draw the attention of the Senate to those recommendations it has made during the 33rd Parliament, with respect to the form and use of estimates and with respect to the *Financial Administration Act*. It also wishes to draw attention to the responsiveness of Treasury Board.

A. THE ESTIMATES

First Session, Tenth Report (November 20, 1985)

During its examination of Supplementary Estimates (B), 1985-86, the Committee took the opportunity to question Treasury Board about the contradictory statements to be found between Parts II and III of the Main Estimates. The Committee was informed that while the data in Part II are consistent with that found in Part III, there are no assurances that the respective texts are consistent. While Treasury Board is responsible for the text in Part II, departments are responsible for the texts in Part III. The Committee stated:

> Because Part IIIs are a relatively recent innovation and, as indicated by Mr. Manion, are *far from perfect*, alternative ways have to be found to update information for parliamentarians without their having to *sleuth* it out. Accordingly, some members of the Committee felt that the Treasury Board might look into the feasibility of making available to parliament...Treasury Board decisions affecting funding allocations, along with a brief explanation. (p. 25:5-6)

Treasury Board officials consulted with the Chairman of the Committee and with Committee staff to determine how the information needs of the Committee could best be met. Treasury Board now provides the Committee with a list of all items included in supplementary estimates which materially differ from information provided in the Estimates Part III. This information is included with the reports of the Committee on all supplementary estimates, where relevant.

Second Session, Third Report (December 16, 1986)

While reviewing Supplementary Estimates (A), 1986-87, the Committee scrutinized Treasury Board's Vote 5. This vote is used to supplement other votes for paylists and to cover unforeseen expenses. The Committee noted some ambiguity in the use of this allotment and a definite lack of guidelines. The Committee stated:

> In the proposed Schedule to the Appropriations Bill presented in the 1986-87 Estimates, Part II, the description of Vote 5 contains no reference to "urgent" expenditures. According to the Part II, this vote is to be used, in part, "to provide for miscellaneous minor and unforeseen expenses". In the Committee's view, there is a difference between "unforeseen" expenses and "urgent" expenses. Therefore we recommend that Treasury Board examine the use of Vote 5, clarify its purpose, and redraft Parts II and III of future Estimates to insure consistency between them. (p. 1:8)

The Treasury Board Secretariat is completing a thorough review of TB Vote 5, its historical use, legal opinions received over the years, and practices in other jurisdictions. In the meantime the 1987-88 Main Estimates were drafted in such a manner as to ensure that descriptive sections of Parts II and III are consistent with the vote wording. The Committee also notes that Treasury Board has agreed to provide to the Committee its analysis on the use of Vote 5 in the fall of this year.

Second session, Sixth Report (March 24, 1987)

When one dollar votes are listed in supplementary estimates, very frequently they are used to transfer money from one vote to another. For example, on page 26 of Supplementary Estimates (C), 1986-87, the Department of Employment and Immigration sought authority to transfer $2 million from vote 10 to vote 20c. Previous estimates for vote 20c showed $99.7 million. Once this request was approved, vote 20c contained $101.7 million. Yet, Supplementary Estimates (C) showed vote 20c increasing by one dollar but with no corresponding decrease in vote 10 of $2 million. The Committee stated:

> While the Committee is aware that vote transfers do not increase the expenditures of a department as a whole, they do reflect a divergence in the way money has been appropriated to that department. The Committee concluded that information on vote transfers, showing the amount of increase and decrease for each vote, should be displayed clearly in the table for each department and in the summary tables. (p. 4:6)

Treasury Board has agreed that there is confusion generated by the form used for vote transfers in supplementary estimates. Officials have indicated that a proposed new format for supplementary estimates is being developed. A "first mock-up" is expected shortly. Treasury Board will consult with the Committee before the new form is finalized in time for introduction with the first supplementary estimates for 1988-89.

B. THE FINANCIAL ADMINISTRATION ACT (FAA)

First Session, Fourteenth Report (March 19, 1986)

In reviewing Supplementary Estimates (C), 1985-86, the Committee learned that there is a difference between the forgiveness of a debt and the write-off of a debt; forgiveness eliminates the debt from the Public Accounts and removes any further obligation of the debtor to Her Majesty. Writing-off a debt, while eliminating it from the Public Accounts, has the effect of making the loan inactive, but "does not affect any right of Her Majesty to collect or recover the debt, obligation or claim" (FAA, 18(4)). The Committee further learned that through an appropriations act, forgiveness of a financial obligation to Her Majesty applies only to debts owed by Crown Corporations. There is no provision under the Act whereby debts owed by individuals or corporations, which have become uncollectible, may be forgiven.

The Committee concluded:

> ...that under the principle of equity, individuals and private corporations should have the same rights as Crown corporations with regard to write-off or forgiveness of debts and that the government should consider such a change when the *Financial Administration Act* comes under legislative review. (p. 44:8)

When he appeared before the Committee on Wednesday, April 23, 1986, the President of the Treasury Board stated that the recommendation had been favourably noted and that Treasury Board was trying to move along with the specific recommendations for the next legislative review. The appropriate changes to the FAA have been drafted, and the changes will be introduced as soon as practical within the current legislative calendar.

CONCLUSIONS

The Committee intends to continue in the fall to monitor its recommendations and the progress of Treasury Board. Also, the Committee plans to follow-up its investigations in a number of areas such as the role and use of Governor General's warrants, comprehensive auditing and the Canadian budgetary process.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

APPENDIX "B"

(*See p. 1336*)

SHIPPING CONFERENCES EXEMPTION

REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE
ON SUBJECT MATTER OF BILL C-21

TUESDAY, June 23, 1987

The Standing Senate Committee on Transport and Communications has the honour to present its

FIFTH REPORT

Your Committee, to which was referred the subject-matter of Bill C-21, Shipping Conferences Exemption Act, 1986 has in obedience to the Order of Reference of Thursday, November 27, 1986 proceeded with that study and now presents the following interim report:

Your Committee has held two *in camera* meetings and eight public meetings. It has also received written briefs, including one from the province of Alberta.

Bill C-21, it will be remembered, would provide, as does *The Shipping Conferences Exemption Act, 1979* which it would replace, a limited exemption from the *Competition Act* to shipping conferences operating in Canada. Shipping conferences would enjoy such an exemption only if they abide by a certain number of conditions set out in Bill C-21. In this regard, it must be noted that Bill C-21 would introduce some changes to the existing legislation; those changes are aimed at increasing competition in the ocean shipping trade.

It is fair to summarize the stand of most shippers as being that shipping conferences should be deprived of their exemption from the *Competition Act*; but they acknowledge that this is most likely not to be the case and therefore urge that Bill C-21, with its new features designed to enhance competition, becomes law as drafted when tabled in the House of Commons for first reading. Conferences, on the other hand, have made known to your Committee that the *status quo*, that is to say the existing legislation, without any changes, should continue to govern the ocean shipping trade, would be their first choice; but they also acknowledge that this again is most likely not to be the case and, as a consequence, have offered some proposals of amendments to Bill C-21 as drafted when tabled in the House of Commons for first reading. Finally, officials of the Department of Transport who have testified before your Committee stated that the Department is seeking the "right balance".

Your Committee notes that the Legislative Committee of the House of Commons on Bill C-21, which has heard almost the same witnesses, has agreed to amend certain clauses of the Bill and has yet to make a decision on other proposed amendments to two controversial clauses. Your Committee has decided to see how those controversial clauses would be dealt with by the Legislative Committee before tabling a final report. However, we would like to draw attention to a technical point upon which we will take action if it is not otherwise disposed of.

The technical point to which your Committee wants to draw attention has to do with the inconsistency of the terms used in relation to conduct not allowed under Bill C-21. Clause 5(1)(a) of Bill C-21 states that the exemption conferences would enjoy from the *Competition Act* would not apply if any party to a conference agreement conspires, combines, agrees or arranges with any other party to the agreement "to use a vessel for the purpose of preventing or lessening, "unduly", competition in the transport of goods by an ocean carrier that is not a party to that agreement". Clause 14(1) of the Bill provides for a mechanism of investigation of complaints by the Canadian Transport Commission whereby any person who has reason to believe that any conference or interconference agreement, or any practice of a conference or a member thereof "has, or is likely to have, by a reduction in competition, the effect of producing an "unreasonable" reduction in transportation service or an "unreasonable" increase in transportation costs [...]"may filed a complaint (see also clause 14(2), where again the term unreasonable in used). In the French version of Bill C-21, both the terms "unduly" and "unreasonable" are rendered by the terms "abusivement" and "abusive". Your Committee thinks that this inconsistency has to be remedied so that interpretation problems will be avoided should Bill C-21 become law.

In order to determine what terms should be used, your Committee compared those used in Bill C-21 and in the *Competition Act*, given the fact that the former offers an exemption from the latter to conferences operating in Canada. Section 29 of the *Competition Act*, which has been part of it for many decades now, uses the terms "unduly" in its English version and "indûment" in its French version. Furthermore, when Parliament, in 1986, amended section 35(5)(c) of the *Competition Act*, it has also used the terms "unduly" and "indûment" (see S.C. 1986, c. 26). The solution, in the opinion of your Committee, is to follow what Parliament has done so far. Thus, in the English version of clause 14 of Bill C-21, the word "unreasonable" should be replaced by the word "unduly"; in the French version of clause 5(1), the adverb "abusivement" should be replaced by "indûment"; and in the French version of clause 14, the adjective "abusive" should be replaced by "indue".

Respectfully submitted,

LÉOPOLD LANGLOIS
Chairman

APPENDIX "C"

(*See p. 1336*)

CANAGREX DISSOLUTION

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE
ON SUBJECT MATTER OF BILL C-2

TUESDAY, June 23, 1987

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FOURTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-2, An Act to dissolve Canagrex and to amend certain Acts in consequence thereof, in advance of the said Bill coming before the Senate or any matter relating thereto, has, in obedience to the Order of Reference of Thursday, October 30, 1986, examined the subject-matter of the said Bill and now reports with the following observations:

The Corporation of Canagrex has been dormant since 1984. Bill C-2 seeks to wind up the affairs of the corporation and to dissolve its statutory framework.

The Committee is aware that the concept of Canagrex was hotly debated within the agricultural community and that there were strong arguments on both sides of the issue. No one disputes the need for agricultural export assistance. Export assistance is, if anything, more crucial now to the viability of many Canadian agricultural commodities than even 3 years ago.

During the course of its hearings on the subject-matter of the Bill C-2 the Committee heard evidence from Agriculture Canada, the Department of External Affairs (Trade) and the Department of Regional Industrial Expansion. In each case witnesses told the Committee that each department was working to develop agricultural trade, assistance initiatives. It appears to the Committee that these initiatives closely parallel those which Canagrex itself was created to provide. These include: providing market identification and intelligence; providing promotional and informational services; providing loans and guarantees; and providing grants and contributions to help accelerate product development and promotion.

The Committee reports the subject-matter of the Bill C-2, An Act to Dissolve Canagrex without amendment. In doing so it notes that the corporation has been dormant for nearly three years and as a statutory shell currently serves no purpose. The Committee does urge the government to carefully examine the elements of the Canagrex mandate and to ensure that those which could be of benefit to the Canadian farmer are implemented under the mandate of the appropriate departments.

Respectfully submitted,

DANIEL HAYS
Chairman

APPENDIX "D"

(*See p. 1347*)

DOME PETROLEUM LIMITED

PROPOSED SALE — REPORT OF ENERGY AND NATURAL RESOURCES COMMITTEE

TUESDAY, June 23, 1987

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

FIFTH REPORT

Your Committee, which was authorized to study and report upon the proposed sale of Dome Petroleum Limited with particular reference to the impact of the sale on Canada, or any matter relating thereto, has, in obedience to the Order of Reference of 12th May, 1987, proceeded to that inquiry and now presents an interim report.

The Committee is concerned about various aspects of the Amoco/Dome transaction.

Dome Petroleum, with the encouragement of the Canadian Government and the support of the banks, succeeded in assembling a massive portfolio of assets. Its wholly-owned subsidiaries include Hudson's Bay Oil and Gas Limited, Musketeer Energy Ltd., Provo Gas Producers Limited, Dome Energy Limited and Dome Investments Limited. Dome Petroleum also holds a 42.1% interest in ENCOR Energy Corporation and a 21.5% interest in Dome Mines Limited (which in turn owns 19.5% of Dome Petroleum). As operator and part-owner of the integrated NGL System, the Alberta Ethane Gathering System and the Cochin Pipeline System, Dome Petroleum has established the largest marketing position in Canada for natural gas liquids. The company ranks as Canada's second largest natural gas producer, third largest oil and gas liquids producer, and fourth largest sulphur producer.

As a company constituted in Canada, operating in the Canadian petroleum industry, and run – as far as the Committee can ascertain – by Canadian management, Dome Petroleum raised no public policy problem as long as the company remained a viable business concern. The problem now facing Canadian policymakers arises from the failure of what all had hoped and intended would remain a commercial, private sector undertaking.

The fact that such a large segment of Canada's oil and natural gas reserves and production is now up for acquisition makes the sale of Dome a matter of national interest. Based on year-end 1985 operating statistics, a merged Amoco/Dome operation would be the largest oil and gas producer in Canada, the second largest landholder in Canada and the largest landholder in Western Canada, the largest holder of natural gas reserves, and the fourth largest holder of oil and gas liquids reserves. The merger of Dome with any of the three bidders – Amoco Canada, Imperial Oil or TransCanada PipeLines – would result in a high concentration of assets and market power in Canada's petroleum industry.

The Committee does not take lightly the prospect that such a considerable influence over Canada's energy security and economy may come to lie outside the country. Dome testified that it is approximately 27% owned by Canadian investors; Amoco Canada is a wholly-owned subsidiary of its U.S. parent, Amoco Corporation.

The Committee has reservations about the process which resulted in the Amoco/Dome Agreement. The use of confidentiality agreements, although not abnormal, has impeded the Committee's inquiry into the implications of the transaction. The Committee would have much more confidence in assessing the case presented by Dome and Amoco if the other purchase offers had been disclosed.

If the bids of Imperial Oil and TransCanada PipeLines were clearly inferior, the disclosure of these bids by Dome would help remove any doubt that Amoco's bid was the best offer.

The "national interest" is the primary concern of this Committee. In the Dome case, this includes such issues as Canadianization, ownership and control, the reinvestment of cash flow in Canada, exploration and development activity, security of supply and employment. Especially during this period of weakness in Western Canada's economy, maintaining employment and creating jobs are priorities for Alberta and the North.

The Committee acknowledges the benefits to Canadians which might arise from the Amoco Canada/Dome Petroleum Arrangement Agreement with respect to employment, terms of payment to service companies and suppliers, the removal of obstacles to joint venture spending in the industry, the possibility that northern petroleum development will be expedited, and the full payment of outstanding Petroleum and Gas Revenue Tax.

Amoco Canada has undertaken that "all available cash flow for the next five years will be dedicated to capital expenditures on the Amoco/Dome properties and to servicing the financial obligations of the Dome acquisition". There is no commitment to reinvest through the longer term, when petroleum prices and profits are expected to rise.

The Committee is unclear as to what amount of capital is actually going to be injected into exploration and development. Because the funds kept in Canada will also be used to service the debt resulting from the acquisition, it is not evident to what extent Amoco will increase exploration and development activity.

The assertion made by Amoco Canada in testimony that it is the logical purchaser because it owns many properties jointly with Dome is not unique to Amoco. The same claim has been made by TransCanada PipeLines.

The Committee is disappointed that an Amoco/Dome merger would reduce the percentage of Canadian ownership and control in Canada's petroleum industry, setting back the progress made in Canadianizing this sector, a policy objective of the present and previous governments.

The Committee supports the stated intention of Amoco Canada to sell a minority interest to Canadians. However, this initiative seems unlikely to have much effect on where the basic management decisions are made.

The Committee regrets that TransCanada PipeLines and Imperial Oil declined to appear before it. The Committee is not prepared to comment on the interests of these companies without their testimony.

There appear to be four plausible outcomes of Dome's present situtation:

- The Amoco transaction may be consummated, subject to approval by Investment Canada, creditors and other interested parties.
- Dome's creditors may reject the agreement, and receivership may follow.
- Dome may be able to negotiate yet another debt rescheduling with its creditors, prolonging the status quo.
- Other bidders may enter the field with different offers, particularly if the Amoco offer is rejected.

The Committee agrees that the operations of Dome Petroleum should remain a going concern, under new ownership.

The Committee is not satisfied with the process by which Amoco's bid was selected. There is no basis for deciding if the Amoco Canada/Dome Petroleum Arrangement Agreement serves the best interests of the country. The Government should request that Dome Petroleum be released from the "no shop" and "lock-up" provisions in the Amoco/Dome Agreement, and that Dome remove restrictions preventing bidders from publicizing their offers. This would allow Dome to invite and facilitate new bids through an open and irreproachable process.

A dissenting opinion was expressed with respect to the preceding paragraph.

Because the outcome of the proposed transaction may be materially affected as the various deadlines pertaining to the Amoco Canada/Dome Petroleum Arrangement Agreement are reached, your Committee will request an extension of its final reporting date.

APPENDIX A TO THE REPORT

List of Witnesses

Thursday, May 28, 1987: (Issue No. 9)

From Dome Petroleum Limited:

Mr. John Howard Macdonald, Chairman and Chief Executive Officer; Chief Financial Officer;

Mr. Brian F. Little, Senior Vice-President and General Counsel.

Friday, May 29, 1987: (Issue No. 9)

From Amoco Canada Petroleum Company Ltd.:

Mr. T. Donald Stacy, President;

Mr. James L. Gaffney, General Counsel; Manager, External Affairs; Corporate Secretary;

Mr. Richard C. Meech, Q.C., Counsel (Borden & Elliot).

Wednesday, June 10, 1987: (Issue No. 11)

From Wood Gundy Inc:

Mr. Fares Boulos, Vice-President, Director and Head of Research;

Mr. Victor Vallance, Assistant Vice-President and Oil and Gas Analyst;

Mr. Henry Cohen, Vice-President and Oil and Gas Analyst;

Ms. Patricia Meredith, Financial Services Analyst.

From the Council of Canadians:
Prof. John Trent, Director and National Policy Chairperson;
Mr. Bruce F. Willson, Energy Policy Consultant.

Monday, June 15, 1987: (Issue No. 12)
From Investment Canada:
Mr. Paul Labbé, President;
Ms. Ruth Hubbard, Executive Vice President;
Mr. G.H. Dewhirst, Vice President, Investment Review;
Mr. C.J. Byron, Acting Vice President, Investment Research and Policy.

From the Bank of Montreal:
Mr. Carson G. Stratton, Executive Vice President, Special Accounts Management Unit, Corporate and Government Banking;

Mr. Charles F. Scott, Legal Counsel (Tory, Tory, DesLauriers & Binnington);
M. David Y. Timbrell, F.C.A. (Coopers & Lybrand).

APPENDIX B TO THE REPORT

The Committee received submissions from the following groups:

BANK OF MONTREAL
Monteal, Quebec

COUNCIL OF CANADIANS
Ottawa, Ontario

WOOD GUNDY INC.
Toronto, Ontario

Respectfully submitted,

EARL A. HASTINGS
Chairman

APPENDIX "E"

(*See p. 1352*)

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FIFTH REPORT

The parliamentary delegation which travelled to the Federal Republic of Germany to study the German federal election process, January 15 to 27, 1987, has the honour to present the

FIFTH REPORT OF THE CANADA-EUROPE PARLIAMENTARY ASSOCIATION

The delegation was led by Mr. Jack Ellis, M.P., *Chairman of the Canada-Europe Parliamentary Association; the other members of the delegation were as follows:

Hon. Fernand Leblanc, Senator*
Vice-Chairman of the Canada-Germany Friendship Group

Hon. Jerahmiel Grafstein, Senator

Hon. Norman Atkins, Senator*

Mrs. Thérèse Killens, M.P.*

Mr. Gordon Taylor, M.P.

Dr. Harry Brightwell, M.P.*

Mr. Edouard Desrosiers, M.P.*

Mr. Ernie Epp, M.P.*

Mr. Bill Gottselig, M.P.*
Vice-Chairman of the Canada-Germany Friendship Group

Mr. Ken James, M.P.

Mrs. Danielle Parent-Bélisle
Executive Secretary

Ms Carol Chafe
Deputy Executive Secretary

*Indicates accompanied by spouse.

The visit was organized to allow Canadian parliamentarians the opportunity to study Germany's political system, in particular, the organization and running of the election campaign, the issues being debated and the role of the political foundations of each party.

Prior to departure the delegates received a detailed briefing from the staff of the Department of External Affairs in Ottawa, including Mr. Peter Walker, Director General of the Western Europe I Relations; Mr. Richard Looye, Desk Officer for the Federal Republic of Germany, and Mr. Chuck Larabie, Desk Officer for Western Europe Trade Development. Their breifings for the delegates included a review of current bilateral relations between Canada and the Federal Republic of Germany, and a general overview of the current election issues. Professor Wilfried von Bredow, Visiting Professor of Political Science Massey College, University of Toronto attended the luncheon to brief the delegates on the complexities of the German Electoral System. He answered several detailed questions regarding the dual vote ballot and the differences between the direct election of a candidate and the party's list or second vote.

Transport to Germany was organized by the Department of National Defence with a departure from Ottawa for Lahr on Thursday evening, January 15. On arrival at the Canadian Armed Forces Bases Lahr, the delegation was welcomed by Brigadier-General J.E.P. Lalonde, Commander, 4th Canadian Mechanized Brigade Group and Brigader-General G. Scott Clements, Commander, 1st Canadian Air Group. Later that afternoon, the delegates toured the base and were shown all aspects of the work of the Canadian Armed Forces in Europe, including a Leopard Tank demonstration, the field hospital capabilities, helicopter reconnaissance and a demonstration of the new CF-18. The following morning, an indepth intensive briefing on the role of the Canadian Armed Forces in Europe and on the current terrorist threat assessment to our personnel and equipment was given to delegates by members of the Command Staff and Intelligence Branches.

The delegation then travelled by bus to Bonn where they were welcomed by Dr. Gunther Bergmann, Head of the International Relations Section of the Administration of the German Bundestag.

Sunday, January 18, the delegation was briefed by Ambassador Donald McPhail and several members of the Canadian Embassy staff on the election issues and current problem areas in the Canada-FRG bilateral relations.

Monday, January 19, the delegation met with Dr. Gerhard Reichle, Deputy Managing Director of the Friedrich-Naumann Foundation which is attached to the Free Democratic Party (FDP). Dr. Reichle explained the role of the foundations in German political life, emphasizing that they are not entitled to participate directly in any political activities but rather play a role in educating the public on political matters.

The concept of setting up political foundations was initiated following the Second World War as an attempt to educate the population on political matters in order to avoid a repeat of the situation which had brought the National Socialists and Hitler into power in the early 1930s.

He explained that, in addition to running seminars for the general public and interested persons, the foundation has taken on the role of trying to provide an educational role in developing countries or countries which are in the process of developing a democratic form of government. This came as a direct result of the federal government's decision in the 1960s to direct funds for Third World Development through non-governmental organizations (NGOs).

In the case of the Naumann Foundation, the efforts were also directed towards encouraging communication and cooperation between Liberal parties around the World, a reflection of its close ties to the FDP. This usually takes the form of international conferences and seminars to discuss current policy trends among Liberal parties around the world.

During the discussions, Dr. Burkhard Hirsch, an FDP member of the Bundestag arrived to meet the delegates and talk about the current election campaign. In view of the very busy campaign schedule, Dr. Hirsch's presence was greatly appreciated by the delegates.

Discussions covered the real and the perceived role of the foundations in regard to direct political activities. Although the foundations do not directly work for a party, an examinatin of the Board of Directors for each, indicates that at least one prominent politician from the respective party sits on its governing body.

Regarding the funding of the foundation, Dr. Reichle informed the delegates that their budget for 1987 was 60 million Deutsch Marks, of which 99 per cent would come from public funds. The amount of funds distributed to each of the party foundations was determined by a formula dividing the total amount available by the percentage of the vote received by the various political parties. The distribution will likely change based on the January 25th election results.

The Friedrich Naumann Foundation, in addition, to its headquarters in Königswinter, operates regional offices in the various Lander or states of the country.

This meeting was followed by a meeting with one of the chief election organizers for the Free Democratic Party, Mr. Klaus Pfnorr, who received the delegates in his office at the Party Headquarters. Mr. Pfnorr described the voting system in use in the Federal Republic of Germany which involves a two vote ballot. The first vote is for the candidate in the riding, and the second is a vote for the party. In the case of the FDP, the majority of their seats in the Bundestag are a result of the second vote or party vote, rather than as a result of the direct vote. The second vote or party vote is called the Land List on which each party lists, in order of precedence, candidates to represent that particular Land or State. In this way, the voter may vote for one candidate representing one party but vote for another party on the Land List. The Bundestag has 496 members of whom 248 are elected directly and 248 are elected via the Land List.

According to Mr. Pfnorr, the current issues in the election campaign for 1987 were: Foreign Policy, Economy, and the Environment. When questioned about the direction of the election campaign of the FDP, he replied that most efforts were being directed toward the second vote or List vote. Mr. Pfnorr explained that although the FDP were not represented in any of the Land legislatures, they had been an integral part of the federal governing coalitions for several years, first with the Christian Democratic Union (CDU) and Christian Social Union (CSU) to 1969; then with Social Democratic Party (SDP) to 1982 when they returned to a coalition with the CDU/CSU.

The FDP were anticipating a slight increase in their percentage of the vote due to the fierce fight between Franz Josef Strauss, leader of the CSU and the current Foreign Minister, Mr. Genscher of the FDP. A change in this post could lead to a major shift in foreign policy towards South Africa, East/West issues and the Third World.

Regarding the funding the parties receive the parties receive financing from public funds based on their percentage of the vote. The FDP anticipated that their election budget would reach approximately 6 million DM, the SPD budget would probably approach 50 million DM, while the CDU/CSU budget would probably be 100 million DMs. The large size of the budgets was based on the fact that this was a winter campaign and that more emphasis was being placed on television advertising rather than on the usual campaign literature. To control contributions to the political parties, each of the parties presents to the President of the Bundestag their books indicating donations from both private and corporations. Limitations on the size of political donations occurs only after a significant level has been reached. The exact limit was not available.

Following this meeting the delegation attended a luncheon hosted by the President of the Bundesrat, Mr. Holger Börner, Minister-President of Hesse.

The afternoon was spent meeting with representatives of the CDU party headquarters and the Konrad-Adenauer Foundation. At the CDU party headquarters the delegates were met by Dr. Roland Wegener, Head of the Office for Foreign Relations.

Dr. Wegener spent some time outlining the CDU policies on the election issues, including the growing ties between Germany and North America, the importance of the European unity in the Common Market, and the basic confrontation between the CDU/CSU social market economy and the SPD version of a state controlled economy.

When questioned about the possible result of the FDP losing their 5 per cent of the vote and the CDU receiving 39 per cent with a combined SPD and Green vote of 48 per cent, Dr. Wegener replied that in such a case the Federal President would have to decide which party would form the next government.

Questions were raised regarding the use of electronic equipment in the election campaign. The CDU has a complex system of electronic networking which ties each of the riding offices into the headquarters computer. This allows for immediate transmission of policy statements and allows for

rapid reaction from the ridings on current issues. The system also allows the CDU to communicate directly with the CSU party headquarters in Munich. Also discussed was the possibility of another grand coalition of the CDU/CSU with the SPD, from which it was noted that the two parties have drifted too far apart since the last grand coalition in the 1960s for such an action to be possible today.

On a question regarding the number and role of women candidates in the CDU, Dr. Wegener replied that women are included as candidates, but that to increase the number of women in position to be elected would require longterm planning and an increase in the number of women active at the grassroots levels of the riding associations.

The CDU active campaign strategy is to encourage voters to vote CDU on both the first and second votes. Their feeling from polls is that the CDU/CSU can probably win a majority. They also hope to pick up much of the first time and youth vote through stressing the secure economic growth currently being experienced under the CDU/CSU government. With regard to polls, Dr. Wegener informed the delegation that the CDU samples to the last day and uses the polling expertise of researchers at the Konrad Adenauer Foundation.

This meeting was followed by a meeting at the Konrad Adenauer Foundation, where Mr. Joseph Thesing, Head of the International Institute provided some background information on the Foundation and stressed its importance in the political system. He noted that the budget for the Konrad Adenauer Foundation was 140 million DM of which 90 per cent is provided by public funds. Much of the funds are directed towards political education in the Third World, with an emphasis on new Democracies in South America. Research is always an important part of the activities of the foundation, which has two methods of distributing the projects, one is to do it within the foundation and the other is to send it out to universities. Much of the research currently being carried out is on the future of the social market economy and the changing attitudes towards nuclear power as a result of the Chernobyl disaster.

With regard to the direct or indirect links to the CDU, he noted that the Board of Directors always included prominent politicians from the party. Much of the discussion revolved around what direct links existed between the foundation and the political party supporting it.

The delegation attended a dinner hosted by the Director of the Bundestag on Monday evening. Dr. Bücker had included among the guests several members of the Bundestag who were not running for re-election and some of the Berlin representatives who are not elected directly. The dinner afforded the delegates the opportunity to meet with German parliamentarians to discuss in more detail the information they had received during the day.

On Tuesday, January 20, the delegates met with Mr. Reinhard Kaiser, legislative assistant to Ms. Anne Borgmann, MP representing the Green Party. During the discussions, Mr. Kaiser elaborated on the history of environmental questions and concerns with nuclear armaments which had led to the birth of the Green Party. Their impression that neither of the major parties was willing to take an active role in reducing the amount of pollution and work actively towards disarmament and the dismantling of nuclear power plants in Germany allowed the various groups to coalesce into one political party which presented several candidates in the 1983 General Election. The Greens currently have 27 members in the Bundestag and are represented in seven of the ten state parliaments, in addition to sitting on most municipal governments.

At present, Mr. Kaiser noted, the Greens are the only political party in the Bundestag without a political foundation. In the recent past, the Greens had challenged the right of public funds going to the foundations which are not supposed to have direct links with their sponsoring political parties. The case was defeated, and dependent on the results of the January election, there is a strong possibility that the Greens will have their own political foundation within two to three years.

When questioned by the delegates on the future policies of the Greens, Mr. Kaiser replied that over the past four years, the caucus members had developed a more pragmatic approach to environmental issues, although the determination to push for strong pollution controls is still a major policy. This led to a discussion on the Greens policies towards nuclear disarmament, and Germany's membership in NATO. The response indicated that the Greens see NATO as a deterrent to complete disarmament and only the complete withdrawal of Germany from NATO would allow for any form of disarmament.

When questioned on the possible coalition of the Green Party with the SPD, Mr. Kaiser replied that the SPD would have to meet two conditions: the removal of all Cruise missiles on German soil and a move away from nuclear power plants within two years. Since the chances of the SPD agreeing to these conditions are very unlikely there was little chance of a coalition between the two parties.

Of interest to the delegation, was the attitude towards women in politics as expressed by the Greens. Of all the parties met during the visit to Germany, the Greens appear to be the party presenting the most women for office and showing the largest percentage of elected women. This was evident in the fact that in the recent state elections in Hamburg, the Greens had presented an all women slate of candidates and all 10 had been elected.

Unlike the other political parties represented in the Bundestag, the Greens do not support the German policy of Ostpolitik in East-West relations, rather, they would prefer to encourage better relations with all peoples of Eastern Europe.

The final questions of the delegates concerned the Greens prediction of their results in the January 25 elections. Mr. Kaiser stated their informal polls indicated an anticipated increase in their percentage of the vote to seven per cent.

The afternoon was spent meeting with members of the Social Democratic Party (SPD) and representatives of the Friedrich Ebert Foundation. Mr. Hans Eberhard Dingels,

International Secretary of the SPD and two of his colleagues met with the delegates. They gave an update on the election and its issues vis-à-vis the SPD. Although the party had anticipated increased support in the early fall, the loss of seats in the Bavarian state elections and the loss of the government in the Hamburg state elections had dampened enthusiasm and morale prior to Christmas. According to Mr. Dingels, this had improved substantially in the past few weeks and the organizers were anticipating their losses in the election would be much smaller than anticipated.

Much of the discussions centered on the same questions as had been posed to the CDU, FDP and Greens. Regarding the possibility of a coalition of the SPD and Greens, the reply was negative, Mr. Dingels stated that it would be impossible in view of their differences on both defence and economic issues. The SPD has changed its policy with regard to nuclear power plants since the Chernobyl disaster; they, however, see a phase-out of nuclear power over a ten year period. He also stated that, even if agreement could be reached on the larger questions, such a coalition would threaten the stability of the government over small questions.

One of the delegates questioned the effect the Green party was having on the policy directions of the SPD. The response indicated that over the past few years, the SPD had taken many of the questions on the environment and disarmament more seriously. Today, both parties were seeking the young or first time voter and the election results will indicate which of the two has been successful.

An active discussion ensued regarding the future of socialist parties in Europe and in particular in Germany. Changes in the social structures, economic bases, and in the workforce have led to shrinking ties between the traditional SPD voter and the party. The party is working closely with its foundation to try to find new directions for a society in full transformation in the 1990s. This research will be done in consultation with trade unions, churches and other elements of society.

Regarding participation of women in political life within the SPD, the response indicated that efforts were being made to encourage more women to participate at the grassroots level. Placing a woman on the ballot for direct election was difficult as most members of the Bundestag remained in power for many years; the basic problem is in convincing the local associations to accept a woman candidate. Efforts are, however being made, to ensure that women are represented at a high level on each of the Land Lists.

One of the delegates also posed the question of the use of polls during the election campaign, the response was that since the Hamburg elections there was some distrust in the poll results and that although polls were still being conducted, their results were not being used to the same degree as in previous elections. The SPD has decided not to use direct mail for convassing as it proved to be too cost intensive, however, telephone canvassing was being done in some areas. The latter is not widespread due to concerns that the average German voter would not appreciate being disturbed in his home.

This meeting was followed by a meeting with Dr. Ernst Kerbusch, the Deputy Director of the International Division of the Friedrich Ebert Foundation which is linked to the SPD. Dr. Kerbusch stated that this foundation is Germany's oldest having been founded in 1925, and that it has served as a model for the others which started in the 1950s.

Its basic aim is to foster democratic development within Germany and to provide working class students with a higher education. The foundation provides scholarships for over 2,200 students every year at both German and foreign universities. Candidates for these scholarships do not have to belong to the SPD, although many of them do eventually become members. He noted that all the foundations emphasize their research activities and that all material is published for public use, and the fostering of democratic ideals in the developing world. The foundations share a close relationship with the Ministry of Foreign Affairs of Germany, in that they also dispense much of the development aid of the government. They try to co-ordinate aid programs in the Third World, but this does not always prevent overlapping of projects. All the foundations maintain offices in the Third World but few in the developed or Western world. In the case of the Friedrich Ebert Foundation, it also maintains offices in Tokyo and Italy.

On Wednesday, the delegation travelled to Munich where they met with the Vice-President of the Bavarian Landtag, Mr. Mueslein and the Director of the Bavarian Chancellory Dr. Kessler. During the meeting with Mr. Mueslein, the delegates learned about the differences between the German federal system of government and the Canadian. The Bavarian parliament has two chambers, a House of Representatives and a Senate.

Later that afternoon, the Canadian Consul General George Blackstock held a briefing on the role of the Consulate in Munich. Its primary aim is to improve trade relations with Germany. The Consulate tries to develop links with members of the large manufacturing firms in Munich and Bavaria and encourage Canadian manufacturers to participate in the international trade fairs which offers an ideal platform to publicize Canadian products. Thursday, the delegates visited the BMW plant where they saw a modern plant which makes very effective use of robotics and semi-robotics in the assembly of their products. Some delegates inquired whether the sales of BMWs in Canada would lead to the opening of an assembly plant in the country. The answer was that sales in Canada were not high enough to justify opening a plant in Canada, however, BMW does operate a subsidiary in the Toronto area to deal with customer service and parts.

That afternoon, the delegates met with Dr. Wolfgang Held, Deputy Secretary General of the Christian Social Union (CSU).

Dr. Held expressed great optimism that the CDU/CSU/FDP would win at the elections and that any improvement in the percentage received by the Greens would be at the expense of the SPD. The primary campaign goal of the CSU in this election was to strengthen the power of the

CSU in Bonn, in particular to increase the number of CSU members represented in the Cabinet.

Although the CSU is limited to Bavaria, it feels that it is a national party representing the majority of German voters. The unique situation of the CSU lies in the traditional independence of the Bavarian people who did not wish to join with the CDU in the early 1950s as they felt it did not reflect their views on the social and political scene.

Dr. Held gave some of the historical background to the CSU and the role Mr. Franz Josef Strauss, Minister President of Bavaria, and leader of the CSU, has played in maintaining its high profile in German politics. The delegates were given an outline of some of the policies of the CSU which tended to be somewhat more traditional that those of the CDU, a reflection of Mr. Strauss' wish that the CSU hold the extreme right of the political spectrum in Germany. Although the party at its origin reflected the traditional agricultural base of Bavaria, it has continued to maintain a changing face with the changing social climate. Dr. Held noted that during the last elections, the CSU picked up many trade union votes which have traditionally gone to the SPD, a result of the CSU finding a place for everyone in its policies.

On the other hand the CSU does not make any special efforts to ensure that women can become candidates as, this is not a reflection of the traditional view of the German woman. If a woman strives to become successful in the political life, she will be supported, but the traditional view of a woman is that of homemaker and mother. It is very difficult to tell whether more women have joined the workforce as no national census has been held in Germany for 12 years and there is no accurate data available.

The delegates also had the opportunity to discuss with Dr. Held the CSU reaction to the effects of the Greens on the political scene. For the most part, the CSU does not see the Greens as a longterm viable force in German politics; their strength of today is a reflection of the weakening of the SPD forces in Germany.

Some of the discussions led to lively exchanges between the Canadian delegates and their hosts on the future of regional parties in both Germany and Canada.

Also covered in the discussions with the Deputy Secretary General of the CSU were the question of the CSU's view of the role of NATO, the answer being that the CSU sees NATO as indispensible to German freedom and the future.

On the question of German nationalism, the CSU supports the view that young Germans should take pride in being German and not let the years of the Third Reich blind them to the rest of German history. The period between 1939 and 1945 must be faced by all Germans and taken as a lesson for the future.

On Friday, January 23, the delegation travelled to Berlin, where they met with several members of the Bundestag representing Berlin. This was possible because the representatives from Berlin are not elected by the general population but rather by the Senate and these elections had already been held. This meeting, as well as the meeting with the Governing Mayor of Berlin, Eberhard Diepgen, enabled the delegates to gain a better understanding of the unique role played by West Berlin in East/West relations. During the meeting with Mayor Diepgen, the delegates questioned him on the difficulties of running a city in consultation with four governing powers, the Americans, the British, the French and the Russians. Mayor Diepgen explained that the Americans, British and French are no longer regarded as occupying powers but as protecting powers and that along the years a friendly liaison has been established. During the discussions, the delegates learned some of the problems of being an enclave territory. For example the human and industrial waste products are handled by paying the East German government to take the wastes away; this creates pollution problems for the East Germans, but their need for foreign currency seems to override the pollution question.

One aspect of the visit to Berlin which impressed all delegates was the visit to the Reichstag and the opportunity to view the Wall. The delegates were informed that although the Reichstag has been completely renovated on the inside to take a plenary session of the Bundestag, the building could not be used for this purpose until the two Germanies are re-united. In the meantime, the plenary hall is used for conferences and Bundestag Committee meetings held in Berlin.

The Berlin parliamentarians were very pleased to have a Canadian parliamentary delegation visiting their city and took every occasion to welcome them and inform them about their plans for the future and how they govern their city. During the visit this feeling was expressed by the Vice-President of the Berlin House of Representatives Mr. Alexander Longolius during a luncheon he hosted in honour of the delegation. The delegates were informed of the efforts made by the parliamentarians to ensure a viable economy and growth for the city through co-operation between the universities and industry to develop products for market.

Sunday, January 25 was election day in Germany and the delegates, having returned to Bonn to observe the elections, were able to visit a polling station to observe how the process of two votes was actually carried out. The other main difference with our system resides in the fact that the voters list is maintained at main administrative offices in each city, town or village and it is the responsibility of the voter to go there and ensure he or she is on the list.

Following the visit to the polling station the delegation went to the main Bundestag building to observe the results. During this visit, the delegation had the honour to be met by the President of the Bundestag, Dr. Philipp Jenninger who welcomed their interest in the election and explained how the results were calculated.

The delegation then split up and went to spend the rest of the evening at the various party headquarters. The pleasure of having a Canadian parliamentary delegation interested in their elections was reflected in the opportunities that were provided

to the delegates to meet with the well-known candidates of each party. Some of the delegates had the opportunity to meet the Chancellor Kohl at the CDU headquarters, others to meet Count Lambsdorff, the Economic Minister from the FDP; while another met with former Chancellor Schmidt at the SPD party headquarters.

Monday, the delegation travelled back to Lahr where as a result of the delay in the flight back to Canada, the Oberburgermeister of Lahr, Werner Deitz, seized the opportunity to host a reception in the honor of the delegation. It is worthwhile to note that this year marks the 15th anniversary of the twinning of the City of Lahr with the City of Belleville, Ontario.

In all, the visit to Germany proved to be very informative for all members of the delegation and proved once again the close ties which have been developing between the Parliaments of both Canada and the Federal Republic of Germany.

Respectfully submitted,

Original signed by:
JACK ELLIS, M.P.
Chairman

APPENDIX "F"

(*See p. 1358*)

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

THIRD REPORT OF COMMITTEE

TUESDAY, June 23, 1987

The Special Committee of the Senate on the subject-matter of Bill C-22 has the honour to present its

THIRD REPORT

Your Committee, to which was referred the subject-matter of Bill C-22, An Act to amend the Patent Act, and to provide for certain matters in relation thereto, has studied the said subject-matter and has heard evidence from almost 200 witnesses, in Ottawa and the provincial capitals. The testimony presented to your Committee reflected a wide range of opinions on all aspects of the subject. The witnesses represented a number of organizations including the pharmaceutical industry, seniors, labour unions, consumers, health care workers, and the medical and pharmaceutical research communities. The Committee also heard from private individuals and representatives of some provincial and territorial governments. We report this evidence to the Senate, for your consideration before Bill C-22 receives second reading.

EFFECT ON DRUG PRICES

The main concern of opponents to this Bill relates to the effect it will have on drug prices paid by Canadians. Rising drug prices affect all Canadians regardless of whether they can take advantage of provincially-run pharmacare programs, are part of private drug reimbursement schemes or pay all of their prescription costs themselves.

The 1969 amendments to the *Patent Act* which provided for compulsory licences to import patented pharmaceutical products were a response to what the government of the day saw as unacceptably high drug prices. These prices were the result of a patent system that granted a high degree of monopoly power to patent-holding firms, resulting in little competition in the industry.

This view of the industry in the pre-1969 period was widespread. Three major studies of the Canadian industry (the Report of the Restrictive Trade Practices Commission, the Hall Commission and the House of Commons Harley Committee) concluded that Canadian drug prices were unacceptably high.

The claim that these changes resulted in cost savings to Canadian consumers of prescription drugs has been unchallenged; there was little doubt in anyone's mind that the large-scale use of compulsory licences to import had a beneficial effect on prices. There is some debate, however, over the extent of this effect. Many witnesses referred to the findings of the Commission of Inquiry on the Pharmaceutical Industry (the Eastman Commission Report) which estimated that the compulsory licensing of patented medicines saved Canadians $211 million in 1983. This figure was challenged in the brief of the Pharmaceutical Manufacturers Association of Canada (PMAC). That brief argued that the Eastman sample of drugs included a number which were off patent and one which had no generic equivalent at that time. According to the PMAC, the appropriate calculation of the cost savings to Canadians as a consequence of compulsory licensing in 1983 is $126 million. Despite this discrepancy, even the PMAC recognized the beneficial impact of compulsory licensing on drug costs.

Other witnesses presented evidence as to the savings generated through the use of generic drugs. The government of Manitoba, for example, estimated that Manitobans saved over $14 million in 1986 by using generic products. The Ontario Hospital Association indicated that that Ontario hospitals saved about $12 million in 1983 due to the combined effects of compulsory licensing, hospitals' organized group purchasing and formulary systems.

Although generic competition has produced significant cost savings, it is evident that even further savings could be generated by the increased use of generic products currently on the market.

Statistics relating to the province of Saskatchewan presented to the Committee by the Saskatchewan Health Coalition Inc. indicated that of the more than 5 million prescriptions covered by the Saskatchewan Prescription Drug Plan, in 1984-85 approximately 2.8 million (55%) were represented by products for which generic competition was available. Yet of these 2.8 million prescriptions, 1.1 million were filled with "no substitution" orders. Similarly, the province of Manitoba stated that over 50% of the prescriptions under its drug plan could have been filled by generic products. The Saskatchewan data noted that there were few therapeutic reasons to justify the level of "no substitution" prescribing.

While there was a general consensus on the effect on prices of the 1969 amendments, no such consensus existed among witnesses regarding the effects of Bill C-22. The Canadian Drug Manufacturers Association (CDMA) argued that the Bill would cost Canadians $660 million in higher prescription prices in 1995. Although such forecasting is of course difficult and fraught with danger, the CDMA believes that this is a reasonable estimate. This higher cost to consumers comes from two sources. In the first place, generic copies of brand name drugs sell for 30% of the single-source price, on average. Secondly, brand name drug prices also fall in the face of generic competition. The CDMA argued that brand name prices fall by about 40% after generics start to compete with them.

The only extensive critique of this estimate has come from the Department of Consumer and Corporate Affairs and was presented to the Committee by the Minister, the Hon. Harvie Andre. The Department's calculation is approximately $159 million, or about one-half billion dollars less than the CDMA figure.

There are several reasons for this discrepancy. The Department feels that only 30% of drugs under 10 years of age will be subject to compulsory licensing, which is still twice as high as recent data indicate. The CDMA is of the view that one-half of such drugs will be subject to competition from generics. The Department assumes that generics will take 20% of the market they compete in, while the CDMA believes that a 40% market share is more appropriate. Finally, the two groups have different views as to the pricing of drugs in the face of competition. The Department argues that generics, on average, are priced at 50% of the single-source drug price and the advent of competition tends to drive brand name prices down by about 20%. The CDMA contends that generics are priced at about 30% of single-source prices and the advent of competition drives brand name prices down by about 40%. It is these differences in basic assumptions which account for the discrepancy in calculated effects of Bill C-22.

There is considerable debate as to which assumptions are correct. The Department's assumptions are based on recent industrial performance. In many instances, the assumptions come from the Eastman Report. The CDMA assumptions are based on a continuing maturation of generic manufacturers, enabling them to speed up the introduction of generic copies and to market them more aggressively. The pricing assumptions of that group come from the Ontario Drug Benefit Formulary of December 1986.

The primary concern of many witnesses appearing before the Committee was that Bill C-22 would result in future drug cost increases. Indeed, a number of provincial governments who appeared before the Committee cited the potential for increased costs as the principal reason for their opposition to the Bill. Some witnesses attempted to quantify these increases while others were unable to do so.

The province of New Brunswick estimated that the Bill would add $2 million annually to drug expenditures. The province of Newfoundland and Labrador noted that there were no precise estimates of the effect of the Bill but officials were clearly of the view that it would, over time, increase the cost of operating the province's drug plan. The government of Ontario presented the Committee with a range of estimated cost increases that might arise from Bill C-22. These ranged from a low of $340 million over 10 years (excluding new drugs) to a high of about $ l billion over the same period when new drugs are included. As well, the province of Manitoba's analysis indicates possible increases in the next 10 years of over 400% and a cost of delay in the introduction of generic drugs of over $1 billion.

Ontario also pointed to other costs associated with the Bill including, increased costs to the provinces to monitor drug prices and make submissions to the prices review board, increased costs to companies to generate the data requested by the Board and legal costs to both companies and governments in the challenge and defence of Board decisions.

Consumer groups, labour organizations and associations concerned with health care all felt that the Bill would result in increases in the costs of drugs. They were concerned about the impact of the Bill on health care plans run by the provinces and private insurers and the consequences for Canadians who pay their own prescription costs. Many felt that increased drug costs would erode provincial drug reimbursement schemes and have a negative impact on the health care system generally.

Senior citizens and the disabled are heavy users of prescription medicines. The Senior Citizen's Central Council of Calgary informed the Committee that seniors consumed 25% of prescription drugs in Canada although they account for only 10% of the population. These groups were worried about the effect the Bill would have on prices. Although seniors enjoy wide coverage from provincial pharmacare plans, they are not reimbursed for all expenses. Many provincial plans have a deductible component and cover less than 100% of expenditures beyond that initial amount. In some provinces, these plans do not cover the dispensing fee.

Also of concern to some is the fact that certain drugs are ineligible for public reimbursement. The British Columbia Coalition of the Disabled noted that over-the-counter drugs such as antihistamines and laxatives are very important for some people in order that they may lead a normal life. Such drugs are not covered by the B.C. pharmacare program. The N.W.T. Council for Disabled Persons noted that the pharmacies in the Territory are not required to stock generic products. The higher prices associated with this, and the already high cost of living in the north combine to make life financially difficult for the disabled.

Seniors groups were almost all of the view that drug prices would increase. The National Pensioners and Senior Citizens Federation testified that "it is the belief that many seniors will, in future if the Bill becomes law, have to pay much higher prices for all new drugs". The Manitoba Society of Seniors noted that " in Manitoba alone, a $15 million per year shortfall in pharmacare subsidies to the consumer has been predicted" as a result of Bill C-22.

The Consumers' Association of Canada, Nova Scotia Branch, indicated that the cost of certain drug plans in Nova Scotia is already increasing. Blue Cross is renewing its contracts to underwrite drug plans in that province at a 15.4% increase. The Consumers' Association wondered how much of this increase is influenced by Bill C-22.

Whatever the appropriate assumptions and results, it is clear that Bill C-22 will delay the introduction of new generic drugs and result in a cost penalty to consumers. The ultimate effect on the total drug bill of Canadians will depend upon the ability of the Patented Medicine Prices Review Board (the Board) to counter the deleterious impact on the prices of those drugs whose generic competition is delayed by this Bill.

The Committee heard testimony from the Minister that the prices review board would have a significant beneficial impact on the prices of all drugs. In most of the 1970s, drug prices in Canada increased at a slower rate than the Consumer Price Index (CPI). Since 1979, this trend changed with drug prices rising faster than the CPI. One of the factors the Board can look at in determining whether drug price increases are excessive is the CPI. According to the estimates of the Department of Consumer and Corporate Affairs, this Board could save Canadians over $500 million in 1995 if it keeps drug price increases to a rate no higher than the CPI and if drug prices would otherwise have increased one percentage point faster than the CPI. If the real increase in drug prices would otherwise be higher than 1%, and the Board can again limit increases to the CPI, the savings to Canadians will be even higher.

The Minister was very confident in the efficacy of the Board, in particular because Dr. H.C. Eastman has agreed to be its first Chairman. Other witnesses were not nearly as confident.

THE EFFECTIVENESS OF THE PATENTED MEDICINE PRICES REVIEW BOARD

The principal function of the Board is to establish whether the prices charged for patented drugs in Canada are excessive. To that end, it is empowered to conduct an investigation of a particular drug. In determining whether a drug is priced excessively, the Board is to take into account the price of that drug in the five years previous, the prices of other drugs in the same therapeutic class, the prices of these drugs in other countries, and the Consumer Price Index. If, in the opinion of the Board, these factors do not present sufficient information about appropriate pricing, it can also examine the costs of manufacturing and marketing the drug in question.

Should the Board determine that the drug price in question is excessive, it can order a price reduction or revoke the exemption from compulsory licensing for that drug and one other drug. It is these sanctions which give the Board power to affect prices.

Revoking the exemption from compulsory licensing is likely to be an ineffective weapon against excessive prices according to Apotex Inc. Witnesses before this Committee, noted that it takes several years from the time a generic producer makes the decision to supply a product to the time it can actually market a drug. A brand-name drug company which has its exemption from compulsory licensing revoked will not suffer any ill consequences for some time. Effectively, this means that a brand-name producer would have no disincentive against excessive pricing if its patented products have only 3 or 4 years of exemption remaining.

Originally, it was intended that the Board be able to revoke the exemption from compulsory licences of all a firm's patented medicines. According to the testimony of Dr. Eastman, the sanctions contained in the proposed amendments to the *Patent Act* released in June 1986 gave the Board much more power and heightened its effectiveness. The Minister, however, indicated that he felt the original penalties were excessive and thus needed to be changed.

The influence of the Board is largely one of moral suasion and demonstration. It would be virtually impossible for the Board to investigate the prices of all patented drugs sold in Canada. If it indicates by its performance that any excessive prices will result in timely investigation and penalties, pharmaceutical firms will seek to keep their prices within the limits judged reasonable by the Board.

Many witnesses before the Committee questioned the realism of such a view. In their opinion, the Board has very little real power and will have only a negligible effect on pricing behaviour.

The Committee was informed that, with competition from generic drugs, the market mechanism provides an efficient and costless price control system. A prices review board is neither efficient nor costless.

The Canadian Labour Congress testified that the British experience in controlling drug prices through a bureaucracy has been far less successful than the Canadian experience with compulsory licensing. And the British board has more powers and resources than the Canadian one will have. Evidence by Dr. Robert Kerton of the Consumers' Association of Canada also indicated that the British, French and Italian experiences with drug price review boards have been unsatisfactory. Dr. P. Gorecki noted that studies of regulatory boards in general show them incapable of holding prices down to the competitive level and indicate that they impose significant private costs upon the regulated firms.

The constitutional authority of the federal government to establish a pricing board has been questioned. The Minister of Consumer and Corporate Affairs believes that a constitutional challenge would not be upheld.

The effectiveness of the Board has been challenged on a number of grounds. The Committee heard that regulatory boards have a history of being ineffective, often serving the interests of those they are meant to regulate, rather than serving the best interests of consumers.

It is extremely difficult to judge whether or not a price is excessive. In particular, new drugs have no historical prices by which they are to be judged. If these new drugs represent significant improvements over existing drugs, then drug prices in the therapeutic class are also a poor basis for comparison. And if the drug is introduced in Canada before other markets, or if it is only available in Canada and other traditionally high-cost markets, then the Board again has little reliable information upon which to judge the reasonableness of the price. In such a case, the Board must resort to an examination of manufacturing and marketing costs. Most manufacturing, however, takes place outside Canada, and a number of witnesses have stated that quoted costs are often vastly over-inflated. Because the Board cannot subpoena records outside Canada, its power to gather evidence necessary to deal with the pricing of multi-national firms may be seriously undermined.

Some witnesses were of the view that the multi-national pharmaceutical companies' practice of importing a medicine's active ingredients, substantially inflates the price of the final dosage form of the medicine. This practice, which is designed mainly as a means of moving corporate profits from Canada to jurisdictions with more favourable tax regimes, is known as transfer pricing. In its brief to the Committee, Torcan Chemical Ltd. noted that one pharmaceutical company refused to purchase a particular fine chemical in Canada even though a Canadian producer could make the material for less than 5% of the importation price.

The practice of transfer pricing could have an adverse impact on the ability of the Board to carry out its mandate. Firstly, as stated above, if fine chemicals are imported from other countries at over-inflated costs, the introductory price of a drug may be particularly high. Secondly, the fact that fine chemicals are purchased from jurisdictions outside of Canada, coupled with the Board's inability to subpoena records from these jurisdictions is likely to weaken the Board's information gathering ability.

A concern of many witnesses was that the Board would be particularly impotent in controlling the entry price of new medicines. Since these drugs tend to drive older drugs out of the market, the fact that the Board may control drug prices may be of little comfort. If brand name drug firms believe the Board may have some effect in controlling the price increases of existing drugs, they may counter this by inflating the entry price of new drugs. Evidence cited by the CDMA indicates that drug entry prices have already been growing rapidly and excessively. Certain new drugs have been introduced at well above $1 per tablet, something that has never happened before. Three examples were provided: Carderone at $1.50 per tablet; Pepcid at $1.37 per tablet; and Tegisin at $2 per tablet. The value of these examples is not clear, however, as daily drug costs are a more relevant statistic than the price per tablet. For example, Pepcid has a recommended dosage of one tablet per day, whereas other drugs in the same therapeutic class have recommended dosages of two and even four tablets per day. The daily therapeutic cost of Pepcid is actually no different from the average in that class, despite its high price per tablet.

The Nova Scotia Federation of Labour, in its testimony before the Committee, indicated that the criteria that the Board will use to carry out its review and information-gathering process will be of utmost importance to its successful operation. The regulatory parameters within which a board must function may constrain its effective operation. Some form of parliamentary scrutiny may be necessary prior to the implementation of regulations governing the operation of the Board to ensure that they enable the Board to effectively carry out its mandate.

It should also be noted that the Board's powers with respect to ordering price reductions and removing market exclusivity apply only to patented medicines. A medicine for which the patent has expired will not be subject to the Board's remedies for excessive pricing. This may be a particular concern in the case of older drugs which serve a relatively small market or whose chemistry is difficult to duplicate. For these drugs, there will be no price review mechanism and no generic competition.

The Board does not have authority to investigate and control the prices of generic equivalents, whether or not they are supplied under compulsory licence. A brief sent to the Committee by the New Brunswick government argues that this is a major weakness in the Board's powers. Although generic medicines are usually viewed favourably because they compete solely on the basis of price, evidence

presented to the Committee indicates that a small amount of generic competition may not be sufficient to ensure that prices are not excessive. A brief presented by the Medical Reform Group of Ontario indicates that a single generic competitor reduced prices in Ontario to 81% of the most expensive brand price in 1985. It was only after four generic products were on the market that the lowest price fell to about one-half the most expensive price. The same brief showed that the rate of price decline in Manitoba was much faster. Nevertheless, these data indicate that the first one or two generic products might, for the most part, enjoy part of any excessive prices charged by brand-name drug manufacturers.

The particular concern of the New Brunswick government in this regard is that "...generic manufacturers may attempt to rectify lost future anticipated revenue due to the delayed entry of new generic products by increasing prices substantially." If this proves to be the case, then generic competition, even where it continues to exist, will not have the moderating effect on drug prices that it had in the past.

EFFECT ON RESEARCH AND DEVELOPMENT

A major benefit of this legislation, in the view of the Minister, is the increase in research and development (R&D) it will foster. Indeed, when questioned about the high profitability of Canadian subsidiaries despite the 1969 changes, the Minister responded that their accounting profits in Canada were high precisely because these entities did not engage in significant amounts of research and development.

The brand name drug companies have typically spent about 3.5% to 4.5% of their total Canadian revenues on research and development here. The Pharmaceutical Manufacturers Association of Canada has made commitments to increase this ratio to 8% by 1991 and 10% by 1996, if Bill C-22 is passed. This commitment is a *quid pro quo* arrangement. There is nothing in the Bill to require firms or the industry to meet these higher R&D ratios.

This increase in research activity is supposed to do more than just provide employment for Canadian research scientists; it is supposed to advance Canada's position as a major player in this industry. The 10% figure for research intensity is the currently accepted ratio for world-wide research to sales expenditures. But evidence given to the Committee by Novopharm Ltd. shows that the major companies in the United States are now spending 20% of revenues on research. Indeed, these figures have been deflated by subtracting the tax credits these firms received in the United States. Gross research intensity might then be as high as 25% of sales.

Even if the PMAC companies meet their commitment of gross research expenditures equal to 10% of sales by 1996, Canada will still lag far behind the major pharmaceutical industries of the western world.

The pharmaceutical industry's commitment to increase research spending would involve an additional $1,400 million in expenditures by 1996, over and above any additional spending which would have occurred as a result of market growth. This additional spending is expected to create 3,000 new jobs by that time.

Witnesses differed in their opinions of these commitments. The PMAC has made much of them and, in testimony before this Committee, cited the new projects of 16 of its member companies, totaling over $500 million in new investments. These announcements have been made even before passage of the Bill, and are evidence, according to the PMAC, that the industry is willing to meet its commitments without delay.

The current Canadian tax system rewards scientific research and development activity by allowing a 100% write off for such expenditures (both current and capital) and by providing an additional deduction whenever such expenditures exceed some base amount. Part of any new industry investment will thus be financed by Canadian governments. This leaves open to question, the financial contribution made by the PMAC group of companies in exchange for greater periods of exclusivity. The Consumers' Association of Canada questions "just how much of the $1.4 billion in 'new' investment which is supposed to result from Bill C-22 will in fact be tax-assisted, whether in the form of tax credits, grants or matching funds. How much of this investment will actually result from incentives other than Bill C-22?"

Many witnesses were not confident about the PMAC meeting its R&D commitments. The CDMA commented that the Bill offers no guarantees and does not contain effective enforcement provisions. They felt that cabinet and parliamentary reviews of the legislation are cumbersome ways of effecting compliance with industry commitments. That group also suggested that much of the announced investment projects would have been undertaken in any event, coming about as a result of market growth and the necessity of remaining competitive.

The research commitments have also been denigrated on the grounds that the type of research would not be of sufficiently high caliber. Many witnesses pointed out that basic research is undertaken in large facilities in the home countries of the multi-national drug firms. It is unlikely that these firms

would establish basic research facilities in Canada. The promised research would likely be a form of clinical research. But clinical research should not be viewed in any way as unscientific. It is extremely important to the introduction of safe and effective drugs. Moreover, Canada now engages in only the last stages of clinical research although it is well placed to increase the scope of such activity.

Many researchers in fields of pharmacology and medicine appeared before the Committee to support of the Bill. They felt that measures to strengthen the innovative pharmaceutical industry would have a positive impact on Canadian science and health care. Bill C-22 would foster more effective collaboration between universities, medical schools and the pharmaceutical industry which would, in turn, enable the best medications to be available to Canadian patients. Many viewed the contributions of the pharmaceutical industry as essential to the maintenance and growth of medical research in Canada particularly at a time when other sources of funding are becoming more difficult to obtain.

A number of witnesses from university faculties expressed their concern about the lack of employment opportunities in Canada for university graduates in the area of pharmacology. Many of these highly qualified individuals have been forced to seek employment in the United States because adequate funding for employment and research in Canada has been unavailable. The commitments made by the PMAC to increase investment in R&D were viewed as a means to provide meaningful employment for these graduates in Canada and to build Canadian expertise.

Other witnesses noted that many benefits could arise from conducting clinical research in Canada and Bill C-22 would place Canadian universities and industry in a position to capture an increasing share of this work. Our expertise in both basic and clinical pharmacology, our health care system and diversity of population could enable Canada to advance in both basic and applied pharmacological research. Any such advancement was seen to be dependent, to a large extent, on Bill C-22.

As one clinical pharmacologist pointed out to the Committee "clinical pharmacologists are not experts in economics or economic health theories, but ... improvements in both availability of new medications, basic and clinical investigation, and excellence in teaching of new physicians will have major positive impacts on the health of Canadians."

Many witnesses noted that the Bill does not contain a definition of research, other than to adopt regulations similar to those found in the *Income Tax Act*. Although this would preclude marketing research costs and quality control expenditures being counted as research, the quality of the promised research and the calibre of the jobs to be created was still questioned.

Another line of criticism argued that much of the promised increased research activity would take place notwithstanding Bill C-22. The Committee heard that the regulatory procedures of Health and Welfare Canada are being revised in accordance with the recommendations of the Eastman Report. When such regulatory changes were introduced in the United Kingdom, clinical research for worldwide use increased dramatically. A similar response might be expected here. It was also pointed out that some clinical testing is being shifted to Canada from the United States as a result of the extremely high insurance costs there. These critics, then, do not deny that research expenditures will increase in Canada; rather, they contend that these increases would have taken place anyway.

The pharmaceutical industry in Canada is concentrated in the provinces of Quebec and Ontario. These two provinces account for almost all industry activity, with Ontario having a slightly higher share than Quebec. Most of the activity of generic manufacturers is located in Ontario. Most of the 3000 new jobs committed by the PMAC will be located in these provinces. Although Ontario will be a direct recipient of many of the promised investment dollars and jobs, the provincial government questioned whether they represented a fair return on the additional money that it believes consumers will be paying for drugs. The governments of Prince Edward Island and the Yukon Territory felt that their respective areas would not benefit from the PMAC's R&D commitments. Similarly, the government of Newfoundland and Labrador has had no assurances that it will benefit to any

significant extent. For these jurisdictions, there were few if any direct benefits to offset against anticipated cost increases.

The Eastman Report acknowledged the importance of research and development and felt that measures should be adopted to encourage it. To this end, the Report recommended that higher royalties be paid to innovative companies by generic firms. Such royalties would be based on the worldwide research and development expenditures of the pharmaceutical industry. These royalties would be paid into a fund and distributed to innovative companies on the basis of their research and development expenditures in Canada. The approach to stimulating research in Bill C-22 differs substantially from that recommended in the Eastman Report.

EFFECT ON THE GENERIC INDUSTRY

The changes to the *Patent Act* as incorporated in Bill C-22 do not eliminate the market for generic drugs in Canada. All generic products which are currently on the market, with one notable exception, are unaffected by this Bill. The generic industry has grown significantly since the introduction of compulsory licensing to import in 1969. It is a maturing industry, growing in numbers and financial strength.

The CDMA has argued before this Committee that the establishment of a truly Canadian pharmaceutical industry can only come about through the growth of indigenous Canadian firms, and those are the generic companies. Evidence presented by the PMAC indicates that the generic part of the industry will not be adversely affected by this Bill, and the generic firms have never claimed that it will. However, the Bill will significantly lower the future growth of sales of generic firms and slow down their evolution into large and diversified companies like the member firms of the PMAC.

The PMAC group of companies, as a whole, have not been adversely affected by the 1969 changes to the *Patent Act*. A number of individual companies have been seriously harmed, however. In a similar vein, the CDMA group of companies, as a whole, will not be seriously harmed by Bill C-22. But some individual firms may bear a disproportionate share of any of the Bill's deleterious effects. The provisions relating to the pipeline drugs are a case in point, as noted by Dr. Eastman.

In particular, Apotex Inc. will be placed in extreme jeopardy by this Bill. According to the company's brief it has expanded rapidly in the past few years on the basis of the current *Patent Act* and in anticipation of pending approvals of new products. The company is especially concerned about the retroactive provisions of Bill C-22. Apotex is currently supplying the medicine Rinitadine under compulsory licence. With the implementation of this legislation, this drug can no longer be imported.

PERIODS OF EXCLUSIVITY

The *Patent Act* currently provides a 17 year monopoly to patent holders to exclusively make, use and sell a patented product in Canada. The ability to obtain a patent is not dependent on the nationality of the applicant or the location of the research and development expenditures which lead to the invention. The period of patent exclusivity applicable to patented medicines is limited by provisions of the *Patent Act* which require the Commissioner of Patents to grant a licence for the importation or manufacture and sale of a medicine made from a patented process. The royalty rate established by the Commissioner for such licences is 4% of the value of a licensee's sales.

Before a patentee and a generic company can bring their respective medicines on the market, they must demonstrate the safety and efficacy of the drugs and obtain a Notice of Compliance from the Department of National Health and Welfare.

The Eastman Report noted that it takes an average of 11.5 years for a generic copy of a brand-name drug to come on the market. The CDMA is of the view that this period of time has been effectively reduced to about 6 years by virtue of the current level of development of the generic industry.

Proposed changes to the compulsory licensing system which would have provided some form of increased patent protection were suggested in a 1983 discussion paper issued by the then Minister of Consumer and Corporate Affairs and by the Eastman Report in 1985. The latter recommended a four year period of exclusivity from compulsory licensing. In his brief to this Committee, Dr. H.C. Eastman indicated that changes to the current compulsory licensing system were required, even though it has produced benefits. In his view,."...the increasing number, financial strength and efficiency of generic firms and the very low royalty rates under which licences are issued means that they can and will eventually create market conditions under which the patentees could not recover the costs including a prorata Canadian share of worldwide research and development costs." Dr. Eastman further concluded that the introduction of periods of exclusivity from compulsory licensing would result in Canadians paying their share of the worldwide research costs of innovative drug companies and would ensure that there would be no disincentives to these companies to introduce new drugs in Canada.

Bill C-22 would guarantee innovative drug companies a period of 10 years exclusivity from compulsory licences to import or seven years exclusivity from licences to manufacture where an innovative company receives its NOC for a drug after 27 June 1986. Patented medicines for which NOCs have been issued on or before 27 June 1986 and for which generic companies have obtained either NOCs or compulsory licences but not both would be entitled to seven years protection from compulsory licences to import. Medicines for which NOCs have been issued on or before 27 June 1986, but for which neither compulsory licences nor generic NOCs have been issued, would have eight years of market exclusivity. Compulsory licences to import would not be available for a Canadian invented and developed drug, while compulsory licences to manufacture such a drug would only be granted if the inventor fails to make the drug in Canada after seven years from the date that it receives an NOC for the drug.

The draft version of Bill C-22 issued by the Department of Consumer and Corporate Affairs in June 1986 contained provisions which essentially required an innovative company to earn its right to market exclusivity. The draft legislation required innovative companies to manufacture or source fine chemicals in Canada within two years of receiving their NOCs in order to maintain their exemption from compulsory licences to manufacture. This condition called for commitments by individual companies rather than global commitments by the pharmaceutical industry. Bill C-22 contains no such provision. Only companies which produce Canadian invented and developed drugs are required to manufacture these drugs in Canada within a period of time in order to maintain their greater degree of market exclusivity.

The CDMA, in its brief to the Committee, noted that the requirement for innovative companies to manufacture drugs in Canada in order to maintain their market exclusivity would have the following effects: (a) fine chemical technology would be transferred to Canada; (b) the ability to use transfer pricing for the purposes of tax shifting would be reduced; and (c) the prices review board would have a Canadian cost base for assessing the costs of making pharmaceutical products.

In its brief to the Committee, Torcan Chemical Ltd., noted that the June 1986 legislative proposal would have encouraged domestic fine chemical manufacturing "which would serve as the cornerstone for the development of a comprehensive drug discovery program in Canada". Torcan also felt that changes to our patent policy respecting medicines should ensure the availability of inexpensive drugs and provide incentives for the the development of a "homegrown" pharmaceutical industry. In Torcan's opinion, Bill C-22 has not effectively addressed these issues. Linking the degree of market exclusivity with requirements to manufacture or source fine chemicals in Canada would be an important step towards keeping drugs prices at reasonable levels and ensuring increased research and manufacturing in Canada.

A number of witnesses supported the current compulsory licensing system and recommended that no changes be made. The province of New Brunswick was of the view that the current policy has "worked to the benefit of individual consumers, private drug plans and provincial reimbursement schemes ..." and wondered why a change should be made to a system which, in its view, works so well. The Consumers' Association of Canada felt that the 1969 amendments have been a success and

preferred to see the status quo continue. Retention of the current system was also urged by a number of senior citizens and health care organizations who succinctly and forcefully stated to the Committee "If it ain't broke don't fix it."

The Consumers' Association of Canada and others, alleged that the initiative for Bill C-22 came not from Canada but from the United States as part of the free trade negotiations. The issue of pharmaceutical patent protection is viewed by Americans as a trade irritant which must be resolved before a free trade agreement can be signed. Proceeding in this manner may have the result of burdening Canadians with the costs of Bill C-22 even if no free trade deal is ever reached. The CAC and the Canadian Labour Congress both pointed out that the existing Canadian system is viewed favourably by many observers around the world. The American industry views it as a dangerous precedent for other countries, and even the United States.

Many witnesses, however, favoured some period of market exclusivity during which innovative firms could market their medicines without generic competition. But there were varying opinions expressed regarding the length of such a period of exclusivity. Some felt that the 10-year period contained in Bill C-22 was too long. Several witnesses recommended that the Bill be amended to adopt the Eastman Report's recommendations of a four-year period of exclusivity and the establishment of a pharmaceutical royalty fund to reward research efforts in Canada. Many witnesses involved in pharmacological research who appeared before the Committee favoured the periods of exclusivity set out in the Bill. They felt that the current policy of compulsory licensing was unfair to innovative companies. Bill C-22 was viewed as a means to increase pharmacological research and development in Canada and provide employment opportunities for university graduates. Some witnesses felt that the periods of exclusivity provided for in the Bill would encourage manufacturers to introduce a new drug at a lower price than would otherwise be the case under the current system since they would have a guaranteed period of 7 or 10 years to recoup their costs.

Dr. Eastman indicated that he preferred the recommendations contained in his 1985 report but found the Bill adequate. However, he did suggest that the seven-year period of exclusivity provided for certain pipeline drugs."might do considerable harm to generic firms that have committed resources to business plans predicated on compulsory licences that have already been granted."

EFFECT ON HEALTH CARE

Few countries regulate the cost of drugs by restricting the patent protection afforded to pharmaceutical products. But many nations have some method of limiting drug costs whether it be by controlling the number of drugs eligible for public reimbursement or setting allowable profit margins. All Canadian provinces operate programs which provide for some form of reimbursement for the costs of prescribed drugs, and most provinces have adopted measures to limit the acquisition costs of such drugs. The availability of lower-cost generic drugs has had an impact on provincial health care budgets and has resulted in savings which might not otherwise be available.

There has been considerable debate as to whether Bill C-22 will have an impact on health care costs. At the present time, prescription drugs comprise approximately 5% of these costs. Many witnesses argued that any increases in the cost of drugs will place an additional burden on already constrained health care budgets, the end result of which may be reduced levels of services and cutbacks of vital programs.

The Canadian Federation of University Women felt that higher costs would place Canada's health care system under increased financial stress. Both the Newfoundland and Labrador Command of the Royal Canadian Legion and the Manitoba Association of Registered Nurses pointed out that it was only reasonable to believe that higher drug costs will force the provinces to increase their charge for premiums or cut back on the benefits which they provide for other services. The Alberta Teachers Association was concerned that the net result of the Bill would be an erosion of funds available for

education and other social services. Senior citizens were particularly concerned about possible changes to the health care system which could impact negatively on their limited financial resources.

The PMAC contended that the Bill would have a positive effect on health care. Medicines invented by brand name companies ultimately make the health care system more affordable. They also argued that the greatest portion of the savings generated through the use of medicines can be attributed to a brand name manufacturer's invention of a medicine rather than a generic company's copy.

A number of medical researchers were of the view that the Bill would lead to improved health care and in so doing may reduce overall health costs. The drug Tagamet was cited as an example of a medicine which saved millions of dollars annually in surgical and health care costs and gave ulcer patients an improved quality of life. One pharmacologist felt that if Bill C-22 was not passed "... the condition of medical research in Canada will deteriorate, and its future health will depend solely on government funding in a climate of fiscal restraint", a prospect which he did not view happily. In its brief to the Committee, the Ontario Medical Association noted that Bill C-22 must be viewed from the perspective of the patient who expects and deserves access to the best possible pharmaco-therapy. They felt that Canada would be best served by creating a positive business climate from a "thriving, innovative pharmaceutical industry that promotes clinical research, product development and the early introduction to patients of important research discoveries".

A particular issue regarding health care costs that arose during the Committee's proceedings was the effect of Bill C-22 on the so- called."pipeline drugs". There are a number of drugs in the compulsory licence pipeline. As indicated elsewhere in this Report, these medicines are entitled to either seven or eight years protection from compulsory licences to import. These restrictions will effectively delay the introduction of lower-cost generic equivalents by some four to five years.

Representatives of various provincial governments testified as to the effect of this delay on their provincial health care budgets - budgets which were in many cases based upon the forecasted availability of generic copies of certain pipeline drugs. They also felt that the longer periods of exclusivity generally provided by Bill C-22 may produce price increases.

No provincial government appeared before the Committee in support of the Bill. The governments of Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, Manitoba and Ontario testified before this Committee and all five were opposed to this Bill. The government of New Brunswick sent a brief to the Committee stating its opposition. A press release of the Quebec government, indicating its support for the Bill was made available to the Committee.

The Ontario market for prescription drugs is the largest in Canada, accounting for 40% of the total. The Ontario Drug Benefit Plan which covers 1 million seniors and 1/2 million persons on social assistance cost the Ontario government about $300 million in 1984/1985. The rapid growth of these expenditures since 1975 is expected by the government to increase even further with Bill C-22. This increase may even make the plan untenable.

The governments of Prince Edward Island and Newfoundland and Labrador both objected to Bill C-22, primarily on the basis of potentially increased drug costs. Neither government estimated the extent of these increased costs. But they did cite the existence of the $100 million transitional fund as evidence of higher drug costs and disagreed with the method of distributing this fund. It was argued that the proposed method of distribution does not reflect regional differences in drug programs and differences in provincial ability to pay.

These two provinces brought a unique perspective to the Committee. Residents of Atlantic provinces tend to have lower wage rates and incomes than the Canadian average. The degree and scope of drug plan coverage is also below average. However, the proportion of the population older than 65 years of age, who tend to be high drug users, is above the national average in P.E.I. Any increase in drug costs would hurt residents of these provinces disproportionately. Yet Atlantic Canada can expect to get only a small share of any increased research activity which might take place as a result of the Bill.

In the north, medical care is often affected by the remoteness of small communities. Little competition exists at the retail pharmaceutical market and many residents purchase their drugs in the south whenever possible. There is little room for residents of the north to absorb price increases.

The Manitoba government also voiced its opposition to Bill C-22, It argued that the industry is in no need of additional assistance or protection, noting that industry growth and profitability are well above the average for manufacturing as a whole. That government also felt that the research commitments of the PMAC are not very convincing. As a consequence, the cost of Bill C-22 in the form of higher drug prices is not countered with guaranteed research benefits nor is it needed to maintain the viability of the pharmaceutical industry in Canada.

The following presents a more detailed account of the provincial positions on this Bill.

The government of Prince Edward Island objects to Bill C-22 primarily on the basis of potentially increased drug costs and feels that the Bill may not be the right answer.

The percentage of elderly citizens in that province significantly exceeds the Canadian average (approximately 12.3% versus 9.7% for Canada) and income levels are between 75% and 80% of the national average. Health care costs in terms of a percentage of Gross Domestic Product, have been consistently the highest of any provinces. The smallness of the province makes it difficult to deliver high quality basic programs to its residents and cost increases may have a disproportionately negative impact.

Although P.E.I. was unable to quantify the amount by which drug costs would increase, it was felt that any increase could have "...a dramatic effect on programs which serve... senior citizens".

The province is not opposed to granting innovators some period of exclusivity but believes that maximum exclusivity should be granted to those who develop new drug entities and those with products which result from research and development conducted in Canada.

The Minister of Consumer Affairs and Communications and the Minister of Health appeared before the Committee on behalf of the government of Newfoundland and Labrador. They expect the Bill to result in higher drug prices and for this reason they oppose its adoption. They are also pessimistic about the PMAC's R&D commitments. The Minister of Health noted that increased costs for health care services have placed a great deal of strain on provincial resources. Although he could not quantify the impact of Bill C-22 on health care costs, the Minister believes that the cost of operating Newfoundland's drug programs would increase, thereby compounding current financial pressures. They concluded that the net effect of the Bill would be "higher prices of drugs to all consumers, higher premiums on those enrolled in drug plans, increased costs to provincially-operated drug programs, and no significant development or increase of pharmaceutical-related manufacturing and/or research work for Newfoundland and Labrador". Any changes to the present compulsory licensing system should, in their view, take into consideration the recommendations of the Eastman Report.

The Yukon government feels that the Bill is not "... in the best economic or health interest of Canadians". That government questioned why health care dollars should go to support already profitable multi-national drug companies. In its view, serious consideration should be given to adopting the Eastman Report recommendations or limiting exclusivity to those companies who are carrying out the synthesis, manufacturing and compounding of drug products in Canada.

The government of Manitoba does not support Bill C-22. It feels that the Bill would have a significant impact on raising drug prices in exchange for research and development commitments by the brand-name companies which are dubious at best.

That government endorses the recommendations of the Eastman Report with respect to the speeding up of preclinical new drug submissions, toxicology studies, new drug submissions and the issuance of notices of compliance. These steps would benefit Canadians by introducing new drugs 2 to 3 years earlier, reducing drug prices and increasing research investment by 50%. Apparently, the Manitoba

government does not endorse the other Eastman recommendations. With respect to the regulatory changes outlined above, the brief states "we are pleased to note that steps are being made to speed up the new drug evaluation process. We question whether other economic incentives are necessary."

The Ontario government recognizes the need for some changes to the *Patent Act*. The government is opposed to the Bill, however. Expenditures under the Ontario Drug Benefit Plan (ODB) have increased rapidly over the past ten years. The Bill will add to that growth, so much so that "the government of Ontario believes that Bill C-22 could increase ODB costs to the point where this important health care benefit in Ontario could become financially untenable." The total costs of this Bill to Ontario taxpayers might reach $1 billion over ten years.

In addition to these obvious costs, the Bill is expected to add substantial costs in other ways. The Board must be organized and staffed. To keep track of drug prices in Canada will likely cost more than the projected $500,000 annual figure. Drug companies must incur costs to generate data requested by the Board while individuals and provincial governments incur costs in order to make submissions to the Board. If legal challenges result from the Board's decisions, further costs arise. By replacing market competition with a regulatory board, a wide range of expenses are created which are often overlooked.

Ontario questioned the quality of the promised research expenditures, noting that most existing expenditures in this regard constitute clinical testing only. It also noted that much of this increased activity will be offset by a reduction in the growth of the generic sector. In summary, the brief concluded that "...our Ontario evaluation indicates that the federal government has overestimated the benefits of Bill C-22, and to a great extent, underestimated the Bill's associated costs."

The government of Ontario recommended that a minimum period of four years of market exclusivity be granted to a new drugs. This would increase to seven years if the fine chemicals are sourced in Canada and final dosage forms are compounded here. This period of market exclusivity would increase to ten years if the product had been priced fairly, the view of the Board, in the first seven years. If, in addition to the above requirements, the research and development leading to the discovery of the drug was carried out substantially in Canada, the period of exclusivity would be twenty years. This latter recommendation is largely consistent with the provisions of Bill C-22.

The Ontario brief also proposed "that the provinces be granted the right to a waiver to the federal *Patent Act* in terms of the exclusivity period granted to new drug products. This would only apply when the province acts as a purchaser and distributor of medicines to institutions."

The government of New Brunswick expressed its concern over Bill C-22 in a brief sent to the Committee and indicated that this position has been held for the past two years. The province feels that the existing system works very well and sees no essential reason for changing it. Indeed, the Canadian system is viewed by many in the U.S. as a model to emulate. Although some argument might be made for changing the current system, Bill C-22 provides an excessive amount of exclusivity.

As an example of the consequences of this Bill, the brief cites the case of Zantac. The provincial drug plan spends $1.6 million per year on this drug, an amount equal to 4% of program costs. This is considered excessive by the province. The generic equivalent, Ranitidine, could save the province at least $250,000 per year. This product may be adversely affected by Bill C-22.

The government made five recommendations in its brief. It recommended that: 1) the period of exclusivity should not exceed 4 or 5 years; 2) patent protection should be tied to the sourcing of fine chemicals in Canada; 3) the Patented Medicine Prices Review Board should have the power to control generic drug prices; 4) the $100 million transitional fund should be increased and extended beyond four years; and 5) "me too" brand-name drugs should be priced at no more than 80 % of the original brand-name product.

The governments of Nova Scotia, Quebec, Saskatchewan, Alberta, British Columbia and the North West Territories did not make representations to the Committee. However, the Minister of Industry and Commerce for Quebec issued a press release concurrently with the Committee's hearings in Quebec City on June 12, 1987 which reaffirmed the Quebec government's support for the Bill and urged its speedy adoption. Noting that a large portion of the Canadian innovative pharmaceutical industry is located in Quebec, the Minister stated that it was urgent that adequate patent protection be provided to this sector. Quebec stands to gain a substantial number of the investment dollars and jobs promised a by the PMAC.

The Bill gives the Minister of Consumer and Corporate Affairs the authority to pay to the provinces the sum of $100 million over a four-year period ending in 1991. The Minister indicated that this sum is designed to compensate the provinces for increases in the cost of drugs that might arise from the delay in the introduction of generic equivalents of the pipeline drugs. The federal government estimates that the provinces can expect expenditure increases in the order of $95 million over four years as a result of this delay. Several witnesses, including some of the provinces noted above were of the view that $100 million may not be sufficient to cover anticipated expenditure increases. The Committee also heard evidence that the manner in which the $100 million is to be distributed may be inequitable. Some argued that provinces with particularly generous drug reimbursement programs will suffer disproportionately high cost increases. Others noted that the poorer provinces will find it extremely difficult to fund programs, which are already financially strained, in the face of expenditure increases. The Atlantic provinces are in such a situation, and the Committee has heard suggestions that the fund be distributed according to the formulas used to distribute equalization payments.

REVIEWS BY CABINET AND PARLIAMENT

The Bill provides for two reviews of the changes to the compulsory licensing system that it will create. Firstly, upon the expiration of four years after section 41.11 comes into force, the Cabinet can review the operation of the system and either reduce or revoke the periods of protection provided for. Secondly, after the expiration of nine years, Parliament will conduct a comprehensive review. The PMAC indicated to the Committee that it welcomed these reviews and viewed them as a mechanism to ensure that its R&D commitments would be met. Others felt that the Cabinet review mechanism was somewhat deficient because it was not a mandatory review and because it did not provide for the automatic suspension of the prohibition against compulsory licensing in the event that the innovative companies do not fulfill their R&D commitments.

The Cabinet review mechanism has also been questioned as part of the general critique of the pharmaceutical industry's R&D promises. The fact that an industry association makes the promise but an individual firm undertakes the investment is a concern. There is a possibility that some firms will attempt to play the "free rider" in this regard. Some witnesses questioned why benefits should be given to an entire industry when only a handful may be willing to invest here. Others wondered whether the government would penalize an entire industry, including those who make investments in research which exceed their expected share, just because some firms refuse to make any investment expenditures. It is true that the prices review board can now publish company statistics on sales and research, and it is hoped that this provision will provide an element of moral suasion for individual firms to meet or even exceed investment targets.

CONCLUDING REMARKS

Your Committee has spent a great deal of time and effort studying the subject-matter of Bill C-22. In the process it has heard from many witnesses, representing hundreds of thousands of Canadians from all facets of society. Witnesses who appeared before the Committee were mostly opposed to the Bill in its present form and they represented large numbers of Canadians. The majority of the Committee is inclined to agree with their opinion.

Bill C-22 has not yet passed second reading in the Senate and we felt it would be best to report the concerns of Canadians on this subject and allow the Senate to use this information in making its decision on second reading.

Respectfully submitted,

M. LORNE BONNELL,
Chairman.

THE SENATE

Thursday, June 25, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE JOHN MORROW GODFREY

NEWSPAPER REPORT OF INTERVIEW—APOLOGY AND CORRECTION

Hon. John M. Godfrey: Honourable senators, in a widely reported telephone interview with a Canadian Press reporter, I referred to senators who were physically incapable of taking their seats in the Senate as "vegetables." This was a thoughtless, cruel and inaccurate expression which I deeply regret and for which I sincerely and unreservedly apologize.

The Canadian Press article further stated:

> In the late fifties, the Senate set up a committee to review the attendance record of Nova Scotia Senator Charles Hawkins. But he died before the committee decided whether to kick him out or not.

I made no reference to Senator Hawkins in my interview and, in fact, had never heard of him before. I was informed by a member of his family that Senator Hawkins' attendance record was excellent and, in fact, he was an active chairman of a committee and that no such Committee of Review was ever set up.

S.A. Kuntz's book *The Modern Senate of Canada*, at pages 165-166, states that such a Committee of Review was set up on January 15, 1957, with respect to Senator Joseph James Duffus from Ontario, who died shortly afterwards.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I want to make one comment to reinforce the statement made by Senator Godfrey about the late Senator Hawkins from Nova Scotia, whose name was mentioned in that article which cast unfair, inaccurate and serious aspersions on his performance as a senator.

Senator Hawkins was a member of the Senate of Canada when I was first elected to the House of Commons. I knew him as a very serious member of the Senate, who was on the job all the time. I very much regret that, even inadvertently, that reference was made in the newspapers, which casts reflections upon his memory and which has caused deep pain to members of his family.

TRIBUTES ON RETIREMENT

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this may be the appropriate time for us to recognize the fact that after today we will not be enjoying—or, for that matter, not enjoying—interventions by Senator Godfrey.

We sometimes pay tribute to retired senators when they are not present to hear our remarks.

Perhaps Senator Godfrey could just confirm that I am correct that he will be leaving us today?

Hon. John M. Godfrey: Yes, you are.

Senator Frith: Then, I would like to say a word or two about my old friend, Jack Godfrey, who, speaking metaphorically, was a comrade-in-arms in party work for the Liberal Party of Canada and Ontario. At that time there was not the division between the two parties that there is today, or perhaps I should say they were not in two different divisions. These days one must be very careful in one's choice of words, especially with Senator Murray lurking in the reeds, ready to snap at the slightest double entendre.

At any rate, senators may not want to hear the long, perhaps to them, boring details of my personal friendship with Jack Godfrey, and of the time we spent together working for the Liberal Party. Although I could find lengthy ways to say what I am about to say, what it comes down to is that very few senators, if any, can claim to have served in the Senate with the attention and awareness of duty, with the faithfulness to responsibility as a senator, and with the willingness always to give up, in favour of Senate responsibilities, many other things that they would rather do in the way that Senator Godfrey has done. Senator Godfrey has always given his Senate responsibilities priority. He has fulfilled those responsibilities—and I will use a tired word, perhaps that is why it is used so often; I don't want not to use it just because it is overused—he has done it with distinction, with talent and with honour. I believe that we as his fellow senators owe appreciation and best wishes to him, to his wife, Mary, and to his children that they will all enjoy his retirement. I think I can extend those wishes and express that appreciation on behalf of the Canadian people whom he has always tried to serve with devotion.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I rise to second and support very enthusiastically the declaration just made by the Deputy Leader of the Opposition concerning our friend and colleague, Senator Godfrey. It seems to me that it is quite in character for Senator Godfrey, on this his second last day in the house, to rise for the purpose of ensuring that no statement of his would have given personal offence to anyone. While he has always been a very robust and effective debater and participant in our affairs, and while he has seldom given quarter and never asked for it, at no time in my experience here have his interventions been such as to cause personal offence to anyone.

I think honourable senators know with how little enthusiasm I view the mandatory retirement of senators. I have, in my short seven or eight years here, seen too many good people leave under that rubric, and I regret it very much. Today is a classic example. I have the melancholy duty of bidding farewell to a friend and colleague. But it also gives us an opportunity, as the Deputy Leader of the Opposition has noted, to acknowledge, while he is still in a position to reply, his splendid service to Parliament and to the country.

Our colleague, Senator Davey—who would know—has written in his book that Senator Godfrey, who was appointed to the Senate in 1973, turned out to be one of the "problem" senators.

Senator Argue: Great compliment!

Senator Murray: I think that Senator Davey might have intended that as a compliment. In any case, Senator Godfrey was not a problem to me, or to the Senate in particular, but I am sure that a senator who has sometimes been described as "the gadfly of the Senate" is not always and in every circumstance a source of comfort to the party whips and to those who believe that party solidarity must come before everything.

He came here in 1973 with impressive professional credentials as a lawyer, experienced in the world of business and community service, ranging from the Canadian Council of Social Development to the National Ballet of Canada. Since that time, and certainly during the time of my association with him here, he has thrown himself into his work as a parliamentarian. He put all of his professional qualifications and experience—and his excellent personal qualities of perseverance and integrity—to the service of Parliament and the country. He is greatly to be admired and respected for that. His contribution in this place has always been substantive and valuable.

It is said of Senator Godfrey that he has always given freely of his advice and assistance when requested, and just as freely when not requested. Indeed, he has been known to support me in debate when everyone else had abandoned me—

Senator Frith: He can't be right all the time!

Senator Murray: —and I must say that I acknowledge that fact with considerable gratitude. In fact, on the day of my appointment to this place I happened to be in Cape Breton. I turned on the television set to see Senator Godfrey being interviewed on Canada AM by Gail Scott. She was asking him what he thought of the appointments that had been announced that day. There had been three of us appointed. He replied, "I think Jim Balfour's appointment was an excellent one." I certainly could not disagree with that. She then went on to ask him whether he did not think it was rather offensive to have appointed such a partisan as Lowell Murray, and he replied that he thought it would turn out badly if I spent most or all of my time working at the organization of the Conservative Party and did not attend to my duties as a parliamentarian. With that admonition ringing in my ears, I came to the Senate in the fall of 1979; I threw myself into the work of the Senate, and so neglected the work of the Conservative Party that we were thrown out of office in the ensuing election.

[Senator Murray.]

In any case, I had the great pleasure of serving with Senator Godfrey on the Banking, Trade and Commerce Committee, and for a time I was its chairman. He brought to the work of that committee not only excellent experience and qualifications but also an independence of spirit and approach which I believe has helped to produce the excellent reputation which that committee enjoys among parliamentarians, in the business community and in the country.

His work with the Standing Joint Committee on Regulations and other Statutory Instruments is well known. The members of that committee held a farewell for him the other night, at which he was eulogized by just about everyone present, including ministers who have felt his wrath as he has toiled so hard to spare the law and the people the burden of onerous and unnecessary, and sometimes confusing, regulation.

Finally, I note his service to this country in wartime as a pilot with the RCAF from 1940 to 1945. Senator Godfrey retired with the rank of Wing Commander.

Honourable senators may be aware that in some houses of debate in the Commonwealth, certain honourable members are referred to not just as "honourable members" but as "honourable and gallant members". I am very pleased today to salute our friend and colleague as an honourable and gallant member of this place. He is an exemplary citizen of Canada who has served us with such distinction in both war and peace.

Hon. Senators: Hear, hear!

Hon. Richard J. Stanbury: Honourable senators, the Deputy Leader of the Opposition and the Leader of the Government have done such an excellent job of paying tribute to my friend, Jack Godfrey, that I will do no more than associate myself with those remarks. My experience of Senator Godfrey—over, I suppose, 25 years—has been mainly in the cradle of the Liberal Party.

In that capacity, Senator Godfrey has always been a most sincere, active and aggressive Liberal, but he is also what might be called a Liberal-Democrat in the finest sense of the word. He has built a great reputation in the business community, but he has always understood the social responsibilities of business to the people of Canada. He has been courageous to the point of defying some nasty remarks made over the years from people who did not agree with that particular point of view. His courage has been the foundation of a great deal of activity that he and I have shared in the party.

• (1410)

I will not spend time talking about his other activities in support of the arts, and his responsibility in the professional community and the business community. He has simply surpassed all expectations in every field in which he has been engaged.

When I was chairman of the Special Senate Committee on the Constitution a few years ago, I was fortunate to have Senator Godfrey as a valuable member of that committee. I have seen Senator Godfrey's performance at meetings of the Standing Senate Committee on Legal and Constitutional

Affairs and at meetings of the Joint Committee on Regulations and other Statutory Instruments.

As the Leader of the Government has said, Senator Godfrey's activities in the Senate have been of great value. We have all benefited tremendously as a result of Senator Godfrey's service to the Senate.

I know that Senator Godfrey will not stop here. He may have reached the age which requires him to leave the Senate, but he has not lost any of his verve or desire to do good things for the Canadian people. I know that we will hear from Senator Godfrey on many occasions in the future.

Hon. Senators: Hear, hear!

Senator Godfrey: Honourable senators, I am moved by these very kind remarks. I will miss the Senate. I hate to leave on such a note as disagreeing with the Leader of the Government in the Senate once again, but I must say that I believe in mandatory retirement, that I believe in inter-generational justice, meaning "give way to the younger people." Furthermore, I think I should retire before it becomes apparent to others, as it has become apparent to me, that my faculties are failing me.

I apologize for disagreeing with the Leader of the Government on this occasion, but I do believe that senators should retire at the age of 75.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA

25 June 1987

Sir,

I have the honour to inform you that the Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 25th day of June, 1987, at 5.30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Léopold H. Amyot
Secretary to the Governor General

The Honourable

The Speaker of the Senate

Ottawa

INFORMATION COMMISSIONER

ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Information Commissioner for the period ended March 31, 1987.

CONSTITUTION ACT, 1867

BILL TO AMEND (ATTENDANCE OF SENATORS)—FIRST READING

Hon. John M. Godfrey presented Bill S-13, to amend the Constitution Act, 1867, (Attendance of Senators).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Senator Godfrey: With leave, at the next sitting of the Senate. I think I should explain that after doing some legal research on my own, I came to the conclusion that the procedure by way of resolution, which I had orginally started, was wrong. That is twice in the day that I have had to say that I was wrong! We should proceed by way of a bill. So, as well as presenting this bill, I want to ask permission to withdraw the motion that I made, which appears as Order No. 11 on the Orders of the Day.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

On motion of Senator Godfrey, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

FORGIVENESS OF CERTAIN OFFICIAL DEVELOPMENT ASSISTANCE DEBTS

REPORT OF FOREIGN AFFAIRS COMMITTEE ON SUBJECT MATTER OF BILL C-62 TABLED AND PRINTED AS APPENDIX

Hon. George van Roggen: Honourable senators, the Standing Senate Committee on Foreign Affairs, to which was referred the subject matter of Bill C-62, relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and the Islamic Republic of Mauritania and also to the former East African Community, in advance of the said bill coming before the Senate, has the honour to table its ninth report.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 1418.*)

Senator van Roggen: If I may, with leave, honourable senators, I would like to make a few remarks relative to the report of my committee in this respect.

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

Hon. Senators: Agreed.

Senator van Roggen: It was of special interest to members of the committee when we received this particular bill because, while the bill was limited in scope to forgiving comparatively small amounts of debts owing by these countries, it was of significance following so shortly upon the report of the Foreign Affairs Committee of the Senate on Canada's involvement in the international financial institutions and Third World debt. We did not look at the bill too broadly but in the context of all Canadian debt owed by African countries, particularly by the countries of sub-Saharan Africa.

● (1420)

There are one or two things that are not evident in a simple reading of the bill which I think honourable senators will find interesting. First, let me say that the bill discloses that the total forgiveness of debt on this particular occasion is $68 million, and involves Togo, Mauritania, Kenya, Tanzania and Uganda. In 1977 the then government forgave some ODA, Official Development Assistance, debts of 12 least developed countries. I will not bore you with the definition of how these countries qualified. Recently, because of statistical criteria, Togo and Mauritania qualified as least developed countries, and, as a result, Canada is by this bill granting them the same debt relief that was granted in 1977 to others.

Following the dissolution of the East African Community, which was made up of three nations, Kenya, Tanzania and Uganda, Tanzania and Uganda qualified automatically as LDCs, the Canadian government decided to forgive their official debts. While Kenya is not an LDC, the government considered it equitable that as it had shouldered its share of the joint debt of the three, its debt should also be forgiven. In 1986 the government offered a moratorium on repayment of Canadian official development debt for a period of five years, with extensions to the year 2000. This offer was made to all—and I think this is important to underline—all sub-Saharan African countries demonstrating a commitment to undertake necessary economic adjustments. This forgiveness amounted to almost $700 million of which this $68 million now being written off forms part. While the remainder of the some $600 million debt of sub-Saharan African countries remains on the books of Canada as an asset, the terms are so concessionary that, to all intents and purposes, it can be considered as written off. At some point the balance of that debt will have to be dealt with as a budgetary write-off in the same way as the debt involved in this bill. Of course, it will affect the deficit at that time.

In our report we commend the government for the way it is treating the debt of sub-Saharan African countries, both in the moratorium and with regard to previous write-offs. Certainly we commend them for this particular action. The net result of all these actions is that as of today Canada has either forgiven, or all but forgiven through the moratorium, all non-commercial debt of an official nature to sub-Saharan African countries. This is a matter in which, I think, we as a nation can take great pride. It is a matter which we are now pursuing with other creditor governments, through the Venice Summit and by other means, to follow suit and do the same thing for these countries that are really so poor that to expect them to pay their debts is pointless. By this mechanism we at least send a message to these countries to the effect that we will endeavour to see that they are put in the position to pull themselves up by their own boot straps.

The committee had one concern with the bill, and that is the short title, which is "Forgiveness of Certain Official Development Assistance Debts Act." The title does not say what the debt is, to what countries it applies, or even what continent is involved. We suggest that it will be very difficult for any citizen or lawyer going to statute citators in future years, looking to find this particular piece of legislation, to have the slightest idea where it is. We think more care should be given to that aspect in future by the Department of Justice. However, we did not want to send an unfortunate message to these countries by delaying the bill on that account.

We spent considerable time on clause 5 of the bill, which specifically states that the forgiveness of debt in this bill in the amount of $68 million:

> . . . is hereby written off as a budgetary expenditure and deleted from those accounts.

That is, the asset is deleted from the books of government. The significance of that is that it will exacerbate the problem that this government has with its fiscal deficit for this year. We go on to say that we feel that the Auditor General might well take a careful look at the other $600 million or so of debt which is of equal value—namely, all but valueless—which is presently sitting on the books. That debt should also be written off as a budgetary expenditure. It would probably be awkward to do that in one year, and we can understand the government's reluctance to do that. However, if it is sitting on the books as an asset, it is really only smoke and mirrors and should be dealt with in the same fashion.

Honourable senators, this was a pre-study of this bill. I do not believe that this particular bill is on the priority list of the government to be passed before our adjournment at the end of June. If it should come over from the other place before the end of June, however, we see no reason why the members of the Senate could not deal with it here in the chamber rather than referring it back to the committee.

OFFICIAL LANGUAGES

FOURTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Dalia Wood: Honourable senators, our report today coincides with the tabling in the other place of a proposed bill respecting the status and use of the official languages of Canada. Some of the committee recommendations are included in the proposed bill and, on behalf of our committee, we are pleased to see that the government has reacted in a most positive way to the work of the committee. It is our hope that

the remaining recommendations will be included in the new regulations yet to come.

Therefore, I have the honour to present the Fourth Report of the Standing Joint Committee on Official Languages. I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 1420.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Wood: Honourable senators, I move that this report be taken into consideration at the next sitting of the Senate.

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

[*Translation*]

QUESTION OF PRIVILEGE

Hon. Jean-Maurice Simard: Honourable senators, considering the importance of this subject, the time spent preparing this report and all the work done by members on both sides of the house, for which they are to be commended, I would nevertheless like to draw to the attention of this chamber, without wishing to cast a shadow on the historic moment where we have the tabling of this report and of the new bill on official languages in the House of Commons, the fact that during the first four or five sittings of this joint committee, it was very difficult for members of the Senate to get equal time. As far as I am concerned, we see here a negation of the privileges of the members of this chamber. It was not until after several attempts were made and a motion was adopted unanimously, that senators were given the right to the same amount of speaking time as their colleagues in the House of Commons.

Meanwhile, I would like to take this opportunity to report to this chamber that a member of the Senate has been most assiduous and I am referring to Senator Guay. Of course, official languages is a subject that has been of considerable interest to him for many years.

Before I sit down, I would like to draw the attention of this house to something else. On Thursday, in committee, when there was some question of having a press conference very shortly to explain the committee's recommendations—

● (1430)

[*English*]

Hon. M. Lorne Bonnell: I rise on a point of order. Is this debatable?

[*Translation*]

Senator Simard: I think this is a question of privilege, and if Senator Bonnell would care to wait, he may get the answer he is seeking. Mr. Speaker, it took a motion—

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, did I understand correctly this is a motion to adjourn the debate?

An Hon. Senator: No.

Senator Frith: No? I thought Senator Wood moved a motion to adjourn the debate. Normally, we don't debate these motions, but we could perhaps clarify the situation by saying that Senator Simard has the Senate's permission to continue. I think that normally, there is no debate on an adjournment motion.

An Hon. Senator: Yes.

Senator Frith: I am ready to give Senator Simard permission to continue, but I think that we have to clarify further whether this is a question of privilege.

Hon. Eymard G. Corbin: Honourable senators, the point raised by Senators Bonnell and Frith is a valid one. I intended to rise on this point as well, but I certainly don't want to offend the sensitivities of Senator Simard, who certainly knows everything there is to know about defending the Official Languages Act. I think we understand each other in this respect.

Obviously, we would have to qualify whether Senator Simard is debating the adjournment motion that the Honourable the Speaker put before the house or whether he intends, for the time being, to speak to Senator Wood's report. It may be he is rising on a point of order or a question of privilege. I think that in the interests of the proceedings of this house, he should qualify the extent of his remarks and tell us whether it is a question of privilege or a point of order. I don't think he can debate the committee's report at this time.

Senator Simard: For the information of honourable senators, I have no intention of discussing the motion. I may have two questions of privilege. I mentioned the first one earlier and I am now coming to the second. If I may, I shall continue.

I referred earlier to what happened last year when Senator Guay, myself and other senators had to take action three or four times about the first problem, which concerns equal rights and equal privileges for senators on a joint committee.

We come now to the second problem. Last Monday, there was a vote about a proposed press conference, and once more the privileges of senators were infringed upon in my opinion. If I may explain, we had been informed that a press conference would be held on Friday following tabling of the report. There were to be three members of the House of Commons, one Conservative, one New Democrat and one Liberal, and only one representative from the Senate. By itself, this might have been viewed as a very secondary matter. However, I think that it is a very good indication that the members of the House of Commons could not care less about the Senate and would prefer us to be content with one representative at press conferences and elsewhere. I object to such an attitude.

After the meeting, since the resolution had been accepted, it seemed to us that the matter had been settled and that both political parties in the Senate would be represented at this

press conference. However, such was not the case, Mr. Speaker. One hour after the meeting, I had the pleasure of receiving a telephone call from an assistant clerk, who told me: "Senator Simard, the Conservatives will have to stay at home that day because there are only four chairs, not five, one each for the three members of the House of Commons representing the three political parties and one for Senator Wood". I therefore ask Senator Wood and Chairman Hamelin to solve the chair problem so that both political parties in the Senate as well as the three in the House of Commons, can be represented at such press conferences. Thank you, Mr. Speaker.

Hon. Joseph-Phillipe Guay: Honourable senators, I am in complete agreement with what Senator Simard has told us since the Senate was represented only by the joint-chairman of the committee.

I think that the Senate should have been represented by both the joint-chairman and a Conservative senator to reflect the two political parties in the Senate. This would have given us two representatives from the members of the committee. The House of Commons had three, the joint-chairman, Mr. Hamelin, Mr. Gauthier from the Liberal Party, and Mr. Epp from the New Democratic Party.

I believe that the question of privilege raised by Senator Simard is well founded and that the Senate should be represented by two of its members in such cases.

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

[*English*]

FINANCIAL INSTITUTIONS

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-56—AVAILABILITY OF TRANSLATION

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has completed its pre-study of Bill C-56, but, unfortunately, because of some delay in translation, I ask that later this day, when the report should be ready, I be given leave to revert to Reports of Committees.

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

Hon. Senators: Agreed.

ADJOURNMENT

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Friday, June 26, 1987, at 11 o'clock in the forenoon.

Motion agreed to.

[Senator Simard.]

QUESTION PERIOD

[*English*]

THE CONSTITUTION

AMENDING PROCESS—GOVERNMENT POSITION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, while the Leader of the Government was away he no doubt noticed some reports that the Prime Minister was refusing to alter the Meech Lake agreement. The impression was given that, therefore, the work of the joint committee, the work of any committees in the provinces, legislative work in that regard or, indeed, the work of the committee in the Senate might be considered a waste of time. The impression was also given that the Prime Minister of Canada thought he could ignore the constitutional amending process.

I understand that since that time the Prime Minister has explained that that is not a correct interpretation of what he said. Therefore, I give the Leader of the Government in the Senate an opportunity to explain what the government position is with regard to the amending process under the Constitution in this case.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, in my travels, I, unfortunately, missed the exchanges to which the Deputy Leader of the Opposition refers.

The position of the government is that ten provinces and the Government of Canada have committed to presenting the resolution, in identical form, in two official languages, to their legislatures for passage as it stands. That is the commitment.

Senator Frith: No more than that? That is fine. That is a simple statement of fact.

• (1440)

AGRICULTURE

NEW BRUNSWICK AND PRINCE EDWARD ISLAND POTATO INDUSTRY—EFFECT OF IMPOSITION OF EXCISE TAX ON POTATO CHIPS

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government. It has been almost a year since we had the pleasure of congratulating him upon his appointment as Leader of the Government in the Senate. At that time a number of speakers dwelt on the fact that having a senator from down east, especially from Cape Breton, lead the government troops in the Senate would be a definite advantage. In that spirit, I would like to bring the following matter to his attention. I do so keeping in mind that he is familiar with the problems of the potato industry in New Brunswick, where he spent a good part of his pre-political career—or was it part of the political career?

In any case, the problem is that the New Brunswick Potato Agency—which I believe is also speaking for the potato industry of Prince Edward Island, which is represented here by a

number of senators, including Senator Phillips and Senator Bonnell—is gravely concerned about the fact that a 12 per cent excise tax on snack foods will apply, as of July 1, to potato chips. The potato industry had objected to the imposition of this tax at the horticultural council meeting earlier this year, and it has asked parliamentarians of all shades and colours to give the matter one more try. It is with that in mind that I appeal, on their behalf, to the Leader of the Government in the Senate to try to persuade the government not to impose that tax. As I say, it is scheduled to come into effect on July 1 of this year. It will create an additional hardship for an industry that has, for years, been trying to pull itself up by the boot straps out of a very difficult situation.

As the Honourable Leader of the Government knows, there is a serious attempt to try to establish a national potato marketing board—it is an attempt, because it is not an easy exercise—and it is generally felt that this is not the time to tax the potato industry indirectly. The market for potato chips is a substantial one, and this tax could cause grave difficulties for the potato industry.

Very simply put, then, would the Leader of the Government in the Senate bring to the attention of his colleagues, particularly those concerned with regional development and agriculture, the advisability of not imposing that tax at this time because of the serious difficulties facing the potato industry?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will undertake to convey those representations to my colleagues. However, I should state that the government is preoccupied with a number of other problems facing potato farmers generally, and those in New Brunswick and Prince Edward Island in particular, and that a decision on those matters is imminent.

As for the effect of the tax on potato chips, knowing something about the product I dare express the opinion that, notwithstanding the added tax, the high quality and excellent productivity of the industry will carry the day.

Senator Corbin: Honourable senators, I would like to take a moment to bring another consideration to the attention of the Leader of the Government in the Senate. The industry would like the government to refocus on the fact that potatoes and the product derived from potatoes is very much a home-grown product. This is what distinguishes potato chips from the rest of the confectionery industry, where most of the input, if not 90 per cent or more, comes from areas outside Canada, and these products include nuts, sugars, raisins, and so on. The potato chips are totally sourced in a wholly Canadian base. Therefore, the industry does not very well understand why the government would zero in on this particular so-called confectionery produce.

This tax will hurt a primary Canadian agricultural resource. Representatives of this industry have no objection to a tax on what the government considers luxury items made up of produce which comes from offshore. But in this case, and considering the circumstances, they think that this tax is a sledge hammer blow to the industry, and they are greatly concerned.

Senator Murray: I shall convey those additional representations of the honourable senator to my colleagues.

Hon. M. Lorne Bonnell: Honourable senators, by way of a supplementary question, let me tell the Leader of the Government in the Senate that this is a very important item for Prince Edward Island. The people of Prince Edward Island have only six inches of topsoil and the water around them with which to make a living. They have no mines and they have no industries. The government has now imposed a potato inspection fee and is charging the farmers to dredge the harbours to sell their products. The government does not charge Ontario in the course of the sale of its products.

It is the children that the government is taxing here. It is the little kids—the government is taking 11 cents from a little kid for a bag of chips.

Some Hon. Senators: Shame!

Senator Bonnell: It is bad enough to charge poor, old people for drugs, but for God's sake think of the kids. Then think of the farmers who are going bankrupt every day across this country. It does not make much sense to have one hand giving a subsidy only to have the other hand imposing a tax on the children and the farmers of Prince Edward Island.

I ask the Leader of the Government to stand up and tell the Prime Minister that he is the minister responsible for the Atlantic Development Agency and that he is going to do something!

Some Hon. Senators: Hear, hear!

Senator Murray: Honourable senators, I cannot forbear to remark that Senator Bonnell is the first medical doctor I have ever known to promote the consumption of potato chips. I trust that he knows the difference between the potato chip, which is a flake, and the French fry, which is something else. My friend from Prince Edward Island, Senator Phillips, tells me that approximately 250 acres of several hundred thousand acres in Prince Edward Island would be connected with the potato chip manufacturer in particular. In any case, I shall add the representations of the Honourable Senator Bonnell to those we have already heard.

Senator Bonnell: You can do it—keep it up!

Senator Murray: I will bring those representations to the attention of the minister.

WESTERN POTATO INDUSTRY—EFFECT OF IMPOSITION OF EXCISE TAX ON RED POTATO

Hon. Joseph-Philippe Guay: Honourable senators, I have a supplementary question. In western Canada, particularly in Manitoba, we grow what we call the red potato, which is one of the best quality potatoes in Canada. It is used in great quantities by McDonald's—someone in Manitoba is growing an average of 200 acres a year to supply McDonald's.

I hope that in his consideration of those farmers in Prince Edward Island the Leader of the Government will also give consideration to westerners who are in this business. It is very important for those westerners to maintain that business because of the high quality of the potato.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sorry to think that the Honourable Senator Guay also does not know the difference between a potato chip and a French fry.

Senator Guay: I said "potato chip", in my case.

OFFICIAL LANGUAGES

PROPOSED ADVISORY COUNCIL—COMPOSITION, ROLE AND TERMS OF REFERENCE—REQUEST FOR ANSWERS

Hon. Dalia Wood: Honourable senators, I have a question for the Leader of the Government in the Senate. On May 26 last I asked several questions which were not answered. The honourable senator stated that on the tabling of the proposed bill—namely, an act respecting the status and use of the official languages of Canada—all my questions would be answered. The bill was tabled today, but my questions are still not answered.

● (1450)

According to a press release put out by the Honourable Ramon Hnatyshyn, a Canadian council on official languages will be established to advise on matters relating to the promotion of official languages in the Canadian society.

I would like those questions answered. There are six of them. The Leader of the Government may prefer to provide the answers in written form. I would certainly like them answered.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will see what further information can be conveyed to the honourable senator at this time. I would remind her, however, that the bill, which was tabled in the other place today, will eventually be going to committee. Ministers and officials will be appearing and she will have an opportunity to ask not only those six questions but 60 others, if she so desires.

Senator Wood: As a supplementary, I do not want the council to be formed before we have an opportunity to meet with the minister.

CANADA POST CORPORATION

POSTAL STRIKE—APPOINTMENT OF MEDIATOR—GOVERNMENT ACTION

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government. We are all aware that Canada Post Corporation proposed the appointment of a mediator as a gesture towards settling the current strike.

I know that Shirley Carr, President of the Canadian Labour Congress, has made a proposal to the government that an umpire should be selected. She has suggested the name of E.B. (Ted) Jolliffe, who has had long experience as chairman of the Public Service Staff Relations Board.

I am wondering if the Leader of the Government can say whether the government has made a response to what I believe is a very responsible suggestion from the Canadian Labour Congress; and, if so, what is that response?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators. The government is aware, of course, that Canada Post and the union resumed negotiations this morning for the first time since Friday. We did not appoint a mediator because, in our judgment, the parties were so far apart that the use of a mediator would not have been very useful at this time.

I will inquire as to whether any formal response will be given to the latest representations of the Canadian Labour Congress.

RECOMMENDATION OF CONCILIATOR—GOVERNMENT ACTION

Hon. Hazen Argue: Honourable senators, I believe it is correct to say—the Leader of the Government will correct me if I am wrong—that the conciliator, in his report, recommended that Canada Post be given until 1990 to bring Canada Post out of the red. But the government demands that Canada Post shall be out of the red by 1988. It is certainly the feeling of the unions that this is very onerous for Canada Post, and it is really the cause of the tremendous amount of pressure which Canada Post is placing on the unions to accept very drastic changes in their terms of employment, and is therefore the basic cause of the strike.

Is the government giving any consideration to adopting the recommendation to which I have referred?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure that my honourable friend is correct in attributing the present work stoppages and strike to the factors which he has mentioned. I should remind him that the deadline imposed on Canada Post to break even financially has been moved ahead on three occasions since legislation to create the crown agency was introduced in Parliament. It was moved ahead once before proclamation by the previous government. It was moved ahead a second time by the previous government; and it was moved ahead once by the present government. So, there have been three delays granted to Canada Post in that respect.

Notwithstanding that fact, I will see whether there is any further response that needs to be given at this time to the proposal which my honourable friend attributes to the conciliation chairman.

COLLECTIVE BARGAINING—GOVERNMENT POLICY

Hon. Hazen Argue: Today's issue of the *Toronto Star* carries a report of statements made by the Prime Minister. In

it the Prime Minister is reported as having made the following statement:

> I happen to think the post office is pretty much an essential service, and I think most Canadians do, too. But in terms of legal implications, that will be for another day, and for other people to consider in other circumstances.

Is this a threat by the Prime Minister to remove from the postal unions free collective bargaining as we know it? By making this declaration, is he removing the possibility of free collective bargaining?

I do not consider myself to be an authority on many matters, and I am certainly not an authority in any way on labour relations, but it seems to me, in a country which is proud of its freedoms, that part of those freedoms must be the process of free collective bargaining by organized unions; and that, in itself, sets Canada and other democracies apart from many nations today. I hope that the government leader in the Senate can assure me, and other honourable senators, that there is no threat by the government, implied or otherwise, to remove free collective bargaining from the postal union.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can assure the honourable senator that there is no such threat, intended or implied, in the statements attributed to the Prime Minister. If the honourable senator examines the record of the past two years, he will find that under the present government there has been an excellent record of harmonious labour relations, certainly in the public sector.

THE SENATE

FIRST MINISTERS' ACCORD—METHOD OF APPOINTMENT OF SENATORS—QUEBEC VACANCIES

Hon. Gildas L. Molgat: Honourable senators, my question is for the Leader of the Government. He will recall that we have discussed in this chamber on a number of occasions the importance of having Senate vacancies filled quickly. In view of the fact that the Province of Quebec has now officially accepted the Meech Lake accord, which provides for a new method of selection of senators, has the government approached the Province of Quebec for its list from which the government will appoint new senators?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Not yet, honourable senators.

Senator Molgat: Can the Leader of the Government indicate how soon that might be done?

Senator Murray: Not today, honourable senators.

CANADA POST CORPORATION

POSTAL STRIKE—APPOINTMENT OF MEDIATOR

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government that is supplementary to that asked by Senator Argue with respect to the postal strike. Taking into account the decision of the government not to appoint a mediator for the reasons stated, would the government still be of the view that it would be appropriate to appoint a mediator before back-to-work legislation was contemplated by the government?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Well, honourable senators, the question is quite hypothetical; but I certainly hope and expect that before we had to contemplate legislating people back to work, other attempts would be made to bring the parties to settlement.

POSTAL STRIKE—LABOUR POLICY OF GOVERNMENT

Hon. Roméo LeBlanc: Honourable senators, the Leader of the Government took some credit for what he described as good labour relations between the present government and its employees. Does the Leader of the Government consider that a roll-back of a group of employees, who have been no trouble and who, in fact, have been very cooperative with successive governments for many years—who are undertaking daily duties of delivering the mail to homes and businesses—represents good labour policy?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I suggest that the honourable senator should read with profit the statements made by Canada Post about its total position in approaching the negotiations with this union.

BRITISH COLUMBIA

SOUTH MORESBY—ESTABLISHMENT OF NATIONAL PARK—STATUS OF NEGOTIATIONS

Hon Len Marchand: Honourable senators, last Tuesday I asked whether the Deputy Leader of the Government could raise with the Leader of the Government a question concerning South Moresby Island. I welcome the renewed discussions between the Prime Minister and the Premier of British Columbia. I wonder if the Leader of the Government in the Senate could enlighten us on what is happening and, in particular, tell us whether, in fact, negotiations are taking place.

● (1500)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am informed that the Prime Minister and Premier Vander Zalm discussed this matter on Monday evening last, and that discussions are continuing between the two governments. Meanwhile, the very, very generous offer that the federal government made, amounting to some $106 million over a ten-year period, if my memory serves me correctly, is still on the table.

DIEFENBAKER CENTRE, UNIVERSITY OF SASKATCHEWAN

FINANCIAL CRISIS—REQUEST FOR GOVERNMENT ASSISTANCE—GOVERNMENT ACTION

Hon. Sidney L. Buckwold: Honourable senators, on June 9 I asked the Leader of the Government in the Senate about possible federal financial assistance to keep the Diefenbaker Centre at the University of Saskatchewan operational. At that time the Leader of the Government indicated that the government would be giving consideration to some form of assistance.

Officials of the University of Saskatchewan are starting to get very worried. The closure of that important centre is reasonably imminent, and I have been asked to keep questioning the government as to what its plans may be and whether any light may be seen at the end of the tunnel. Perhaps the Leader of the Government in the Senate could give us some information on this matter at this time.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not have very much to add to what has already been stated. The federal government did contribute $300,000 for the construction of the centre. I am told that the Public Archives Canada has been organizing and microfilming the Diefenbaker papers, with a total direct cost of at least $1,200,000.

The honourable senator knows that maintaining the centre is the responsibility of the University of Saskatchewan. However, I am aware that there are serious problems with the Diefenbaker Centre. Those problems have been brought to the attention of the government by my honourable friend and by others and are under consideration.

Senator Buckwold: Honourable senators, is it to be understood that at the moment no financial assistance is being considered for that particular centre?

Senator Murray: Honourable senators, the Right Honourable the Prime Minister has asked the appropriate officials of government to examine what options may exist with regard to this centre and the government's relation with it. That is being done.

DELAYED ANSWER TO ORAL QUESTION CANADA-FRANCE FISHERIES AND BOUNDARIES AGREEMENT

NEGOTIATIONS TO ESTABLISH FISHING QUOTAS IN CANADIAN WATERS

Hon. Orville H. Phillips: Honourable senators, I have an answer in response to a question raised in the Senate on June 23, 1987, by the Honourable Allan J. MacEachen, regarding Canada-France Fisheries and Boundaries Agreement—Negotiations to Establish Fishing Quotas in Canadian Waters.

I ask that the answer be taken as read.

(*The answer follows:*)

The second round of fisheries negotiations, scheduled to take place in Paris on June 24 and 25, was cancelled by the French government. The meeting has not yet been rescheduled. The closure of Canadian ports to French fishing vessels was cited in the French government announcement of the postponement of the June 24-25 negotiating round.

FIJI

CURRENT POLITICAL SITUATION—REQUEST FOR ANSWER

Hon. John B. Stewart: Honourable senators, under Delayed Answers some time ago I asked the Leader of the Government in the Senate a question concerning Canada's appraisal of the situation in Fiji. I wonder if before any summer adjournment we could have a response to that question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, honourable senators.

BELL CANADA BILL

THIRD READING

Hon. Orville H. Phillips, for Hon. William M. Kelly, moved the third reading of Bill C-13, respecting the reorganization of Bell Canada.

Motion agreed to and bill read third time and passed.

PATENT ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Cogger, seconded by the Honourable Senator David, for the second reading of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto.—(*Honourable Senator Thériault*).

Hon. L. Norbert Thériault: Honourable senators, first of all, I note that my colleague from New Brunswick said yesterday that I was absent for medical reasons and therefore he was adjourning the debate on my behalf. I thank him for that. However, I want to inform my colleagues that my health is good, but, in fact, I had a dental appointment I could not miss.

Honourable senators, in my seven or eight years in the Senate, this will be only the second time for me to use a text when addressing this honourable house. Those colleagues from New Brunswick who are now in the Senate and who were members of the New Brunswick legislature will know that during the 20 years I was a member of that legislature I seldom used a text. The text I am using today is by my standard fairly long. I hope honourable senators will bear with me. I point out that I am using a text because, should this bill

become law as it now stands, at least the record will show how deeply I feel about this legislation.

Honourable senators, the government seems to be ready to push Bill C-22 through the Senate. I think it is the duty of all conscientious Canadians to oppose this piece of legislation. Not only will this bill be detrimental to the well-being of Canadian citizens but its intent—that is, to satisfy American multinational pharmaceutical companies—is an outrage.

Bill C-22 proposes to bring us back to the period prior to 1969, the year in which the Liberal government amended the Patent Act to give sick and needy Canadians a break on their drug bills.

Before 1969, Canadians were charged some of the highest drug prices in the world. Since then, the situation has been reversed, and Canadians now pay some of the lowest drug prices in the developed world, thanks to a government that was not coerced into changing this legislation but which acted in the interest of the Canadian people.

Let me trace some of the steps which led to the Liberals amending the Patent Act in 1969.

[*Translation*]

The Patent Act was established in Canada in 1923. It provided for the issuance of production licences for proprietary drugs. However, it also required that the active ingredients be manufactured here, in Canada. Because of that requirement, the manufacturing in Canada of copied drugs was barely profitable, and the Patent Act remained ineffectual in that area for a number of years.

However, changes became apparent at the end of the 50s and in the 60s. At that time, there was a dramatic change in people's attitudes and government policies toward that industry.

What caused those changes?

First, the publicity surrounding congenital malformations in children of women who used the thalidomide drug during pregnancy, between 1955 and 1961. Second, the findings of the Kefauver Commission in the United States—according to that Commission, the drug industry priced its drugs too high and, moved by the profit motive, often neglected the public's interests, as happened in the case of thalidomide.

A series of Canadian government agencies looked into the question, among which the Restrictive Trade Practices Commission in 1962-63, the Hall Commission in 1964, the Harley Commission in 1966-67.

Having found that Canadian drug prices were among the most expensive in the world, those commissions recommended that patent protection be reduced or even abolished.

The work of those commissions provided a basis for the changes made by the Liberals to the Patent Act. Honourable senators, I was at the time Minister of Health in New Brunswick, and I can state that those changes were welcomed not only by the government I was part of, but by all citizens in New Brunswick who, for the most part, had no health care plan to cover the cost of drugs they absolutely needed.

Over the years, provincial governments increasingly assumed health program funding, covering thereby the costs of drugs for many target groups. Those programs were made possible by the actions of the then government in 1969.

However, many people in my province, and overall more than four million Canadians still have no plan covering the cost of drugs. But thanks to the foresight shown by the Liberal government, they benefit from very low drug costs. Amending the present system by passing Bill C-22 would create a real danger for millions of people, who could no longer afford drugs that are essential to them.

• (1510)

[*English*]

The amendment of 1969 has, without doubt, been beneficial for all sick Canadians. However, the American multinational drug companies have since cried out against lost profits! Others, such as my colleague, Senator David, in his speech in the Senate on May 13, 1987, spoke "of closures, transfers of laboratories and layoffs of scientists and technicians." They seem to believe, of course, that all of this is directly related to the compulsory licensing that started in 1969. This would appear to be quite shocking.

But let us not deal in generalities; let us delve into the facts. Senator David was no doubt referring to the pull-out of such Montreal-based multinationals as Ayerst, Hoffman-Laroche, Smith/Kline and Pharma-Research, which the Canadian Pharmaceutical Association also blames on the 1969 amendment.

In actual fact, as the Eastman report points out, such failures are limited to those companies that are primarily dependent upon one drug for their continued viability. This was the case with Hoffman-Laroche, which produced Valium, and Smith/Kline, which produced Tagamet. As for Ayerst, the closure of its research laboratories in Montreal was a non-event, since no single new product had been developed by them for many years. All of its sales were via licences from ICI and Beecham, who themselves decided that the Canadian market was lucrative enough to develop their own licences. Also, several of these Montreal-based firms, including Parke-Davis, Robbins, Syntex and the above mentioned, actually left Montreal, not to move from this country but to relocate in Toronto, proving that the 1969 amendment had nothing to do with the so-called "pharmaceutical crisis" in Quebec.

In terms of consumer savings, the Eastman report estimates that Canadians saved $170 million on pharmacy sales through compulsory licensing in 1983 alone—"a figure that rises to $211 million when sales to hospitals are included." In 1986 the estimated saving is $500 million.

A study by the University of Toronto Faculty of Medicine has found that there is a 20 to 25 per cent saving by substituting for brand name drugs their generic equivalents. These figures are based on actual savings. The study demonstrated that much greater potential savings could be achieved if even lower cost products were substituted.

The 1969 amendment was an important factor enabling provincial governments, such as that of New Brunswick, to set up drug reimbursement programs for the sick.

In my province this type of program has included substitution of multisource drugs or interchangeable drugs since November 1984 only. Due to a low percentage of drugs actually substituted, the saving resulting from this program in the first year was minimal, but the substitution rate was up 22 per cent in 1986, and savings went up as well. In 1987, the figures currently available indicate a substitution rate of 52 per cent, and a 100 per cent increase is predicted in the amounts saved during the substitution of brand name drugs by generic equivalents.

First of all, with Bill C-22, New Brunswick would lose the money it has been saving through substitution. Second, the New Brunswick Conservative Health Minister, Nancy Clark Teed, pointed out that in addition to the loss of savings to the New Brunswick government, the government will have to pay for more costly drugs, and so will be doubly penalized. The federal Conservatives may gain the gratitude of the multinational drug companies, but the citizens of New Brunswick will pay the costs.

To paint a more vivid picture of the type of savings that compulsory licensing has allowed countrywide, let us look at two examples.

The drug Amoxicillin, one of the newest antibiotics, currently costs more than 30 cents per tablet for a 250 milligram dose of the brand name drug, while the generic equivalent costs 12 cents per tablet for the same dosage.

Diazepam is the generic equivalent for Valium. In 1982, according to data prepared by the CDMA, there was a consumer saving of $8,440,000 when compared to the originator's price. The same year the hospital savings amounted to approximately $2 million. Compulsory licensing saved Canadians, through hospitals or otherwise, $10 million in one year on one drug alone.

[*Translation*]

The list of generic drugs which have enabled Canadians to save millions of dollars is long. According to the Eastman Commission report, the amendment to the Patent Act which made these savings possible is also responsible for the strong growth of the wholly-owned Canadian generic drug industry. But what happened to the American multinationals through all this? Did Canadians save at the expense of the supposedly deserved profits of these multinationals?

Let us refer to Dr. Eastman's study in which he indicates very clearly that the 1969 amendments to the Patent Act did not have a disastrous impact on the profits of the major multinationals.

I quote:

> It is quite clear that the profitability of the Canadian drug industry is relatively high and that it has remained stable throughout the period from 1968 to 1982. The profitability of the drug industry clearly exceeds that of all other manufacturing industries. In addition, the profits of the drug sector are more stable than those of other sectors.

My friends, the Conservatives are trying to change our licence system which has made it possible to gain many benefits for all Canadians, while at the same time even enabling the foreign multinationals to make handsome profits. Why would they want to change the system? They reply that it is a matter of research and development.

• (1520)

[*English*]

The Honourable Senator David commented in a speech before this house that pharmaceutical industries restricted their investment in Canada after 1969. However, once again he failed to bring evidence to support his allegation. When we look at the actual facts, we see that this allegation is indeed unfounded. The ratio of R&D spending to sales has remained quite stable since 1969. In fact, from 1967 to 1982 the dollar amounts expended on R&D in Canada increased by 448 per cent, from $10 million in 1969 to $57 million in 1982. Dr. Eastman states that "it is difficult to detect a major change in the trend of R&D that could be associated with the date of any impact of changes in compulsory licensing." Of course, the level of R&D in Canada has never been high. All will agree. However, compulsory licensing has clearly had nothing to do with that fact. The pharmaceutical industry in Canada is dominated by foreign multinationals who, for reasons of efficiency, tend to centralize their research activities at home. As stated by Roy Davidson, a public consultant:

> The compulsory licensing provisions cannot have had a substantially negative effect on the profitability of conducting R&D in Canada because basic and applied research activities are undertaken to develop new products for sale in the world market, and not simply to develop new products for sale on the 2 per cent fraction that is the Canadian share that the market represents.

The fact that compulsory licensing might reduce the profitability of a subsidiary in Canada in a given case is irrelevant to a decision about investment in research in Canada.

[*Translation*]

It is definitely not by granting U.S. multinationals a monopoly — as is the case with Bill C-22 — that we will increase the R&D rate in Canada. Senator David, whom I am again quoting, as well as several others within the Conservative Party, insist that in view of the large number of competing multinationals, Bill C-22 will not result in the creation of monopolies. The Commission of Inquiry on the Pharmaceutical Industry does not share that view. It explains at page 346 of its report that in spite of some elements of competition in the pharmaceutical industry, and I quote:

> Monopoly resides in the differentiation of the firm's products from those of others by trade name and by physical or therapeutic characteristics. This differentiation gives firms considerable freedom in setting prices.

This lack of competition in the drug industry is also the result of the very structure in itself of the therapeutic drug

market. First, the demand for drugs is "unflexible" in relation to the prices, for a number of reasons. For instance, when a doctor prescribes a drug, he is not concerned with its price since he is not the consumer. Also, the patient who buys the drugs on his prescription does so under fairly urgent circumstances in which health considerations override price considerations. Health insurance systems, whether private or public, have also helped minimize price considerations at the consumer level by reimbursing the cost of those drugs.

This is all readily apparent in the huge drug price increase this year, amounting to 15.4 per cent. A study of the United States Congress has shown that in the past two years, the price of prescribed drugs has increased four times as much as the inflation rate. According to the chairman of the subcommittee dealing with that matter, Senator Henry Waxman, that price increase was not the result of excessive of R&D costs incurred by multinationals. This is what he says:

[*English*]

> I think the pharmaceutical industry is trying to charge whatever the market will bear. They see that with many of their products, the public has no other choice [but to pay]. What is going on . . . is greed on a massive scale.

[*Translation*]

By removing the competitive element provided by generic drugs in the industry, Bill C-22 will undoubtedly result in a huge price increase. Conservative members claim that their drug prices review board will prevent this from happening. However, we already have ample evidence that that board would not have the clout required to prevent those mark-ups. Moreover, although the Conservatives insist that they would not allow the prices of drugs to rise beyond reasonable limits, those prices would be compared with the prices in other industrialized countries. Are the Conservatives realizing that they would indeed encourage a substantial price increase by doing so? Drug prices are much higher in most other countries of the world than the prices prevailing in Canada presently.

How will Canadians be affected by the implementation of Bill C-22 and the ensuing price rise?

First of all, all Canadians will have to pay more taxes to subsidize this price increase; that is quite clear. The amounts required of Canadians will be enormous, in spite of the federal grant coming from the $100 million in taxes to the provinces to pay the costs of medicine, even if they say on the one hand that there will be no increase, they say on the other that they are prepared to pay $100 million. They recognize, therefore, that there will be price increases.

The Ontario government feels that this amount will not be enough. According to its calculations, it will need 40 per cent more than the amount allocated by the federal government to pay its future costs for medicine.

Denis Psutka, Assistant Deputy Minister responsible for Ontario emergency help services and special programs, noted before our committee that the costs resulting from Bill C-22 could reach up to $1.6 billion over the next 10 years.

In British Columbia, the situation is even more serious. In anticipation of the price increase which will follow the implementation of Bill C-22, the provincial government has already reduced the insurance coverage on drug prices. Moreover, it has increased by nearly 40 per cent the deductible amount on insurance policies.

[*English*]

Not only will Canadians as taxpayers be hit hard by the climbing drug prices caused by Bill C-22 but some Canadians will be hit hard twice. I am speaking of the 15 per cent, or the more than four million Canadians, who have no insurance coverage that will allow them to pay for increased prices. I am worried about all these people, and particularly worried about the fishermen, the woodworkers, the farmers and those of my province who would be devastated by any illness if they were subjected to prices beyond their means for drugs they desperately need. I know of what I speak when I talk about the cost of drugs. If my own costs for drugs were not covered by some insurance program, it would be enough to put an average man in a very bad situation.

• (1530)

These are not the only people who will suffer. Even those who are covered by government and private insurance programs will be affected. Dr. Hugh Twomey, Minister of Health in Newfoundland in a Conservative government, has said of Bill C-22, and I quote:

> The proposals and the potential they have to increase the cost of drugs over the coming years will further restrict any efforts this province might be able to undertake to enhance current programs, either by making benefits more generous to those who are now covered, or to extend coverage to more beneficiaries.

In Nova Scotia the Minister of Health of that province put a freeze on new health care programs after Bill C-22 was introduced. This was no coincidence.

The Atlantic provinces, including New Brunswick, will be amongst the hardest hit by Bill C-22, and they will receive nothing in return for their hardship, as the jobs promised by the government, even if they did materialize, would mostly go to where the Canadian pharmaceutical industry is concentrated, usually Ontario and Quebec.

[*Translation*]

The deal which this Conservative government is proposing by adopting Bill C-22 is so bad that all Canadians are wondering what convinced it to do that.

The Mulroney government mentioned the creation of 3,000 jobs for highly qualified scientific personnel in addition to a high level of research and development in Canada. However, a document prepared by Minister Harvie Andre himself suggests that only 1,700 of these jobs could be classified as professional. Out of these 3,000 so-called top quality positions, there may be some for cleaners and janitors.

As far as research and development is concerned, it is clear, as I said previously, that it is not Bill C-22 which will increase its level in Canada. We have nothing but promises and com-

mitments from the pharmaceutical industry which has never proved quite reliable. There is nothing in Bill C-22 itself which could compel it to meet its commitments.

[*English*]

If "high quality" job creation and increased R&D will not result from Bill C-22, what could have pushed the government to propose this bill? In my humble opinion, the answer is not very hard to find.

In 1985, at the Quebec City Summit, the topic of patent protection was persistently brought up by President Reagan as a major point of contention between the U.S. and Canada. Prime Minister Mulroney, who displayed quite a conciliatory mood during this summit, promised to cooperate.

In 1986, a report from the Office of the U.S. Trade Representative states, on page 55, that:

> The United States continues to raise its concerns at senior [Canadian] government levels. It urges speedy submission of modifying legislation to address serious U.S. concerns about the inadequacy of Canadian patent protection in the pharmaceutical area.

In June of 1986, it was obvious the Mulroney government had caved in to the U.S. pressure when the first draft of Bill C-22 was made public. However, the U.S. multinationals and the U.S. government made it clear that the changes had not gone far enough.

Therefore, in October 1986 a new draft was proposed, and changes favourable to the American multinationals had been made at the expense of ordinary Canadians. Interestingly enough, the former chairman of the American drug lobby, Joe Stettler, knew about the changes a full week before public disclosure of the new draft. He said he had received this information from the PMAC in Ottawa. It became obvious that the Mulroney government had largely consulted officials of the brand name industry in order to arrive at the new draft of a bill which was beneficial to the latter.

Following these accusations, the Honourable Harvie Andre contended that all groups had been consulted in the preparation of the second draft. However, Andrew Cohen of the Consumers' Association of Canada, a group Mr. Andre explicitly stated had been consulted, says his association has never been consulted. It would therefore seem that the legislative package was arrived at through discussions with the multinational drug companies and possibly the U.S. government.

Ever since the production of the new draft of Bill C-22, the Mulroney government has been using it as a chip in the bargaining over a free trade agreement with the United States; it has used as a bargaining chip with the Americans the health and welfare of many Canadians.

The government has replied that this is not so; that Bill C-22 and the topic of patent protection has never been part of the negotiations. Yet, a memorandum to Congressmen from the U.S. chief negotiator in the free trade talks, Peter Murphy, leaked to the *Toronto Star*, shows that Bill C-22 is, in fact, a very important part of the negotiations under way. It contained the following paragraph:

> Intellectual property is another priority item for the U.S. In these negotiations we are trying to convince Canada that it is in our mutual interest over the long run to strengthen IP—

meaning, intellectual property—

> protection. We have put together a draft text, reviewed by our private sector and we will use this as a basis for the negotiations. We have also indicated that we are not satisfied with Canadian compulsory licensing of pharmaceuticals or the lack of copyright for cable re-transmissions and that these must be resolved to have an agreement.

In light of all this, it is quite obvious that the government is being pressured by the Americans to pass this legislation.

[*Translation*]

I note that in the Senate on May 12, 1987, Senator Cogger had stated that Bill C-22 is based on two principles: the first was that scientists would be rewarded for their efforts; the second was that the protection offered would not result in excessive price increases. But there are provisions in the Canadian legislation to reward scientists: the royalties paid to them by generic drug companies. Perhaps the level of these royalties should be raised? But the duration of exclusivity should not be extended as much as suggested by the government.

The Eastman report is quite clear on this point. It shows that drug companies can recover their research and development costs within a period of 4 to 5 years. As to the second principle of this bill, it is clear that the government will not be able to maintain prices at a reasonable level, as promised.

[*English*]

Why is it necessary to proceed to a major overhaul of the present system when it has benefited Canadians and pharmaceutical companies alike? Why would the Conservatives proceed to make changes to a system which is used as a model worldwide and which is presently being studied by the U.S. Congress as an alternative to their own system? The director of the EEC's Consumer Association, Tony Venables, echoes our questions by saying:

> We are astonished that Canada is preparing to do away with a patent system for pharmaceuticals that is undoubtedly the best of any now in existence in the developed world.

In my humble opinion, the reason for these changes is clear enough: The Mulroney government is caving in to pressure from the American multinationals and the U.S. administration; pressure that had been brought to bear on the previous government in 1969, but which was resisted in the interests of all Canadians.

In closing, honourable senators, I want to say that I was proud to be a member of the Special Committee on the Subject Matter of Bill C-22. It afforded me the pleasure of getting to know better some of my colleagues from both sides of the house. I must say that they are good people to be with.

An Hon. Senator: Hear, hear!

Senator Thériault: We travelled across this country, but we did not travel to all parts of the country. We did not have time. There are millions of people out there who would like to make their views known to the government on the subject matter of this bill. When I had an opportunity to question the witnesses who appeared before the committee, I usually began or ended my questioning by saying:

> We are senators; we are not elected. If the Senate decides to amend or to reject this bill, would you support the Senate? Do you believe that it could be accepted?

Honourable senators, almost unanimously the answer came back: "You are our last hope; please do something on our behalf. You are part of the Parliament of Canada, and you have a right to do things. You are the only hope we have."

● (1540)

Another comment I often heard, which has been used before, was: "If it ain't broke, why fix it?" Few people who appeared before us supported this bill.

I personally feel strongly about this bill, and I hope that the Senate in its wisdom will not allow this legislation to become effective without further participation of the people of Canada, additional study, and the possibility of proposing some amendments. It is impossible for me to accept Bill C-22 as it is.

Some Hon. Senators: Hear, hear!

Hon. Michel Cogger: Honourable Senators—

[*Translation*]

The Hon. the Speaker: Honourable senators, I must inform the Senate that if the honourable Senator Cogger speaks now, his speech will have the effect of closing the debate on the second reading of Bill C-22.

Senator Cogger: Thank you, Mr. Speaker. Honourable senators, I listened carefully Tuesday last to the remarks of our colleague Senator Buckwold and those of senator Bonnell, the chairman of the Special Committee on the Subject Matter of Bill C-22. I also carefully listened a while ago to the comments of Senator Thériault.

In all cases, it appears to me that the Senate obtained some detailed and well-supported statement which, unfortunately, only reflected part of the reality. They saw perhaps the proceedings of the committee through tinted spectacles. Allow me to add the other dimension with both colours accurately focused. We will thus obtain perhaps a better image of reality.

I would like to take a few minutes of our time this afternoon to note some highlights that, in some cases, were raised in all three of the above-mentioned statements.

In the first place, one of the first questions was raised by Senator Buckwold on Tuesday last. Moreover, it was also underlined by Senator Thériault.

[*English*]

"Why the necessity now to proceed to a major overhaul?" The answer to that, honourable senators, appears to me to be rather simple, if one would care to look at the facts. It is the very conclusion of Dr. Harry Eastman, appointed by a Liberal adminstration in 1983. That is one of the reasons why it appears pretty obvious that substantial changes to the system ought to be brought in.

Senator MacEachen: Everything begins with the Liberals!

[*Translation*]

Senator Cogger: The question ignores the recommendations of the Eastman report. It is said subsequently that this is supposed to be a very simple matter and it is all just part of the whole free trade puzzle. Here again I think the answer is definitely out of touch with reality. Coming from senators who are very much my seniors in this chamber I think the reply conveniently ignores the facts. And it conveniently ignores the fact that the previous administration firmly intended to table in Parliament Bill C-22 or a similar piece of legislation.

Interestingly, when Mrs. Erola, a member of the previous government, appeared before the committee on May 5 of this year, she said in reply to the following question:

[*English*]

> Was it indeed the intention of the former administration to proceed with a bill similar to this, which expands the period but which gives protection to the consumer?
>
> **Mrs. Erola:** Yes.

Having said that, why are we back here listening to senators ask why it is necessary to change? It appears to me that the answer resides partially in the Eastman report and partially in Mrs. Erola's answer.

This whole situation about undue pressure by the United States, and whatnot, again only gives a small portion of the answer. When the Honourable Harvie Andre appeared before our committee, in his exposé, or in answer to a question, he clearly indicated that the United States is pressuring us to change our patent legislation, but so is the United Kingdom, so is Germany, so is France, so is Switzerland and so is Italy, just to mention those few. To my knowledge, we are not negotiating free trade with any of those other nations, yet, there is a pressure on Canada to improve its own patent legislation to bring it in line with that of its trading partners.

[*Translation*]

Honourable senators, we heard, it was in fact one of the favourite sentences of Senator Thériault when we were travelling with the committee, the following comment which often recurred:

[*English*]

"If it ain't broke, why fix it?"

[*Translation*]

Honourable senators, here again, we have the same reply. Dr. Eastman reaches the same conclusion:

[*English*]

It must have been broke somewhere, because he recommends that we fix it.

[*Translation*]

Honourable senators, we are told and we have heard this many times that Canadians are concerned about the price of drugs. And why should they not be? According to a survey the committee received from the Nova Scotia Union of Government Employees, they are in favour of protection and, in fact, increased protection of intellectual property, to benefit the innovator, including drug innovators.

This means that the situation is not as clear-cut as some representations would have us believe. Our fellow Canadians are honest and upstanding people. They do not want to steal the fruits of other people's labours. If we are talking only about protecting intellectual property, whether it is reasonable to offer that protection and whether it is reasonable to remunerate or compensate the innovator, they agree. It is clear they are concerned about the impact on eventual costs.

If there is something on which evidence was unanimous it is this: almost all witnesses expressed the hope to the committee that the price review board would be a powerful, efficient agency vested with all the powers needed to exercise real control.

I think that even opponents of the bill will confirm my suggestion that virtually in all cases a strong, efficient, solid, serious price control board is hoped for, with the teeth needed.

As it seems to me, that virtually unanimous hope could be the subject of a specific recommendation to the government, concurrent with the passing of Bill C-22.

Honourable senators, one conclusion I draw from our travels across Canada is that the debate on that matter was often confused, emotional and concerned.

Some data are now well know to committee members. They probably deserve to be reintroduced at this point. Item No. 1 is this: Clearly, the introduction of a generic copy of a drug results in a proportional price reduction. I think the evidence heard before the committee seems unanimous on this. I do not think anyone wants to question that.

Item No. 2 is the following: Of all the drugs now available on the Canadian market, only 7 per cent in numbers are copied, produced under compulsory licence. Therefore, they are price competitive. On the other hand, the current situation is such that even if, under the act, they can be generically copied, 93 per cent of drugs now offered on the Canadian market are subject to no price control or monitoring, certainly not through competition because there is none, certainly not by a price review board because it is only a proposal.

Item No. 3 is: the cost of drugs accounts for 5 per cent at the most of the cost of health services. This was also unquestioned evidence before the committee.

Therefore, assuming Bill C-22 is enacted, the generic drug industry can go on operating with all it now has on the market. Second, it can go on operating, with of course a waiting period before going to the market, the period provided for the innovator's protection.

Assuming always that Bill C-22 is implemented, the 93 per cent of drugs that are now the subject of no control of competition whatsoever will from now on be subject to control and monitoring by the federal commission. I emphasized earlier that all witnesses hoped for that board's establishment. In fact, they wished it would be powerful, efficient and given serious tools.

Let us look for a moment at the respective roles of the industries involved. I heard, as you did, Tuesday last Senator Buckwold suggest, and I quote:

● (1550)

[*English*]

"Honourable senators, I look at my own province of Saskatchewan that is ready to support this bill." He then goes on to say that the best prescription drug plan in Canada in which there is universal coverage is in Saskatchewan.

Let us look at the other view. There was put before the committee a document signed by Mr. Waschuk, who is the executive director of the prescription drug plan of Saskatchewan. He was responding to a witness, and we asked him to file the letter. This is what he has to say:

> Responding firstly to your last question: "Is it realistic to think that generic drugs could some day cover the full range of prescription drugs?", the answer is no. Generic manufacturers, because they do not undertake new product research, nor intend to do so, concentrate only on those products which are most widely used, and most easily reproduced.

That is a statement of the gentleman from the prescription drug plan of Saskatchewan. He goes on to say—

Hon. Sydney L. Buckwold: Would the honourable senator permit a question?

Senator Cogger: If I could, I would finish with this document. He goes on to say:

> It is not conceivable that this will change significantly in the future . . . There is no question that of the new products to be developed for treatment of yet unsolved diseases, the generic industry will not contribute. It is the innovative sector which will discover these products.

Senator Buckwold?

Senator Buckwold: I thank Senator Cogger for permitting me to ask a question. He referred to evidence of Saskatchewan, my home province; otherwise, I would not have interrupted. I think the honourable senator would agree that in the same evidence that was presented to us the response of the department that controls the prescription drug services indicated that over 50 per cent of the drugs that had been prescribed in the province of Saskatchewan overall could have been generic. It seems to me that that is the major point in question. In other words, if doctors had insisted on generics, half of the drugs in the province of Saskatchewan would have been generic. Perhaps Senator Cogger could respond to that, in light of what he presented previously.

Senator Cogger: I thank Senator Buckwold. I like to have all, not just half, of the evidence, and he is quite right. I said earlier in French that, admittedly, I do not think one member of the committee would suggest that the introduction of generic drugs has not resulted in a lower price. That is true, but that is not the point I am making.

I am making the point that, as Mr. Waschuk in Saskatchewan says, the generic industry will not contribute to new products for treatment of yet unsolved diseases. It is the innovative sector which will discover these products. That is the point I was making.

Senator Buckwold: I don't think that is any world-shattering statement.

Senator Cogger: It has a bearing on the whole thing, senator, because essentially what we have to look at is this: There is evidence to the effect that drugs constitute approximately 5 per cent of the total bill of health care. On the other hand, keeping one single Canadian out of hospital for one single day probably means saving several times the average Canadian's yearly drug bill. In view of some of those factors, is it not reasonable for the government to seek to encourage research through added protection for the innovator while bringing all drugs under some measure of price control? When I say "all drugs," I mean especially that 93 per cent which currently is free of competition and free of any sort of surveillance and control. I suggest, honourable senators, that the answer is, indeed, yes, it is reasonable. I further suggest that Bill C-22 may not be perfect legislation but it is good legislation.

Some senators will have read the report submitted on Tuesday by our chairman. I would like to offer a few words of caution in this respect. I would first like to caution against the numbers game. I think we must be careful about statements that place importance on hearing more witnesses in a certain place who represent more people, and that kind of thing. Without being facetious, let me suggest that if anyone, before we left, doubted that there are more consumers in this country than there are researchers, we can prove it beyond the shadow of a doubt. However, I think we knew that before we went away and spent 315,000 bucks.

• (1600)

Nevertheless, I believe it is not the role of the committee to total up evidence. That would be too simple. I believe that committees have to weigh evidence; they have to look at it. They have to look at the seriousness of the evidence, and where it comes from. Otherwise, it is just as though a judge said, "I think I will find in favour of the accused, because more people spoke on his side."

Let me give a further example. This concerns the committee's visit to Quebec City. It sounds nice for the gallery when someone says, "We are here representing the Quebec Association of Consumers." They are good people. We listened to them and we asked them some questions. They represent 220,000 people. That's fine. But what about the unanimous resolution of the Quebec National Assembly, which is unanimous in its support of the bill? It seems to me that the National Assembly represents seven million Quebeckers.

Another piece of evidence, which I believe no one would question, is that scientific research in this country is in very sad shape. It is rapidly deteriorating. I do not believe there is one university, school of medicine, school of pharmacy, or scientific institution which did not come to beg, pray, or implore for the passage of this bill. Perhaps there are fewer pharmacists than consumers, but they ought to be heard, as well as pharmacologists, researchers and universities—indeed, the entire community.

I pray, honourable senators, that we will not rely on sheer numbers, on the total amount of evidence. This merit-in-numbers game, or a totalling up of evidence, is—let's face it—a form of consumerism, and is not in keeping with the role of the committees of the Senate. It is a form of abdication of their responsibilities. It is a form of throw back to a mode of referendum. When we are faced with a difficult piece of legislation we should not say, "We will put a committee on the road; here is a difficult piece of legislation;" and when the committee comes back we say: "More people don't want it, so let us not have it."

As I say, that would be an abdication of responsibility on the part of legislators. It is not what we are supposed to do here and, it seems to me, is foreign to good government and sound administration. I suppose one can only imagine what would have happened to castor oil if they had polled the children first; or, for that matter, what would happen to this chamber if the question were raised with enough Canadians.

[*Translation*]

Before concluding, I wish to appeal directly to the other Quebec representatives in this house. There, perhaps more than anywhere else, the evidence was unanimous. They supported the bill without qualification, beginning with the National Assembly, the Montreal Urban Community, the Board of Trade and the Conference of Mayors of Suburban Municipalities.

I call upon the senators who are, like me, Quebec representatives to keep in mind that overwhelming evidence. It is not only overwhelming but it is also serious and unanimous. It will have to be remembered when the time comes to make a decision. It seems to me that the stake is too high to reject the bill on strictly political considerations. Thank you, honourable senators.

[*English*]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask the sponsor of the bill a question having to do with the effective date of the legislation? Do the provisions of the bill come into effect on proclamation, or on the passage of the bill, or do they come into effect at some date stated within the bill?

Senator Cogger: I do not want to mislead the honourable senator. I believe it is right to say that the legislation will come into force upon its passage. However, there are certain transi-

tional dispositions with reference to certain drugs for which compulsory licences have already been applied.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Cogger, seconded by the Honourable Senator David, that this bill be now read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): On division.

Motion agreed to and bill read second time, on division.
[*Translation*]

REFERRED TO COMMITTEE

The Hon. the Speaker: Pursuant to the order of the Senate passed on April 2, 1987, the bill is referred to the Special Senate Committee on the Subject Matter of Bill C-22.

[*English*]

PATENT EXTENSION (ASPARTAME) BILL

SECOND READING

Hon. Orville H. Phillips moved the second reading of Bill C-259, to extend the term of a patent relating to a certain additive.

He said: Honourable senators, on June 18, in a rare display of unanimity, the House passed Bill C-259, a private member's bill, which extends for a period of five years the patent protection on a food additive "Aspartame", commonly called NutraSweet.

Honourable senators may ask why there should be an extension in this fashion. The firm producing NutraSweet received approval from the U.S. government in 1974. However, before marketing could begin in that country, the permission was withdrawn. Honourable senators will recall that at that time a number of food additives, such as the cyclamates and saccharines, were considered to be carcinogenic. That finding has now been reversed, and those products are now marketed as food additives.

In 1981 the Searle Company, following a complete and thorough investigation of the product, received permission to market the product in Canada. However, as a result of the delayed approval in the United States, the company states that it has had patent protection for only six years.

The company has asked for and received an extension of the patent protection in Great Britain, Australia and South Africa. The company had made a proposal to construct a $10 million plant in La Salle, Quebec, where it hoped to reduce the amount of import of NutraSweet and possibly market the product in foreign countries.

Honourable senators, I do not pretend to be an authority on the Patent Act and its provisions. Honourable senators, I am sure, have a number of questions, and I therefore propose that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Hon. John B. Stewart: I wonder if Senator Phillips would take a question?

Senator Phillips: Yes.

[Senator Cogger.]

Senator Stewart: I realize that he has said that he is not fully cognizant of all questions concerning the Patent Act, but perhaps, if I put the question to him now, he can have an answer ready for later.

• (1610)

I read in the 20th Edition of May that a public bill is founded on "reasons of state policy." We have here a public bill, that is, a bill founded on "reasons of state policy."

I suppose that over the years other companies have sought extensions of the terms of their patents. I wonder if, in view of the fact that the government supported this bill in the other place and is sponsoring it here, there is implied any change in state policy. Is what is being done in this instance consistent with what has been done in other instances in the recent past?

That is the question on which I should like some information.

Senator Phillips: Honourable senators, I have no knowledge of any precedents. I will ask the member who sponsored the bill in the other place to attempt to obtain those precedents and provide the information at the committee meeting.

Again, I point out that this is a private bill, not a government bill.

Hon. Hazen Argue: Honourable senators, I would think that the Senate would exercise sober second thought with regard to this bill. I think the Senate would be fully justified if it decided to defeat this bill or to otherwise hobble the provisions of this bill. It is clear that the government is really on the side of the multinationals, that it is doing everything in its legislative authority to entrench patent rights and, in this case, to extend patent rights.

I am absolutely amazed that the members of the three political parties in the other place engaged in a concerted effort to extend the patent right of a particular company. I wonder what happened to the members of the New Democratic Party and their policy of reform, change and control over the multinationals.

Senator Flynn: You left!

Senator Argue: The members of the New Democratic Party are checking the polls, but they are not checking to see what the people stand for; they are checking to see what corporations stand for. That party will stand well with everybody if it can put everybody to sleep.

Thank goodness most honourable senators are not asleep. This bill was slipped through the House of Commons when the members of that House were having a siesta. Those great socialists and great reformers put their stamp of approval on this bill.

Senator Nurgitz: What about the Liberals?

Senator Argue: I mentioned the three political parties. Just because members of the three political parties were there together does not necessarily make it correct.

If a majority of honourable senators see a wrongdoing taking place—and I do not apologize for the fact that the

majority of honourable senators are Liberals—then I hope they would try to prevent the indiscretions of the members of the House of Commons. If ever there was a time for sober second thought it is with respect to a piece of legislation such as this. I get disturbed not only when I see legislation such as this, but also when I see a bill such as that which has just received second reading by the Senate, on division, because these bills entrench patent rights.

Senator Flynn: The debate on the other bill is over; you cannot criticize it.

Senator Argue: But this debate is not over. It is very pertinent to talk about the principle of whether or not patent rights should be increased, and I say that if it is wrong with regard to this bill, it was wrong with regard to the bill we just read the second time, on division.

The Standing Senate Committee on Agriculture brought in a report which recommended reducing patent rights from 17 years to 4 years on chemicals used by the farming industry. Parliament—but the government in this case, because it is the leader—is going in the direction of extending, entrenching and solidifying patent rights for the multinational corporations. Farmers have been paying through the nose for years because of patent rights. They are paying through the nose today. Furidan, an insecticide, costs American farmers $26 per unit in Canadian money; a Canadian farmer pays $42.50 per unit. Banvil, a herbicide, costs American farmers in Canadian dollars $35 per unit; a Canadian farmer pays $47 per unit.

Not only are the consumers, the elderly and all of those others who have been mentioned heretofore opposed to any extension of patent rights that soak them and put big profits in the hands of multinationals, but the very survival of the agricultural industry, with chemicals being such a high-cost item, is at stake when Parliament considers patent legislation.

I hope that when we go on the side of generic drugs and generic NutraSweet we also go on the side of generic chemicals for agriculture, because this country and its consumers are hostages to the multinational corporations. They are extortionists in the greatest possible sense of the word. If you were to take 2-4D as an example of a farm chemical, that product was very expensive when it first came on to the market, but when the patent expired many years later, it became one of the cheapest products available on the market.

There are hundreds of thousands of farmers interested in the direction Parliament goes with this bill, and the direction in which it went on the previous bill.

There are those who say—and I am certainly not one of them—that because senators are appointed they do not have any authority or moral right to interfere, to change or modify anything that comes before them from the House of Commons. But we have in this country another body, the judiciary. The wisdom of the judiciary, especially after constitutional amendments, will decide whether the country goes in one direction or in another, but the judiciary is beyond criticism, it is independent because it is made up of judges. If one looks the judiciary over, there is probably a larger percentage of former politicians on the bench than there is in this chamber; sometimes those summoned to the Senate come from outside the judicial system. If honourable senators want to know what is wrong with political parties, it is that there are too many lawyers in them.

Some Hon. Senators: Hear, hear!

Senator Argue: I have been around for some time and know that lawyers make up the majority of membership in some executive bodies. They attend meetings and make speeches, but do little of the leg work. They are all looking forward to becoming judges, they get involved ostensibly for the good of the country, but they always seem to make the list for judicial appointments.

When politicians are appointed to the Supreme Court of Canada, or to any other court, everyone automatically says that they then become fully independent; if a person is appointed to the Senate and has a measure of independence, then the conventional wisdom is that that person should not use that measure of independence or independent judgment.

• (1620)

I am glad that senators have a measure of independence! There may be a new type of Senate when these lists are approved—and it may be a bunch of politicians from the provinces instead of the people we have here now—but I make no apologies for saying that we should use independent judgment in this place. I have never heard from a voter a criticism of a senator taking a position that seems to be in the interests of the Canadian public, and I think that is what we can do today.

Some Hon. Senators: Hear, hear!

Hon. Jacques Flynn: Will Senator Argue permit a question?

Senator Argue: Of course!

Senator Flynn: Will you attend the hearings of the Standing Senate Committee on Banking, Trade and Commerce on that bill and put questions to the people who appear there? Will you bring your irrelevancy to the committee?

Senator Argue: I am happy to attend committees, and I think I do pay attention

You can talk about irrelevancy all you like, and you can put your own interpretation on it. Most of your interruptions are quite irrelevant, but today is the exception to your own rule! I think I exercise my prerogatives around here. I can tell you that to be an active member in the chamber does not require attendance at all committee meetings, but I attended the Banking, Trade and Commerce Committee when they were dealing with the banks coming down and getting billions of dollars—

Senator Flynn: Will you come tomorrow?

Senator Argue: —even though I was not a member.

Senator Flynn: But will you come tomorrow?

Senator Argue: I hope I can be there; I hope you are there.

Senator Flynn: I certainly will be there. I will wait for you there; we will see whether you can put an intelligent question or not.

Senator Argue: Very nice.

Some Hon. Senators: Oh, oh!

Senator Argue: My honourable friend has learned nothing since his House of Commons days.

Senator Flynn: You have not changed a bit since I knew you in 1958 when you were the Leader of the CCF Party and made rambling speeches, like you did today, without any foundation—in fact, that was the situation in most cases!

An Hon. Senator: You have come alive!

Senator Argue: I used to make those rambling speeches on the loan sharks of this country that were charging exorbitant interest rates. Now I see that Parliament has at long last—

Senator Flynn: Interest rates!

Senator Argue: —moved against VISA and Master Charge and some of the others. They are 25 years late, but better late than never.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I—

Senator Nurgitz: Let us hear from a lawyer!

An Hon. Senator: One lawyer too many!

Senator Frith: Just saying a word from the perspective of the "too many," there are two aspects to this bill that should concern us. The first is the process, and the second is the substance of the bill.

As for the process, I think we all agree that due process was not given to the passage of this bill in the other place. It is, I think, a classic case for the Senate to play the important role of a second chamber, and is compelling evidence for the need for two chambers.

I understand that even in the other place there is at this time some remorse over the process there, but it is not in order to comment on that, and I will not say anything more about it.

First thing, it is clear that it came as a surprise to the people of Canada, to the industry generally, and to politicial institutions to learn that this bill went through the three readings in a matter of minutes. There is clearly something that we must do about that.

On the substance, I am sure there is something to be said for the bill—and Senator Phillips has manfully tried to do so—but we also know, if we have been answering our telephones, that there seems to be a great deal to be said against the bill, such as why, if the patent was for 17 years, did the matter just suddenly come to us two weeks before the patent is due to expire. I understand that it expires on July 8. That is an important question that I believe the proponents of the bill—I think it is Searle—will have to answer.

There is also the fact that although the passage of the bill is said to promise some increase in jobs and investments, again, if we have been answering our phones and reading our mail, we realize that there is the other side to that coin also. That is, the possibility that many times the investments to take place, if the bill is passed, could take place, if it is not, because of the increased competitive environment. It is not unusual, in large industries where important patents are involved, for companies to watch for the expiry of a patent and to invest, then, in the new more competitive field resulting from the patent's not being extended. That, in turn, brings us to the question of substance as to whether it is a good idea ever to extend patents in that context. Because persons who start planning investments to engage in competitive activity when a patent is gone will feel a bit insecure if they think there is no way of relying on patents for a set period. We know that the philosophy, the whole concept of patents is to encourage inventiveness and creativity and to give a protected period so that the encouragement of a monopoly, in effect, will operate to stimulate creativity, investment and invention.

[Senator Argue.]

Senator Flynn: Senator Argue agrees with you on that point.

Senator Frith: It is clear that we have a role to play here which springs from a mistake in process in the other place, plus some substantial questions. It should go to a committee for recommendation about where we should go from here. It is, as someone has said, a classic case for sober second thought.

The only procedural difficulty that I can see—and it is a small one, I admit—is that second reading is usually given to a bill before it goes to a committee. Second reading debate is on the principle of a bill. I cannot say for myself that I am even ready to support the principle of this bill, let alone its details. I make that footnote comment so that when I holler, "On division"—as some others may—it is to say that we do not necessarily approve the principle of this bill, but that for procedural reasons it is the best way to get it to the committee for report.

I support what Senator Phillips says. I think we should give it second reading now, on division. The explanation for the "on division" is that we do not necessarily agree with the principle of the bill. We can then send it to the committee. As we know, the Banking, Trade and Commerce Committee, under our rules, has as part of its mandate the consideration of patents.

An Hon. Senator: Very good.

Hon. Jean Le Moyne: Honourable senators, would the sponsor of the bill receive one question?

We were speaking of substance. Maybe we should not forget the substance of that chemical.

I have in hand here an article that appeared in the July issue of the *Scientific American*, which I received yesterday. It shows strong reservations about Aspartame. It is an opinion, but if we are doing some sober second thought, our sober second thought should apply to the substance.

Senator Flynn: Honourable senators, the point raised by Senator Frith at the end of his remarks relates to the point which was made by Senator Stewart at our last meeting as to whether, on a private bill, we are voting on the principle.

• (1630)

Senator Frith: Good point.

Senator Flynn: The view has been clearly expressed by *Beauchesne* that on a private bill we are not deciding on the principle, and that the objective of second reading is merely to refer the matter to a committee to establish the facts. So, the principle of a private bill of that nature involves the facts.

Senator Frith: That is a good point.

Senator Flynn: It is difficult to discuss the facts. Senator Argue can easily do that before he knows them—

Senator Argue: I am psychic.

Senator Flynn: —but I cannot before I know what is involved. So there should be no problem with second reading and referring the bill to committee.

Senator Frith: Honourable senators, Senator Flynn has raised a good point, and it reminds me of something else. When we refer this bill, we may want to suspend—

Senator Flynn: Oh, yes, the other rule.

Senator Frith: Yes.

Senator Flynn: We can do that after second reading.

Senator Frith: Is it rule 95? The motion for reference to the committee should include the suspension of the provisions of rule 95. I am looking at rule 95 which refers to bills originating in the Senate, so it does not apply. However, we want to be sure that we are not restrained as to time and that it does not require a week's delay.

Senator Stewart: Honourable senators, it has been suggested by Senator Flynn that this is a private bill. However, it did not come to us as a private bill. It came to us as a private member's public bill; it is described in that way in the records of the House of Commons. In fact, contrary to the suggestion made earlier that all three parties somehow or other bungled so that the bill was passed there, it is quite clear from the record of the other place, at pages 7345 and 7346, that the government leadership there assisted quite deliberately and knowingly in the passage of the bill in that place. This, then, is a public bill. It entails, as Erskine May says, "state policy." That is why I asked earlier if what is proposed to be done by this bill is consistent with state policy with regard to the extension of patents during the past few years. Or is state policy now being changed by a private member's bill, facilitated by the government in the House of Commons and perhaps here? After all, the person who is sponsoring the bill today is the government whip, and the senator in whose name the motion for second reading stood is the Deputy Leader of the Government in the Senate.

Hon. Eymard G. Corbin: Honourable senators, Senator Frith referred earlier to rule 95. I believe he was looking for rule 94.

Senator Frith: Yes, it is 94.

Senator Corbin: In the circumstances, I believe that rule 94 is pertinent. However, it does not give the house much leeway. It reads:

> After its first reading and before its consideration by any other committee, a private bill from the House of Commons, for which no petition has been received by the Senate, shall be taken into consideration and reported on by the Committee on Standing Rules and Orders in like manner as a petition.

Is that not what the honourable senator was referring to?

Senator Frith: Yes, but that rule raises the same question that Senator Stewart has raised as to whether when the words "private bill" are used in the rules they mean private members' public bills or private members' private bills.

Senator Flynn: It is hard to classify.

Senator Frith: Yes, it is hard to classify. In any event, let us be sure that when we send the bill to committee the committee is not impeded in its considerations, and if the suspension of a rule is necessary—and Senator Corbin has cited rule 94—we should suspend it.

Hon. Jack Marshall: Honourable senators, I am reminded of another private member's bill which came from the other place, and that is the one that changed "Dominion Day" to "Canada Day". I wonder if it would have any bearing on what we are discussing here. You will recall that the bill was passed in the House of Commons by 13 members from all parties. Perhaps we could look at that bill as a precedent.

Senator Phillips: Honourable senators, this is a rather unusual day for me. I have heard the Honourable Senator Argue criticize the Liberals in this chamber, and I have heard him criticize the Liberals in the other place, but today is the first time I have heard him criticize the NDP.

Senator Argue: Come on! That is not true!

Senator Phillips: Honourable Senator Frith says that there are two sides to the coin.

Senator Guay: And you don't know the other side.

Senator Phillips: I agree with him, which is again an unusual occurrence for me. However, there are two sides to the coin. I am sponsoring this bill on behalf of the mover in the other place, and I have no doubt that there are problems associated with it. That is the reason I would like to see the bill move into committee, to let senators have a look at it from a viewpoint that I cannot present, because I have neither the knowledge nor the background to do it.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that this bill be referred to the Standing Senate Committee on Banking, Trade and Commerce and that any rules preventing the committee from immediately considering and reporting the bill be suspended.

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

Hon. Senators: Agreed.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, as chairman of the Banking, Trade and Commerce Committee, I would like to say that tomorrow the committee has a meeting scheduled for 10 a.m. At that meeting we will consider reports on two other bills which we were pre-studying. If we have time before the Senate sits at 11 o'clock, we will turn our minds to Bill C-259. I wonder whether further consideration of these matters by the committee might be made available through a motion that may be made by one of my colleagues in this chamber.

Hon. Orville H. Phillips: Honourable senators, I ask for leave to revert to Motions. Perhaps I should explain before leave is granted. I wish to ask for permission for the Banking, Trade and Commerce Committee to meet tomorrow while the Senate is sitting.

Senator Sinclair: Honourable senators, that request should meet our circumstances. For those who are interested, let us fix the time at 11.30 a.m. The committee is meeting in room 263-S.

Senator Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at eleven thirty o'clock in the forenoon tomorrow, Friday, 26th June, 1987, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

● (1640)

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

Hon. Senators: Agreed.

Hon. Finlay MacDonald: Honourable senators, may I ask for clarification? When Senator Sinclair talked about the meeting of the Standing Senate Committee on Banking, Trade and Commerce and gave the time, he made reference to "those who might be interested." He was, I believe, referring to members of the Senate.

Senator Sinclair: Would the honourable senator please repeat his question?

Senator MacDonald: Yes, I will. Senator Sinclair, you indicated that when the committee meets to consider this matter, you said: "All those who may be interested . . . ," and you gave the time of the meeting. I presume you meant all those members of this chamber who may be interested, and you were not referring to anyone else who was interested.

[Senator Frith.]

Senator Sinclair: Honourable senators, I meant senators who may be interested. However, if there are other people who feel that in the time available they can assist the committee, we would be glad to hear from them. However, I think we will need to rely on the knowledge and experience of senators in dealing with this matter.

However, if there are others who can establish any expertise in this matter, I would not preclude them from assisting us, keeping in mind the very short period of time that we have to deal with this matter.

Senator MacDonald: Senator Sinclair, are you calling witnesses?

Senator Sinclair: It all depends on who turns up, honourable senators. If someone turned up who was so knowledgeable that he was bound to be heard and would be of assistance to the committee, I would certainly inquire of the committee whether or not they wished to hear him. However, I would be in the hands of the committee in that regard.

Hon. Sidney L. Buckwold: Honourable senators, in response to this question of witnesses appearing before the committee, I caution the chairman that he should not leave the matter so open-ended. I have a feeling that Senator MacDonald feels the same way. There are literally dozens of people who want to be heard on this important bill, and at this point I am not suggesting that we do not hear witnesses. But it seems to me there has to be some reasonable program. For instance, if someone happened to be there tomorrow morning and was heard from by the committee, and if someone who is even more important were not heard, the criticism would be quite substantial.

I am suggesting to you that the committee first sit and work out its program and determine whether or not there will be time to, in fact, hear witnesses before the Senate adjourns for the summer.

Another decision that the committee will have to make is whether or not there is any other direction that we can take in order to deal with this matter expeditiously so that people can be given a chance to be heard.

Senator Sinclair: Honourable senators, I hope that honourable senators will leave it to the committee to be balanced, to be straightforward and to be reasonable. The fact that someone turns up does not mean, *ipso facto*, he will be heard by the committee.

Hon. Eymard G. Corbin: Honourable senators, I would like to suggest very humbly to the chairman of the committee that in the consideration of inviting witnesses to appear before him and his committee he seriously look at the advisability of having legislative counsel present to determine whether or not the process by which this bill entered Parliament is proper or flawed. I have reason to believe that the process of introduction of this bill into the other place may very well have been flawed.

I see Senator Flynn shaking his head. Of course, I am not an expert; I readily acknowledge that, but I am led to understand by some of the people who, from time to time, advise us

around the Senate that that matter, in itself, ought to be seriously considered. It may well be that this bill is improperly before Parliament.

Motion agreed to.

MOTOR VEHICLE TRANSPORT BILL, 1987

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-19, respecting motor vehicle transport by extra-provincial undertakings.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Phillips, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Nathan Nurgitz moved the second reading of Bill C-15, to amend the Criminal Code and the Canada Evidence Act.

He said: Honourable senators, I hope not to take too much of your time. Honourable senators will be familiar with the fact that in 1984 a committee was appointed by Parliament called the Committee on Sexual Offences Against Children and Youth, commonly referred to as the Badgley committee. That committee reported an alarming rate of sexual offences against children. The committee specifically reported that clearly one half of all Canadian females and one third of males are at some time victims of unwanted sexual acts, 80 per cent of which occur when the victims are children or youths.

In April of 1985 another committee, which had been established by the previous government, reported, and here I am referring to the Fraser committee which was a Special Committee on Pornography and Prostitution. The work of the Fraser committee, in part, overlapped that of the Badgley committee. In any event, that resulted in recommendations being made both with respect to certain aspects of child sexual abuse and of the child prostitution problem.

Both the Badgley and Fraser committees have made a significant contribution in identifying the scope of sexual abuse problems in Canada, especially where children are victims, and particularly with respect to those areas where the present legal system has failed us and, more importantly, has failed the victims.

Officials in the Department of Justice and other concerned departments have met with more than 300 individuals representing more than 200 different organizations across Canada to gather the views of certain non-governmental organizations and private-sector agencies concerned with children's issues about the recommendations of these committees. In addition, consultations have also been conducted with the provinces.

It is as a result of the extensive work of the Badgley and Fraser committees, along with the consultations undertaken by the Department of Justice, that Bill C-15 was developed.

At the outset, I might mention that the Standing Senate Committee on Legal and Constitutional Affairs, under the chairmanship of Senator Neiman, undertook a pre-study of Bill C-15. I cannot recall the number of committee meetings that were held, but certainly over the last six or seven months, starting in late November, the committee heard a wide range of witnesses dealing not only with the subject matter of the bill, I suggest, but with all kinds of related problems. We spent some considerable time dealing with the treatment of offenders. We spent some considerable time looking at the question of the possibility of rehabilitating people. In fact, we had meetings with abused children, which was perhaps a first, and certainly so in either of the two houses of Parliament. I suggest, honourable senators, that we have had a very thorough and complete examination of Bill C-15 and of the problems it deals with.

• (1650)

Honourable senators, I was out of the chamber this afternoon, but I understand that Senator Neiman has not yet reported.

Senator Neiman: That is correct.

Senator Nurgitz: Although I may be somewhat scooping her, my guess is that tomorrow you will find that the Senate committee will be recommending approval of this bill. I know that members of the committee had certain concerns, but they have been able to express those concerns by asking questions of those who will, in the next four years, be reviewing this legislation.

Many members of the committee were concerned about the fact that the bill does ask for heavier sentences for certain offences, which raises the question: Is that really the answer? I am sure all honourable senators would agree that that is not really a form of treatment, but I am afraid that the Canadian public is demanding that we deal in some firm fashion with this kind of offence.

Honourable senators, the overall principles contained in Bill C-15 are basically to protect children from sexual abuse and exploitation. It is not that the law did not previously provide some form of protection, but I am sure that those of you who have been following this issue over the years know that the law did not protect them adequately. It was very difficult for those in either the legal business or the police business to tell either a parent of an abused child or a child who had been abused that their evidence is not good enough. They would have to be told that they would have to provide some independent proof.

Honourable senators will be aware that this kind of offence is normally perpetrated by a person who makes certain that there is no one else around who can provide some independent form of evidence. That was the difficulty encountered in trying to prosecute those kinds of offences. In many ways this bill

does overcome that kind of problem by removing from the Evidence Act the need for corroboration in these kinds of offences.

The other overall principle is an attempt to deter those who would seek to victimize children and to assist in breaking the cycle of abuse by using our system of justice to protect those who cannot protect themselves. The committee heard a good deal of evidence to the effect that many abusers were, in their own childhood, abused themselves.

The aim is to provide legislation which is as effective as possible in protecting the rights of young victims while, at the same time, ensuring that the rights of the accused are also equally protected. There is no question that with this kind of legislation we are lessening those kinds of rights that we often afford accused persons, because it is deemed, as a matter of policy I suggest, that we have to do this in order to protect young people today.

The main elements of the bill seem to rationalize the current law relating to abuse or sexual acts involving children and young persons. Bill C-15 will create three new criminal offences which will ensure that children under 14 years of age are protected almost absolutely from all manner of sexual contact while children up to the age of 18 years would be protected from sexual exploitation by anyone in a position of trust or authority or on whom the child is dependent.

These three new criminal offences would be: first, sexual interference; second, invitation to sexual touching; and third, sexual exploitation.

The bill also creates a new indictable offence to address the exploitation of our children by those who seek their services as prostitutes and by those who would benefit financially by putting them to work as prostitutes. This new indictable offence would be punishable by a maximum sentence of five years for anyone who, in any place, tries to obtain the services of a juvenile prostitute.

It is not sufficient, I suggest, to create new sexual offences alone. The evidence we heard indicated the need for providing for a number of amendments to the Canada Evidence Act as well in order to resolve the problem of the admissability of evidence given by children and to put in place more flexible mechanisms to gather that evidence. An amendment to the Criminal Code will remove the current need for corroboration of the unsworn evidence of a child.

The bill will also provide or will allow for the improvement of court arrangements in order to make it easier to receive the testimony of children, such as the possible use of screens or other devices to shield the complainant from the view of the accused. I need not tell honourable senators of the difficulty in a situation where there is a father, stepfather or a person in authority over a child who abused the child, and the child has to sit in an open courtroom where the one person they see, smack in front of them, is that person of authority who has, over months or years, abused them. That is a difficult situation in which that child has to give evidence.

[Senator Nurgitz.]

The new legislation attempts to remove eye contact. This can be done by a simple form of screen, it can be done by using a separate room with closed circuit, and there are many other simple ways of providing for this, and at the same time providing for the rights of the accused to be present at his trial. This will allow a child to give evidence freely, without any form of intimidation or duress.

The use of videotapes is also a new form of evidence gathering, provided that the videotape is taken within a reasonable time after the alleged offence. We heard a good deal of evidence of that, and some concerns were expressed by members of the committee. I believe that the committee will ask that in time, when the legislation is reviewed, those particular sections be looked at very carefully. The committee also heard evidence from U.S. authorities that, in fact, videotaping was not a commonly used evidence tool, and that it was used more as an aid in the work leading up to trial. If the evidence were recorded on videotape, they would not have to put the child through five, ten or fifteen instances of describing the offence. If the evidence were on videotape, they would re-run the tape to check the evidence, without involving the child again.

● (1700)

Lastly, there was an improvement made, and I might mention that this was done in the legislative committee, as to when a child can give evidence. Those senators who may have practised law some years ago will be familiar with some of the old rules applied by judges in taking the evidence of children. Those rules were rather strict. This legislation, when first introduced, maintained that the court would hear evidence if the child were sufficiently intelligent to give it. The committee found that such a test is not put to an adult, so the bill, as amended, provides that a child can give evidence as long as he is able to communicate that evidence.

The studies conducted by both the legislative committee in the other place and the committee of the Senate were extensive. The overwhelming majority of witnesses who appeared expressed general support of the bill. As a result of the evidence heard by the legislative committee—and the Senate committee monitored those amendments as they were being made—the bill does reflect all of the amendments that were approved in the committee of the House of Commons. Those amendments, while certainly not affecting the main thrust of the bill, served to further enhance the protection of children and their access to our criminal justice system.

In conclusion, while the individual legislative proposals were the subject of some critical comment, I think it is fair to say that, over all, the bill was welcomed by those who have to deal regularly with child victims of sexual abuse. Secondly, the bill's aim is to protect children and young people from abuse by creating new offences and enhancing children's access to our criminal justice system and the court system. At the same time, respect for the rights of accused persons underlies these proposals. In making such substantial changes to so significant an area of the law, it is necessary to monitor the effectiveness of the bill very carefully. The bill does provide for this to begin

immediately and provides for a full review to be commenced after four years' time. This, of course, does not preclude earlier modifications if any unintended consequences of an adverse nature come to light.

Honourable senators, this bill would certainly rank as one that has received more careful consideration than any other that I have been involved with in my eight years in the Senate. I should point out as well that Mr. Robert Kaplan, the member for York Centre in the other place, speaking on behalf of the Liberal opposition, said that while the recommendations do not go as far as those of the Badgley commission, they are a tremendous improvement over the present law. He urged passage of the bill. Both Mr. Svend Robinson and Mr. Nelson Riis of the New Democratic Party applauded the bill. They said they had some minor reservations, but that none was sufficient to ask that the bill be held up. It received speedy passage at that point. I note that Senator Argue is shaking his head—perhaps he is worried about that.

Senator Argue: It's the NDP, that's all, but it's a minor point.

Senator Nurgitz: Senator Argue, I always worry about the NDP. In any event, I ask that this bill receive the favourable consideration of honourable senators.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have a question for Senator Nurgitz. I agree that the committee has done a very thorough job on this legislation. It is important from many points of view. The one aspect that is of concern to me is the change to the need for corroboration. As I understand it, the committee is saying that the requirement in section 246 of the Criminal Code for absolute corroboration is to be modified.

Senator Nurgitz: That is correct.

Senator Frith: That is not to say that a judge is prevented from commenting to the jury on the absence of corroboration and alerting a jury, if he thinks it appropriate, to the advantage of having corroborated evidence over uncorroborated evidence, is that correct?

Am I also correct that at the present time there is still need for corroboration of the evidence of the complainant on what was known as a rape charge, or what is now called sexual assault?

Senator Nurgitz: Honourable senators, I will answer the second question first. Sexual assault is a whole other area, and, of course, we are not dealing with children's evidence now. There is still the need for corroboration of the evidence of an adult. At the moment we are dealing with the question of the uncorroborated evidence of a child. We ought not to forget that we are dealing with something that is less, in some ways, than a sexual assault, or what used to be called rape. We could even be talking about sexual exploitation. Many of these acts are not as complete as what was formerly called rape. You could not convict on the uncorroborated evidence of a child.

Senator Frith: That is according to section 246 of the Criminal Code.

Senator Nurgitz: Yes. The committee was concerned about a judge now being precluded from commenting on the uncorroborated evidence. He is precluded from making such comments, which then raises the question: What happens if, in the judge's view, that evidence was thin or a touch unreliable? A judge cannot comment on the lack of corroboration. I suppose that that does not preclude a judge from commenting on the shaky nature of the evidence.

We are now saying that a child's evidence is like an adult's evidence—it should stand on its own. We are saying that we should not place an extra onus upon a child just because he or she is a child.

On motion of Senator Neiman, debate adjourned.

FINANCIAL INSTITUTIONS

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-56 TABLED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to table its fifteenth report respecting the subject matter of Bill C-56, to amend certain acts relating to financial institutions. I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "C", p. 1427.*)

● (1710)

JUDGES ACT
FEDERAL COURT ACT
TAX COURT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jacques Flynn moved the second reading of Bill C-41, to amend the Judges Act, the Federal Court Act and the Tax Court of Canada Act.

He said:

[*Translation*]

Honourable senators, although Bill C-41 deals with rather important questions, it is in fact an update, a housekeeping measure as we usually say. These are problems which piled up with the passage of time with respect to certain circumstances and to which we are now seeking a solution.

The bill deals with four issues.

The first relates to the indexation of salaries and pensions under the Judges Act. It is a matter of replacing the industrial composite, which is no longer used, by the industrial aggregate. Statistics Canada has changed the formula. The current definition no longer applies, so it has to be replaced by the one

now used by Statistics Canada. Therefore this is not a major problem.

The second is more important, the retirement age. Pursuant to the constitutional statute, judges appointed by the federal government to provincial superior courts must retire at age 75. This legislative provision does not apply to county courts, the Federal Court and the Tax Court of Canada. In these three cases—

Hon. Royce Frith (Deputy Leader of the Opposition): What was the first one?

Senator Flynn: The Federal Court, the Tax Court of Canada and the county courts. I think there are only three provinces where county courts still exist and continue to operate.

The acts on these three courts provide for retirement at the age of 70 instead of at 75 as in the case of Superior Court judges. I point out in passing that the Supreme Court Act provides for retirement at the age of 75. However, this is in the Supreme Court Act, not in the 1867 Constitution Act.

We are therefore being asked to raise the retirement age of County Court, Tax Court and Federal Court judges to 75.

I was personally very surprised to learn that Federal Court judges had to retire at the age of 70 rather than at 75. I was informed that a Federal Court judge questioned the constitutionality of this provision by saying that he was the victim of discrimination compared with Superior Court judges and that he won his case. It is therefore necessary for the government—

Senator Frith: The time has come!

Senator Flynn: —to make the necessary legislative amendments. The bill includes provisions which apply to judges who have already retired at the age of 70 instead of at 75. These provisions will allow them to hold office as supernumerary judges until the age of 75. There are a series of *ad hoc* provisions for special cases. From now on, all judges appointed by the Governor in Council will retire at the age of 75. This is the second point.

I have just referred to the third point in passing. It concerns the position of supernumerary judges. Under the Judges Act, which applies to the Superior Courts, a judge who has held judicial office for at least 15 years and who has reached the age of 65 can retire at that time and elect to become a supernumerary judge, which creates a vacancy in his former position. He can however continue to hold judicial office on a part-time basis. He is then on reserve. Having such supernumery judges has often helped to eliminate backlogs in the judicial system.

There are identical arrangements for the judges who wish to continue to sit on the Federal Court, the Tax Court and the County Courts.

These provisions apply therefore to these judges and, by the way, in the cases I have just mentioned, to the judges who would have been forced to retire at age 70 instead of age 75.

The last clause deals with the removal of judges. The Constitution Act provides that a Superior Court judge is removable by the Governor General on address of the Senate and the House of Commons. These provisions did not apply to County Court judges and those of the other courts I have just mentioned. In the legislation dealing with these courts, it is mentioned that a judge can be removed following the recommendation of the Minister of Justice to the Governor General. Therefore, they want to apply the same procedure, that is to say, to use the joint address of the Senate and House of Commons in the case of the judges appointed by the federal government.

As I said, this is an updating of the legislation. The idea is to balance and provide the same treatment for all judges appointed by the Governor in Council. That is the purpose of the bill.

The bill met no objection from the House of Commons. It was read the first time on February 20, and the second time on March 27. At that time, it was referred to the committee which spent a whole session dealing with its subject matter. It returned to the House of Commons and remained on the order paper until June 23, when it was read the third time in a few minutes.

I do not really see the need to refer this bill to the Committee on Legal and Constitutional Affairs. If we want to, we could give it a few minutes consideration.

Senator Frith: I doubt I have anything to add to what Senator Flynn has said. As a former Minister of Justice, if he is really satisfied that various provisions of this bill support the principles he has explained, I am sure everybody is prepared to support this bill. However, for a period of 24 hours, I move the adjournment of this debate.

On the motion of Senator Frith, debate adjourned.

The Senate adjourned during pleasure.

• (1720)

[*English*]

At 5.30 p.m., the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned and being come with their Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act respecting the treatment of pension payments in determining certain unemployment insurance benefit entitlements and to amend the Unemployment Insurance Act, 1971 (*Bill C-50, Chapter 17, 1987*)

An Act to provide for payments in respect of exploration for or development of lands for the production of hydrocarbons in Canada other than coal (*Bill C-59, Chapter 18, 1987*)

An Act respecting the reorganization of Bell Canada (*Bill C-13, Chapter 19, 1987*)

The Honourable Marcel Danis, Deputy Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988 (*Bill C-65, Chapter 20, 1987*)

To which bill I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1730)

The sitting of the Senate was resumed.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—CONSIDERATION IN COMMITTEE OF THE WHOLE—ORDER STANDS

On the Order:

The Senate again in Committee of the Whole on the Meech Lake constitutional accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I understand that we are still trying to arrange for the attendance of two witnesses. It may be that we will end up with only one before June 30. There is also outstanding the question of whether we will try to at least offer, but not necessarily have, television access on an experimental basis, for whatever witness we have, to see how it works.

Those two things will not be settled, obviously, this afternoon, but I mention this to say that we should deal with them tomorrow.

Hon. Gildas L. Molgat: Honourable senators, I wonder if it would be possible to set a time for witnesses. In fairness to witnesses, we should be able to tell them approximately when we expect them so that they will not be waiting for three or four hours. If we could agree to Monday, we could have a witness available on Monday.

Senator Frith: We might talk about sitting Monday morning also to give us more time.

Senator Molgat: Perhaps the order could be placed at the beginning of the Orders of the Day. Were that feasible, we could tell the witness that we expect him to be available at such-and-such a time.

Hon. Duff Roblin: Honourable senators, we are a long way from reaching those decisions, in my opinion. It might be a better idea to postpone this item until tomorrow when others who can speak for the government are here to discuss the question of who the witnesses will be and when we should hear them. I, for one, would think that it would be a little presumptuous for us to proceed on those matters at the moment. We should hold it over until tomorrow.

Senator Flynn: Do everything at the same time.

Senator Molgat: I have discussed it with the government leader in the Senate. He had no objection to proceeding that way, but I am quite agreeable to wait until tomorrow. If we agree to Monday, I can reach the witness tomorrow afternoon.

Order stands.

The Senate adjourned until tomorrow at 11.00 a.m.

APPENDIX "A"

(*See p. 1393*)

FORGIVENESS OF CERTAIN OFFICIAL DEVELOPMENT ASSISTANCE DEBTS

REPORT OF STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS
ON SUBJECT MATTER OF BILL C-62

Thursday, June 25, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

NINTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-62, an Act relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and of the Islamic Republic of Mauritania and also to the former East African Community, in advance of the said Bill coming before the Senate, or any matter relating thereto, has in obedience to the Order of Reference of Tuesday, June 16, 1987, examined the subject matter of the said Bill and now reports as follows:

The purpose of this Bill is to enable the Government to forgive the past debts incurred on Canadian official development assistance (ODA) loans by two very low-income African countries and by the former, now defunct, East African Community (composed at the time of Kenya, Tazania and Uganda).

The amounts to be forgiven, totalling $68.4 million, comprise:

Togo	$16.6 million
Mauritania	$ 4.2 million
Kenya	$19.8 million
Tanzania	$15.5 million
Uganda	$12.3 million

In 1977, at the time of the Conference on International Economic Cooperation, Canada forgave the ODA debts of 12 least developed countries (LLDCs). Recently, Togo and Mauritania qualified by definition as LLDCs and, as a result, Canada is, by this Bill, granting them the same debt relief. Following the dissolution of the East African Community (EAC), the combined ODA debts to Canada by the three member states were divided between Kenya, Tanzania and Uganda in the amounts shown above. As Tanzania and Uganda qualified as LLDCs, the Canadian Government wished to forgive their EAC debts. While Kenya is not a LLDC, the Government considered it equitable to cancel its share of the EAC debts at the same time.

In 1986 the Government offered a moratorium on repayments of Canadian ODA debt, initially for five years but extendable in five-year periods to the year 2000, to all sub-Saharan African countries demonstrating a commitment to undertake necessary economic adjustment. ODA debt of this nature owed by such countries to Canada totalled almost $700 million, loaned to these countries on extremely concessional terms. While practically speaking this action constitutes a write-off of these debts, the obligations continue to be carried as assets in the public accounts of Canada.

In its recent report on Third World debt problems, this Committee commended Canada's 1977 debt forgiveness for LLDCs as well as the Government's 1986 announcement that all future ODA would be grants rather than partial grants and partial loans as previously. When combined with the Government's 1986 moratorium offer and the debt forgiveness of Bill C-62, Canada will have effectively written off all of its ODA debt in sub-Saharan Africa. The Committee is impressed that Canada, having implemented unilateral measures of debt relief, is now taking the lead in pressing other creditor countries, at the Venice Summit and elsewhere, to consider other ways of assisting the heavily burdened low-income African debtor countries.

It should be kept in mind, however, that relief of Canada's ODA debt for sub-Saharan African countries does not include its official commercial debt such as that associated with the credits granted by the Export Development Corporation and the Wheat Board given on commercial terms.

The Committee was concerned by the short title of the Bill which does not adequately describe the subject matter. In the Committee's opinion, it would be all but impossible for any person wishing to locate this Bill,

five years hence, in a statute citator to identify it under the present short title. The Committee does not, however, wish to recommend delaying the Bill on this account as a delay could send an unfortunate signal to sub-Saharan African countries.

The Committee also discussed section 5 of the Bill. The Committee was advised that, beginning in 1986, the Government decided to treat ODA loans henceforth as budgetary items and to include the expenditure in the budget. Previously, loans had been treated as non-budgetary items and had been regarded as assets that would ultimately be repaid.

This decision to classify ODA loans henceforth as budgetary items did not apply to the earlier ODA loans that had not been repaid, including the loans covered by the moratorium referred to above. In order to remove from the public accounts a debt that is to be forgiven as in this Bill, it is necessary for the Government to write it off as a budgetary expenditure. The Committee is, accordingly, satisfied that the language in section 5 is accurate. Since the Committee anticipates that a number of the loans covered by the 1986 moratorium are unlikely to be repaid, the Committee would be interested in having the Auditor General's comments as to whether all of the outstanding ODA loans in sub-Saharan Africa should be converted to a budgetary expenditure.

Your Committee has reviewed the subject matter of Bill C-62 in accordance with the Order of Reference and recommends the said Bill, when examined by the Senate, be favourably considered.

APPENDIX 'A'

List of Witnesses
Tuesday, June 23, 1987

Mr. Pierre Racicot, Vice-President
Francophone Africa Branch, CIDA

Mr. John Copland, Senior Country Program Director,
Anglophone Africa Division, CIDA

Mr. Ted Hobson, Director, Economic Policy Division,
Department of External Affairs

Mr. Yves Fortin, Assistant Director, International
Finance and Development Division, Department of
Finance

Respectfully submitted,

GEORGE C. VAN ROGGEN
Chairman

APPENDIX "B"

(*See p. 1395*)

OFFICIAL LANGUAGES

FOURTH REPORT OF STANDING JOINT COMMITTEE

THURSDAY, June 25, 1987

The Standing Joint Committee on Official Languages has the honour to present its

FOURTH REPORT

Introduction

1. In compliance with its Orders of Reference from the Senate dated Tuesday, 16 December 1986, and Tuesday, 31 March 1987, and its Orders of Reference from the House of Commons dated Wednesday, 26 November 1986, and Tuesday, 31 March 1987, your Committee has considered the 1985 and 1986 reports of the Commissioner of Official Languages.

2. Since 10 December 1986, your Committee has held 19 public hearings at which it heard representatives of 16 government departments and other federal agencies (see appended list of these sittings and witnesses). The purpose of the hearings was to investigate in detail the degree to which the provisions of the *Official Languages Act* were being implemented within those departments and bodies. These meetings enabled us to assess the effectiveness of the mechanisms for implementing the official languages program within the federal public service, and of the coordination work being done by the central bodies responsible for the program.

3. Since it was created in May 1980, your Committee has tabled a number of comprehensive reports to Parliament dealing with improvements to the *Official Languages Act* and the measures being taken to implement the official languages program within the official-language minorities and the federal public service. Although considerable progress has been made since the Act came into force, the Committee has found that much remains to be done. It has therefore proposed administrative and legislative solutions to encourage language reform in Canada.

4. In its first report, tabled 8 July 1981, the Committee raised the question of language of service, and made recommendations on bilingual districts, imperative staffing, the concept of "active offer of service" and identification of bilingual positions. In June 1982, it submitted a comprehensive report on the thorny problem of language of work. In April 1983, in its fifth report to Parliament, the Committee described the results of its lengthy consideration of three main aspects where reform was required: language of service, language of work, and equitable participation. In June 1986, it reiterated the demands contained in its fifth report and proposed possible new approaches. Recently, the Committee tabled a report on a crucial issue for official-language minorities: education in their own language. The same report also expressed the wish that the bill to amend the *Official Languages Act* be referred to the Committee, given its unflagging interest in language reform since 1980.

5. The government has responded to the Committee's reports on two occasions. In December 1983, Prime Minister Trudeau said that his government acknowledged the need for improvements in the *Official Languages Act* and was continuing to look into the matter, especially in light of the provisions in the *Charter of Rights and Freedoms*. With respect to the administrative measures proposed by the Committee for the three sectors of language reform, the government recognized the need to spell out both the concepts and the mechanisms for implementing them. In October 1985, this time over the signature of Deputy Prime Minister Erik Nielsen, the government's response to the Committee was that it was committed to ensuring that the equal status of the two official languages would be respected, both in law and in fact. It recognized the need to revitalize the official languages program and to amend the *Official Languages Act*. It recalled that Treasury Board was responsible for detailed language planning within the federal public service, and promised that the President of the Treasury Board would ensure that language plans prepared by departments and other federal agencies were adequate and that mechanisms for monitoring implementation were effective.

The Official Languages Program within the Federal Public Service

6. This is the subject on which your Committee wishes to focus once again in this report, because the

testimony it has heard from the 16 departments and agencies whose representatives appeared before it between December 1986 and June 1987 strongly suggests that the official languages program within the federal public service is not being vigorously pursued by management and is not receiving the attention it merits inside some of those departments and agencies themselves.

Program Management

7. Testimony from the representatives of departments and agencies who appeared before our Committee, and a review of the data found in the annual reports and language audits of the Office of the Commissioner of Official Languages, has led us to conclude that the official languages program within the federal public service suffers from a serious lack of direction and of follow-up measures. Treasury Board, which according to the government ought to be ensuring that language action plans prepared by departments and other federal agencies are adequate and that mechanisms for monitoring implementation are effective, has in recent years allowed the situation to deteriorate to a point where newly-constituted bodies (such as the Canadian Security Intelligence Service and Marine Atlantic) have been able to function without having submitted, and received approval for, an official languages plan; others (such as the RCMP) have sought to whittle down their goals; and still others (such as VIA Rail, Canada Post, Regional Industrial Expansion, Fitness and Amateur Sport, Correctional Services, National Defence) have been able to wriggle out of their language obligations by pleading some habitual excuses such as a lack of Francophone professionals and scientists, collective agreements or the lack of tools to work in French.

8. Administration of the official languages program within the federal public service has gone through a number of stages since the *Official Languages Act* was passed in 1969. Initially centralized, it was subsequently partially handed over to the various departments and other federal agencies, which set up "Official Languages Branches" responsible for implementing the program. The third phase provided for integration of language functions into managers' other duties, along with the responsibility for drawing up annual official-language plans. In the future, according to new management principles, these plans will be replaced by formal management agreements, or letters of understanding, between Treasury Board and the respective Deputy Ministers. Unfortunately, whatever the management structure, the conditions for an effective system of accountability have not been put into place. It all too often happens that failure does not result in either criticism or penalty, so that, as a last resort, dissatisfied employees have to start denunciations like those that occurred recently in the RCMP and CSIS.

Language of Service

9. Despite the very clear provisions on language of service set down in sections 9 and 10 of the *Official Languages Act* and section 20 of the Charter, Canadians are not always served in the official language of their choice, even in the country's bilingual regions. This situation is unacceptable especially in government agencies with coercive powers (the RCMP, Canadian Security Intelligence Service, Correctional Services) or that operate in situations where the health and safety of the public may be at risk (Marine Atlantic, VIA Rail). Certain other bodies continue to project a unilingual image of Canada, though their offices or services are distributed across the country (Petro-Canada, Canada Post).

Language of Work

10. Parliament's 1973 resolution established clearly the right of federal civil servants to work in their first official language, as long as they respected the right of members of the public to be served in the official language of their choice. Unfortunately, this aspect of the official languages program continues to present a seemingly insurmountable obstacle to the principle of the equality of the two official languages in the federal public service. Even in federal agencies with a critical mass of employees from the minority group (20 to 25%), the dominant language of work is, to an overwhelming extent, English. It must be noted that Treasury Board has issued very few guidelines on promoting the use of French at work, whether in training, in meetings, in performance appraisals or in internal documents. The many complaints filed with the Office of the Commissioner of Official Languages by public servants who feel that their right to work in the language of their choice has been infringed suggests that Treasury Board should be issuing more such directives; otherwise, the very concept of "language of work" will remain a nebulous notion without any basis in reality.

Equitable Participation

11. Though the government has succeeded in establishing a participation rate for the two language groups that corresponds to their national demographic proportions, the underlying goal has not been achieved because disparities persist in certain employment categories and regions. The Committee has noted that Francophones are almost invariably underrepresented in the management, scientific and professional categories and overrepresented in administrative support. Furthermore, they are always underrepresented in certain regions, while Anglophones are always underrepresented in Quebec. It would therefore appear that members of the official language minorities cannot be said to have equal

access to positions and promotions in the federal public service. This was an essential condition to the attainment of "full participation in the Public Service by members of both the anglophone and francophone communities" that Parliament had pledged in its 1973 Resolution. That is why the Committee recommends:

RECOMMENDATION 1

- **That Treasury Board put forward specific guidelines to ensure equitable participation of both linguistic communities at all levels of the federal public administration.**

Mechanisms for Implementation of the Official Languages Program within the Federal Public Service

12. In its discussions with the representatives of 16 federal departments and agencies, the Committee investigated the mechanisms for implementation of the official languages program in each of their various aspects of activity. These mechanisms are: identification of the language requirements of positions, staffing, bilingualism bonus, language training, translation and incentives to work in the language of choice. Without minimizing the importance of a firm engagement and of an adequate determination on the part of senior management within departments and agencies regarding linguistic reform, the Committee would like to make recommendations on some of these mechanisms, with a view to revitalizing the official languages program in the federal public service.

a) Identification of Language Requirements of Positions

13. If one fact stood out in the testimony given by Deputy Ministers and heads of federal agencies, it was the need to have more employees in senior management positions, in supervisory positions and amongst professionals offering certain specialized services to the public (ex. lawyers, doctors, social workers), with a thorough knowledge of their second language. Under the current system for designating bilingual positions, managers are required to have an intermediate grasp of their second language (level B), which is plainly inadequate. This must be rectified, and the Committee therefore recommends:

RECOMMENDATION 2

- **That senior federal public service managers, supervisors and professionals offering specialized services to the public, in positions that have been designated bilingual, be required to have superior knowledge (level C) of their second language.**

14. The elementary level (level A) of second-language knowledge was perhaps useful in the early days of the public service's official languages program, but it would now seem that the minimal abilities required for classification at this level are skewing the data on institutional bilingualism, since civil servants with only this grasp of their second language cannot really serve the public in both official languages. The Committee believes that it is time to raise the overall level of government bilingualism by phasing out this elementary level and requiring employees in bilingual positions who serve the public to have at least an intermediate knowledge of their second language. In 1986, 10% (6,464) of the positions designated bilingual were occupied by employees whose level of bilingualism was only A. The Committee therefore recommends:

RECOMMENDATION 3

- **That the designation of positions as requiring elementary (level A) second-language knowledge be phased out for federal public service positions designated bilingual whose incumbents must offer a service to the public, to be replaced by a designation of positions as requiring intermediate (level B) second-language knowledge.**

b) Staffing of Positions Designated Bilingual

15. In 1986, only 28.6% of public service positions were designated bilingual, while 58.8% were designated "English essential." The 1973 parliamentary resolution contained special provisions to ensure that unilingual employees applying for bilingual positions were not penalized, provided they agreed to take French courses at government expense. This conditional staffing system, which was supposed to be a temporary measure, ultimately became firmly entrenched, so much so that today, many unilingual employees continue to be appointed to bilingual positions. Although your Committee has repeatedly called for the discontinuation of this practice, which disregards the merit principle, it has in fact been extended on two occasions and maintained, while no timetable has been established for its elimination. On the contrary, certain recent Treasury Board directives have lowered the requirements for the imperative staffing of bilingual positions. During the most recent round of public hearings, it became clear to our Committee that the departments and agencies that have been the most successful in terms of implementing the official languages program are those which have applied the imperative staffing process wisely. It was also apparent that the

conditional staffing system is undeservedly popular. In 1986, it resulted in the appointment of 1,196 unilingual incumbents to bilingual positions, of which 729 were not exempted on the grounds of age or language of service. Therefore, the Committee recommends:

RECOMMENDATION 4

- **That all positions designated bilingual be staffed on an imperative basis, thus recognizing that bilingualism is an integral part of the merit principle within the federal public service.**

c) Bilingualism Bonus

16. This bilingualism incentive, initially intended for employees in lower job levels, has now become a kind of universal payment made to all those with proven second- language capabilities, whatever the level. The bonus is today a part of the collective bargaining process and, as such, it would be extremely difficult to eliminate it. The bonus costs the federal treasury $45.5 million and, as everyone knows, it is often paid to persons whose bilingual status is questionable. Treasury Board, working in cooperation with the National Joint Committee, has agreed to introduce measures designed to test the second-language skills of all bonus recipients. The government has allowed a costly and uncontrollable situation to develop. It would do well to attempt to establish clearly-defined criteria and to refuse to pay the bonus to those who fail to satisfy the clearly defined bilingualism criteria. Without passing judgement on the merits of the bonus, the Committee recommends:

RECOMMENDATION 5

- **That the bilingual bonus be given to all employees holding a position that has been designated as bilingual within the public service administration and requiring at least an intermediate level of bilingualism and that it establish an effective system of control to monitor the level of bilingualism of such beneficiaries on a regular basis.**

d) Language Training

17. It seems that the government now draws a distinction between institutional needs and career needs when offering language training to its employees during business hours. However, it will continue to offer training to bonus recipients who the tests show have declined in their second language proficiency. There appear to be some inconsistencies in the new regulations governing access to language training. The Committee therefore recommends:

RECOMMENDATION 6

- **That the criteria governing access to language training be clearly defined and applied in a uniform manner.**

e) Incentives to Work in the Language of One's Choice

18. It is generally recognized that it is not easy to change attitudes and behaviour where language is concerned. Considering that both historically and practically, English has been the most commonly used language within the federal public service (except in Quebec), it is easy to see why exceptional incentives must be found to encourage bilingual Francophones and Anglophones to develop the habit of working in French. Treasury Board should therefore come up with some incentives and formulate directives to ensure that federal departments and agencies give their employees the opportunity to work in the language of their choice. Consequently, the Committee recommends:

RECOMMENDATION 7

- **That Treasury Board develop a policy and programs to ensure equal status to French and English as languages of work within the federal public administration.**

Management of the Official Languages Program

19. Treasury Board is responsible for the general administration of the official languages program throughout the federal public service. The members of our Committee feel that in recent years, Treasury Board has not shown strong leadership in the four program management sectors, namely planning, accountability, resources and monitoring.

20. Departmental official language plans were used for planning purposes between 1977 and 1985. In the past few years, the focus has shifted to letters of understanding between Deputy Ministers and Treasury Board Secretariat. While these letters of understanding were being drafted, little attention was paid to departmental plans. This lack of leadership created a void that rapidly led to a laissez-faire attitude.

21. The idea was to make departmental and agency administrators responsible for the language program. However, by integrating the program into the everyday activities of these administrators, it became diluted. Program responsibility was transferred to the branches, and managers never really assumed any leadership. Once again, however, we are faced with a void, since the Official Languages Branches have now been disbanded, without official recognition that their

responsibilities have been transferred to senior management.

22. Senior managers within federal departments and agencies have been ordered to cut expenditures and reduce program staff levels. Their appraisals are tied to their ability to implement these cuts. Managers are reluctant to increase or maintain spending levels for their official languages program when they have to make cuts to other programs. This may explain the significant reduction in the number of positions directly tied to the management of the official languages program within departments and agencies. Seemingly, there are no longer enough human and financial resources to ensure that the program has the desired effect.

23. Finally, the fourth, but by no means least important, weakness in the management of the program is the lack of control exercised by Treasury Board. For decentralized management to be effective, it is important that programs and the results they generate be evaluated and that disciplinary action be taken in cases where performance is manifestly poor. According to the testimony heard over the past six months, it would seem that far too often it was left up to the departments to modify their plans, either by pushing back timetables or even, in some cases, by redrafting them.

24. The Committee is concerned that the official languages program may be running out of steam, particularly in the departments that gave testimony in recent months. It is concerned that Treasury Board may not be doing its job as far as the program is concerned.

The Committee therefore recommends:

RECOMMENDATION 8

- **That, when tabling budgetary estimates, the President of Treasury Board table to Parliament an annual report on the status of the official languages program within the federal public service and on any new measure liable to modify it.**

RECOMMENDATION 9

- **That Treasury Board Secretariat display evident leadership in coordinating the four management components of the official languages program within the federal public service; that is, planning, accountability, resources and monitoring.**

RECOMMENDATION 10

- **That all federal departments and agencies be compelled to submit annually to Treasury Board Secretariat, for its approval, an Official Languages Plan, and that disciplinary measures (such as demotion, transfer or salary freeze) be taken against senior managers having not done so or having not achieved the objectives of such plans.**

RECOMMENDATION 11

- **That all federal departments and agencies set up an Official Languages Branch which would report directly to the Deputy Minister (or Commissioner, or President) and which would be responsible for the official languages program in-house.**

Conclusion

25. The 16 federal departments and agencies that testified before the Committee over the last six months are slated to make additional appearances this fall to report on their progress in ensuring promotion of the equality of the two official languages. The Committee also plans on examining the linguistic performance of other departments and agencies during the year. In addition, it will study the draft legislation to amend the *Official Languages Act*, in the hopes that it will contain proposals for reviving the official languages program within both the federal public service and the official languages minorities.

Respectfully submitted,

DALIA WOOD
Joint Chairman

ANNEX 1

Sittings and Witnesses
(December 1986 to May 1987)
Second Session, Thirty-Third Parliament

Issue no. 1, 10 December 1986

Department of Energy, Mines and Resources:
Arthur Kroeger, Deputy Minister;

W. Hutchison, Assistant Deputy Minister, Earth Science;
Jacques Ranger, Assistant Deputy Minister, Human Resources;
K. Whithan, Assistant Deputy Minister, Research and Technology.

Issue no. 2, 17 December 1986

Royal Canadian Mounted Police:
Robert Simmonds, Commissioner;
J.E.J. Julien, Assistant Commissioner, "C" Division;
W. Spring, Chief Superintendent, Director of Official Languages.

Issue no. 3, 21 January 1987

Department of Communications:
Alain Gourd, Deputy Minister;
Michael Binder, Assistant Deputy Minister, Corporate Management;
Jeremy Kinsman, Assistant Deputy Minister, Cultural Affairs;
Jean-Claude Bouchard, Director General, Human Resources Management.

Issue no. 4, 3 February 1987

Royal Canadian Mounted Police:
Robert Simmonds, Commissioner;
J.E.J. Julien, Assistant Commissioner and Commanding Officer, "C" Division, Quebec;
D.K. Wilson, Deputy Commissioner and Commanding Officer, "E" Division, British Columbia;
J.A.D. Lagassé, Chief Superintendent and Commanding Officer, "Depot" Division, Regina;
J.B.D. Henry, Assistant Commissioner and Commanding Officer, "D" Division, Manitoba;
G. Delisle, Staff Sergeant, Staff Relations Division Representative, "C" Division, Quebec.

Issue no. 5, 4 February 1987

Correctional Service of Canada:
Rhéal J. LeBlanc, Commissioner;
France-Marie Trépanier, Director, Affirmative Action and Official Languages;
Robert Cooper, Director of Human Resources.

Issue no. 6, 10 February 1987

Canada Post Corporation:
Donald Lander, President and Chief Executive Officer;
Sylvain Cloutier, Chairman of the Board;
William Kennedy, Vice-President, Personnel and Employee Relations;
Robert Lalonde, Director of Official Languages.

Issue no. 7, 11 February 1987

Marine Atlantic:
Rupert J. Tingley, President and Chief Executive Officer;
Madeleine Delaney-LeBlanc, Director of Public Affairs.

Issue no. 8, 3 March 1987

Correctional Service of Canada:
Rhéal J. LeBlanc, Commissioner;
Gordon Pinder, Regional Deputy Commissioner, Atlantic Region;
Jean-Claude Perron, Regional Deputy Commissioner, Quebec Region;
Jim Phelps, Regional Deputy Commissioner, Prairies Region;
Arthur Trono, Regional Deputy Commissioner, Ontario Region;
France-Marie Trépanier, Director, Affirmative Action and Official Languages.

Issue no. 9, 4 March 1987

Petro-Canada:
Wilbert Hopper, Chairman and Chief Executive Officer;
John G. Lynch, Vice-President, Human Resources;
Gaston Beauregard, Senior Vice-President, Eastern Region.

Issue no. 10, 11 March 1987

Department of Justice:
Frank Iacobucci, Deputy Minister and Deputy Attorney General;
Anne-Marie Trahan, Associate Deputy Minister;
Douglas Rutherford, Associate Deputy Minister;
Jean-Claude Demers, Assistant Deputy Minister, Administration;
Martin Law, General Counsel, Human Rights Law Section;
Alexandre Taschereau, Director, Official Languages;
Réjean Patry, Coordinator, National Program on the Integration of the Two Official Languages in the Administration of Justice.

Issue no. 11, 25 March 1987

Fitness and Amateur Sport and Office for the 1988 Winter Olympics:
Lyle Makosky, Assistant Deputy Minister;
Sandra Eddy, Official Languages Consultant;
Hugh Glynn, President, National Sport and Recreation Centre;
Gerry Berger, Federal Coordinator, Office for the 1988 Winter Olympics.

Issue no. 13, 7 April 1987

Public Service Commission:
Huguette Labelle, Chairman;
Trefflé Lacombe, Commissioner;
Arthur St-Aubin, Executive Director,
Languages Training Program Branch and Staff Development Program.

Issue no. 15, 15 April 1987

Air Canada:
Pierre Jeanniot, President and Chief Executive Officer;
Roger W. Linder, Executive Vice-President and Chief of Passenger Operations;
J. Whitelaw, Senior Vice-President, Corporate and Human Resources;
J. Tennant, Vice-President, In-Flight Service.

Issue no. 16, 28 April 1987

Regional Industrial Expansion:
R.V. Hession, Deputy Minister;
Claude Lemelin, Associate Deputy Minister;
Craig Oliver, Assistant Deputy Minister, Finance, Personnel and Administration;
Margaret Amoraso, Director General, Human Resources Branch.

Issue no. 17, 29 April 1987

Canadian Security Intelligence Service:
T.D. Finn, Director;
P. Choquette, Deputy Director, Administration;
André Nault, Director of Official Languages.

Issue no. 18, 6 May 1987

VIA Rail:
Lawrence Hanigan, Chairman;
Ray Arnold, Vice-President, Human Resources;
Colette Biche, Director, Official Languages.

Issue no. 19, 12 May 1987

Canadian Security Intelligence Service:
T.D. Finn, Director;
P. Choquette, Deputy Director, Administration;
André Nault, Director of Official Languages;
Yvon Gingras, CSIS, Quebec Region.

Issue no. 20, 13 May 1987

Treasury Board Secretariat:
Gérard Veilleux, Secretary;
Pierre Crevier, Associate Secretary;
Georges Tsaï, Deputy Secretary, Official Languages Branch.

Issue no. 21, 27 May 1987

National Defence:
D.B. Dewar, Deputy Minister;
Lieutenant General J.E. Vance, Vice Chief of the Defence Staff;
Lieutenant General A.J.G.D. de Chastelain, Assistant Deputy Minister, Personnel;
E.J. Healey, Assistant Deputy Minister, Material;
Major General R.J. Evraire, Chief, Land Doctrine and Operations.

Issue no. 23, 16 June 1987

Appearing:
The Honourable James Kelleher, P.C., M.P., Solicitor General of Canada.

APPENDIX "C"

(*See p. 1415*)

FINANCIAL INSTITUTIONS

REPORT OF STANDING SENATE COMMITTEE ON BANKING TRADE AND COMMERCE ON SUBJECT MATTER OF BILL C-56

THURSDAY, June 25, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-56, An Act to amend certain Acts relating to financial institutions, in advance of the said Bill coming before the Senate, or any matter relating thereto, has, in obedience to the Order of Reference of Tuesday, 12th May, 1987, examined the subject-matter of the said Bill and now reports as follows:

Introduction

Bill C-56, introduced by the Honourable Thomas Hockin, Minister of State (Finance), on 7th May, 1987, replaces Bills C-8 and C-9, which were tabled on 6th October, 1986. These Bills in turn were essentially the same as Bills C-123 and C-103 of the previous session of this Parliament. C-56 carries forward from these Bills provisions empowering the Minister of Finance to review transfers of ownership of financial institutions, strengthening the ability of regulators to alter the conduct of financial institutions, and raising the financial standards of federally-incorporated insurance companies. It also contains new provisions that would allow federally-regulated financial institutions to own securities dealers and would clarify the conditions under which a mutual life insurance company would be deemed to be Canadian.

For the most part, the Bill's provisions are sound and enjoy wide industry support. In the remainder of this report we confine our remarks to those areas of the Bill where our investigation revealed shortcomings which ought to be addressed through amendments to the Bill, through appropriate regulatory provisions, or through provisions in the third legislative tranche which will implement the remaining reforms announced in the White Paper on *New Directions for the Financial Sector*, issued 18th December last.

Entry into securities activities

The Bill will allow federally-regulated financial institutions to own securities dealers, subject to the approval of the Minister of Finance. Witnesses appearing before the Committee raised several concerns about the specific provisions in the Bill relating to this new power.

1. There are no provisions in the Bill concerning the criteria that the Minister would apply to arrive at a decision to grant or deny approval. During our first meeting under this reference with departmental officials, Committee members questioned the absence of such criteria from the Bill and noted the contrast with those parts of the Bill which deal with transfers in ownership of trust, loan and insurance companies, which do provide a set of criteria that the Minister would apply in determining whether or not to approve a proposed transaction.

   In subsequent meetings, the Committee found considerable support for the position that, in those cases where the applicant wishing to enter the securities market is a foreign-controlled firm, one of the criteria for approval ought to be the degree of access that Canadian investors enjoy in the securities market of the applicant's home country. At present, reciprocity is a consideration in cases involving application by a foreign bank to establish a Schedule B bank in Canada. Support for a reciprocity principle in cases involving entry in the securities market was expressed by the Economic Council of Canada, the Canadian Bankers' Association, and the Investment Dealers' Association.

   In his appearance before the Committee on 18th June, the Minister of State (Finance), the Honourable Thomas Hockin, testified that reciprocity would in fact be one of the key factors that will be considered in permitting entry into Canada's securities markets by non-resident applicants.

2. The wording of the proposed amendments to allow banks to own a securities dealer differs

from the corresponding amendment for trust, loan and insurance companies. Banks will be allowed to acquire "a Canadian corporation, the activities of which are limited to dealing in securities" (clause 2), whereas trust, loan and insurance companies will be allowed to acquire "any corporation incorporated in Canada to deal in securities" (clauses 7, 13, 45, 52). The Canadian Bankers' Association expressed concern that the word "limited" in the *Bank Act* amendment may be interpreted by the courts in a way that will restrict the powers of securities subsidiaries of banks relative to the powers of securities subsidiaries of trust, loan or insurance companies.

The Minister has agreed to correct this divergence. During the clause-by-clause review of the Bill by the House of Commons Standing Committee on Finance, Trade and Economic Affairs, he proposed amendments which would render the wording of the relevant clauses the same for banks and non-bank financial institutions.

3. Paragraph 174(2)i of the *Bank Act* prohibits banks from participating in a partnership. Non-bank financial institutions, as well as other corporations, face no similar restriction. One implication of this different treatment is that the joint venture route of entering the securities market will apparently be available to non-bank institutions but not to banks. We can see no reason for maintaining this restriction on banks. If it is fine for a bank to own part of a securities dealer, why is it unacceptable to be in partnership with one?

Legal Counsel to the Department of Finance pointed out to the Committee that the prohibition against joint ventures is not absolute: provisions under subsection 193(13) of the *Bank Act* do allow participation in a limited partnership for up to two years, and this term may be extended with the approval of the Minister. However, this subsection is clearly intended to cover only temporary investments in areas in which banks are normally precluded from operating. At a minimum, therefore, it would be unorthodox to rely upon it to override a general prohibition in the *Bank Act*. If it were not so, there would be no need to amend the *Bank Act* in order to give banks access to the securities industry: subsection 193(13) could be used to the same effect. It is clear to the Committee that the basic policy objective reflected in existing legislative provisions is one that is opposed to banks' engaging in business activities other than the business of banking and activities ancillary to banking. Now that this policy has changed — at least as far as entry into securities markets is concerned — it would seem reasonable that the legislative provisions should be amended to conform with the new objective.

Ownership transfers

The Bill proposes to amend the *Canadian and British Insurance Companies Act*, the *Trust Companies Act* and the *Loan Companies Act* to provide that the following types of transactions require review and approval by the Minister of Finance:

1. acquisitions of shares of an insurance, trust or loan company by any person or associated group who holds more than 10% of such a company or who would hold more than 10% as a result of the acquisition; and

2. acquisitions of shares of any corporation which holds or is associated with anyone who holds shares of an insurance, trust or loan company if: a) the person acquiring the shares together with his associates holds more than 10% of the corporation's shares or would hold more than 10% as a result of the acquisition, and b) the combined holdings of the person, the corporation and their associates exceed 10% of the shares of the insurance, trust or loan company.

Under existing legislation, approval of the Minister of Finance is required to start an insurance, trust or loan company, but once a company is established, change in control can occur without ministerial sanction or review. The presumed intent of the proposed review requirements is to ensure that persons who are unable to meet the criteria for starting a financial institution are prevented from buying one. In this light, the review provisions in the Bill are excessively broad in reach.

First, they would require review of acquisitions of shares of a financial institution by the person who already controls that institution. Clearly, if the purpose of the review is to enable the Minister to block transfers of ownership of financial institutions to individuals who are deemed unsuitable for such ownership, the review of share acquisitions by a person already in control of the institution is futile. Indeed, when the review provisions were first proposed in the form of draft legislation, on 29th November, 1985, the background notes tabled with the draft bill expressly stated that "certain transactions, such as stock dividend plans or additional share acquisitions of shareholders who clearly have control, would be exempt from this requirement [for review]."

In its present form the Bill allows the Governor in Council, by regulation, to exempt any share transaction from the Bill's review provisions. There is no indication in the Bill, however, of the types of transaction which might qualify for exemption. In the view of the Committee, the regulations drafted under

this section ought to stipulate that acquisitions of shares in a financial institution by a person who already controls that institution would not be subject to review.

Second, the Bill would require review of share transfers which have very little or even no effect on the ownership of financial institutions. This result comes about from the Bill's provisions relating to share acquisitions in corporations associated with a financial institution, as described above, in combination with the Bill's definition of the term "associate". As the Bill now reads, a 10% ownership interest in a corporation defines the shareholder as an associate of that corporation and of any other firm or individual associated with that corporation.

As a consequence, the Bill would require ministerial review of any share purchase which would raise the holdings of the purchaser together with those of his associates to over 10% in a corporation which has no ownership interest in a financial institution but is associated with a person that does.

Under the corresponding provisions in the predecessor bills to C-56 (Bills C-8 and C-9 of this session of Parliament and C-103 and C-123 of the previous session), share acquisitions involving corporations associated with a financial institution would be reviewable only if the acquisition would result in a transfer of control of the corporation, and a corporation was defined as being associated with another if one was controlled by the other or if both were controlled by the same person.

The reach of the C-56 review provisions is therefore significantly broader than was the case with provisions in the predecessor bills. Beyond the implications of this change for future business decisions in Canada (the effect that the increased uncertainty and administrative burden will have on such decisions), it is also worth noting that the review provisions of C-56 operate retroactively from the date they were first tabled in Parliament: 29th November, 1985, for transactions relating to trust and loan companies, and 26th June, 1986, for transactions relating to insurance companies. As a result, transactions effected in the meantime, and which were not reviewable under the provisions then enunciated, would be made reviewable by Bill C-56 and expose the participants in those transactions to retroactive sanctions.

The Minister has admitted that the existing review provisions of C-56 have a broader reach than was intended. He has tabled amendments with the House of Commons Standing Committee on Finance, Trade and Economic Affairs, which would revert the provisions of the relevant clauses (10, 44 and 51) to those found in Bills C-8 and C-9.

Return of the review provisions of C-56 to the text of the earlier Bills will not by itself remove all concerns about their retroactive aspect. This is because the criteria set out in the Bill for determining whether or not to approve a reviewable transfer of shares are sufficiently general to allow the Minister to use as one consideration the ownership policy on financial institutions announced in the White Paper of December 1986. Application of that policy, which would limit ownership links between financial and non-financial firms, would clearly alter the significance of the review criteria in the legislation, though the wording would remain the same.

We note, however, that Mr. Hockin has stated that the ownership policy will not be applied to any transaction that occurred prior to the date when that policy was first made public. In his appearance before this Committee, he testified that: "The next instalment of the legislation [on the reform of financial institutions] will state that the restrictions on the creation or strengthening of financial/commercial links will be effective as of December 18, 1986." Together with the proposed amendments described above, this commitment in our view eliminates as an issue of contention the retroactive application of the Bill's provisions on transfers of ownership.

This is not to say that these provisions are no longer contentious. Several of our witnesses, in particular spokesmen for institutions in conglomerate groups with financial firms, expressed concern that these provisions might be used by the Government to implement the ownership policy announced in the White Paper last December. They cited statements by the Minister of State (Finance) indicating that this in fact was his intent. They noted that the ownership policy would form part of the third legislative instalment on financial reform expected later this summer, and argued that it would be inappropriate to grant the Government power to implement a policy which had not yet been debated and approved by Parliament. In their view, therefore, the provisions on transfers of ownership should be deleted from Bill C-56 altogether. Their reintroduction should await public discussion of the merits of the government's announced ownership policy respecting financial institutions.

In his appearance before this Committee, the Minister stated that, in response to these concerns, he has agreed to postpone proclamation of the Bill's clauses pertaining to transfers of ownership until "after Parliament has had the opportunity to discuss the principles of the ownership policy." Clause 57 of the Bill allows proclamation of the Bill's provisions by section.

Appraisal of Asset Values

Provisions in the Bill would expand and clarify the current powers of the Superintendent of Insurance to obtain independent appraisals of real estate assets held by an insurance, trust or mortgage loan company, and to substitute a different value from the one presented

by the company. Specifically, these provisions would extend the Superintendent's power in this area to include the valuation of real estate assets of a subsidiary in addition to those of the company itself. The authority of the Superintendent to write-down the values of a company's real estate, loans or investment is also made clearer. The company would be able to appeal such revaluations to the Federal Court.

A corresponding amendment to section 175 of the *Bank Act* would authorize the Inspector General of Banks to substitute his own appraisal of the value of a bank's assets for that of the bank. While analogous to the provisions respecting the revaluation of assets of non-bank financial institutions, this amendment differs from the latter in that it would apply to all assets, not just real estate.

Departmental officials told the Committee that the proposals respecting the valuations of assets of insurance, trust and loan companies arose from recent experience with some failed trust and loan companies, in which inappropriate valuation of assets was identified as a major contributing factor in the failure. It is a fact, however, that the range of assets held by non-bank financial institutions is widening, and this trend will continue in a more pronounced way with the implementation of the reforms proposed in the Government's White Paper, *New Directions for the Financial Sector*. As a result, the limits on the powers of the Superintendent to revalue the assets of non-bank financial institutions will prove increasingly confining. Parallel treatment of banks and non-bank financial institutions also argues for broadening the powers of the Superintendent to include all assets in a reappraisal.

In his appearance before the Committee, the Minister acknowledged this issue, and told us that as part of the next legislative package, he "will be giving serious consideration to the suggestion that these revaluation powers be expanded to cover all assets."

Actuarial Reports

Amendments to section 102 of the *Canadian and British Insurance Companies Act* would require property and casualty insurance companies to submit with their annual statements an actuarial report on the adequacy of their reserves to meet existing and expected claims. Representatives of the Insurance Bureau of Canada argued before the Committee that, since reinsurers depend on the companies that cede business to them for the information required to complete the actuarial reports, for professional reinsurers this requirement is very impractical, "even to the point of impossibility in some cases."

When we raised this issue with Mr. Robert Hammond, the Superintendent of Insurance, he responded that reinsurers had the power to insist, as part of the reinsurance contract, that the direct writing company provide them with the information required for the actuarial statement. He also told us that it was his intention to use the powers provided under the Bill, which would allow the Superintendent to specify the information to be included in the actuarial reports, to require direct writing companies to include in their own reports such information as would meet the requirements of the reinsurers.

APPENDIX A

List of Witnesses

Tuesday, May 26, 1987: (Issue No. 25)

From the Department of Finance:
- Mr. John H. Sargent, Assistant Deputy Minister, Financial Sector Policy Branch;
- Mr. Allan Popoff, Director, Financial Institutions and Markets Division;
- Ms. Ursula Menke, Counsel, Legal Services.

From the Department of Insurance:
- Mr. Robert M. Hammond, Superintendent of Insurance.

From the Office of the Inspector General of Banks:
- Mr. Michael A. Mackenzie, Inspector General of Banks;
- Mr. Donald M. Macpherson, Assistant Inspector General of Banks;
- Ms. Ursula Menke, Counsel, Legal Services.

From the Economic Council of Canada:
- Mrs. Judith Maxwell, Chairman;
- Mr. André Ryba, Project Director, International Finance;
- Mr. Keith Patterson, Economist.

Wednesday, May 27, 1987: (Issue No. 25)

From the Investment Dealers Association of Canada:
- Mr. Francis B. Lamont, Chairman of the Board; Vice-Chairman, Richardson Greenshields of Canada Limited;
- Mr. W. Donald Bean, Chairman, Securities Industry Planning Committee; Past Chairman of the Board; Chairman, Wood Gundy Inc.;
- Mr Andrew G. Kniewasser, President.

Wednesday, June 3, 1987: (Issue No. 26)

From the Canadian Bankers' Association:
- Mr. Robert M. MacIntosh, President;
- Mr. David E. Phillips, Vice-President and Director, Legal Affairs;
- Mr. Randall Chan, Assistant Director and Advisor, Financial Institutions.

From the Canadian Life and Health Insurance Association:
Mr. Gerald M. Devlin, Q.C., President;
Mr. Jean Martial, Acting Chief Legal Counsel;
Mr. C. Garfield White, F.C.I.A., Manager, Government Relations.

Wednesday, June 10, 1987: (Issue No. 27)
From the Great-West Life Assurance Company:
Mr. Kevin Cavanagh, President;
Mr. David Morrison, Senior Vice-President, Corporate Research.

From the Crown Life Insurance Company:
Mr. A. Morson, Vice-President.

Tuesday, June 16, 1987: (Issue No. 28)
From Imasco Limited:
Mr. Purdy Crawford, President and Chief Executive Officer;
Mr. Torrance J. Wylie, Senior Vice-President;
Mr. Brian Levitt (Osler, Hoskin & Harcourt).

From Power Financial Corporation:
Mr. Edward Johnson, Vice President and Secretary.

Wednesday, June 17, 1987: (Issue No. 29)
From the Insurance Bureau of Canada:
Mr. Alex Kennedy, Vice President and General Counsel;
Mr. Roy Elms, Member, Federal Legislation and Liaison Committee; President, Royal Insurance Company of Canada;
Mr. John Coker, Member; Federal Legislation and Liaison Committee; Vice Chairman, Munich Reinsurance Company of Canada.

From the Laurentian Group Corporation:

Mr. Claude Castonguay, Chairman of the Board and Chief Executive Officer;
Mr. Gaétan Drolet, Vice-President and General Counsel;
Mr. André J. Bourque, Corporate Secretary.

Thursday, June 18, 1987: (Issue No. 29)
Appearing
The Honourable Thomas Hockin, P.C., M.P., Minister of State (Finance)

From the Department of Finance:
Mr. John H. Sargent, Assistant Deputy Minister, Financial Sector Policy Branch;
Ms. Ursula Menke, Counsel, Legal Services.

From the Department of Insurance:
Mr. Robert M. Hammond, Superintendent of Insurance.

APPENDIX B

The Committee received submissions from the following groups:

ALLSTATE INSURANCE COMPANY OF CANADA
Markham, Ontario

CANADIAN LIFE AND HEALTH INSURANCE ASSOCIATION
Toronto, Ontario

CROWN LIFE INSURANCE COMPANY
Toronto, Ontario

ECONOMIC COUNCIL OF CANADA
Ottawa, Ontario

FINANCE, DEPARTMENT OF
Ottawa, Ontario

GREAT-WEST LIFE ASSURANCE COMPANY
Winnipeg, Manitoba

IMASCO LIMITED
Montreal, Quebec

INSURANCE BUREAU OF CANADA
Toronto, Ontario

INVESTMENT DEALERS ASSOCIATION OF CANADA
Toronto, Ontario

LAURENTIAN GROUP CORPORATION
Montreal, Quebec

POWER FINANCIAL CORPORATION

Respectfully submitted,

IAN SINCLAIR
Chairman

THE SENATE

Friday, June 26, 1987

The Senate met at 11 a.m., the Speaker in the Chair.

Prayers.

[*Translation*]

LIBRARY OF PARLIAMENT

ANNUAL REPORT OF PARLIAMENTARY LIBRARIAN TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Parliamentary Librarian for the 1985-86 fiscal year.

[*English*]

COMMITTEE OF SELECTION

FIFTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Orville H. Phillips, Chairman of the Committee of Selection, presented the following report:

Friday, June 26, 1987

The Committee of Selection has the honour to present its

FIFTH REPORT

Pursuant to Rule 66(1)(*b*), your Committee submits herewith the list of Senators nominated by it to serve on the Special Joint Committee on the 1987 Constitutional Accord:

The Honourable Senators Lewis, Perrault, Robertson, Rousseau and Tremblay. (5)

Your Committee recommends that a Message be sent to the House of Commons to acquaint that House accordingly.

Respectfully submitted,

ORVILLE H. PHILLIPS
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that this report be now adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

PRIVATE BILL

WINDSOR-DETROIT TUNNEL—REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Friday, June 26, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

NINTH REPORT

Your Committee, to which was referred the Bill S-11, An Act to authorize the City of Windsor to acquire, operate and dispose of the Windsor-Detroit Tunnel, has, in obedience to the Order of Reference of Wednesday, June 17, 1987, examined the said Bill and has agreed to report the same with the following amendments:

1. *Page 1, title:* Strike out the title and substitute the following:

   "An Act respecting the acquisition, operation and disposal of the Windsor-Detroit Tunnel"

2. *Page 2, preamble:* Strike out line 16 and substitute the following:

   "if acquired by the City of Windsor,"

3. *Page 3, clause 3:*

   (a) Strike out line 8 and substitute the following:

   "Tunnel may be acquired by the City."

   (b) Strike out lines 11 and 12 and substitute the following:

   "Canada, the Tunnel may be operated and disposed of by the City."

Respectfully submitted,

JOAN B. NEIMAN
Chairman

Hon. Jacques Flynn: I rise on a point of order. I believe that the title is incomplete. The words "by the City of Windsor" should be added.

Senator Neiman: You are correct, Senator Flynn. I have just received a copy. The words "by the City of Windsor" were inadvertently omitted from the title.

Thank you, Senator Flynn, for bringing that to our attention. We will prepare and file a revised copy.

The Hon. the Speaker: When shall this report be taken into consideration?

Senator Neiman: With leave, now.

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

Hon. Senators: Agreed.

Motion agreed to and report, as amended, adopted.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move, with leave of the Senate notwithstanding rule 45(1)(*b*), that Bill S-11, as amended, be read the third time now.

Motion agreed to and bill, as amended, read third time and passed.

TERRORISM AND PUBLIC SAFETY

DEADLINE FOR PRESENTATION OF FINAL REPORT OF SPECIAL SENATE COMMITTEE

Hon. Daniel Hays: Honourable senators, I move, with leave of the Senate and notwithstanding rule 45(1)(*e*), that notwithstanding the order of the Senate adopted on Tuesday, May 12, 1987, the Special Committee of the Senate on Terrorism and Public Safety be empowered to present its final report no later than Monday, August 17, 1987.

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

Hon. Senators: Agreed.

Senator Hays: By way of explanation, honourable senators, the committee has completed its hearings. The report is now being finalized and it is expected that it will be ready to go to the printers on July 13, in which case, the printer has advised, it should be ready by the end of July. We have provided two weeks' extra time to allow for some hitches that we might encounter.

In any event, I would like honourable senators to know exactly what the position is. Senator Kelly is, unfortunately, out of the country and I, as deputy chairman of the committee, am the mover of the motion.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is absent today on departmental business. I will take notice of any questions senators might have and hope to get answers at the earliest possible opportunity.

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Bielish, for the second reading of the Bill C-15, An Act to amend the Criminal Code and the Canada Evidence Act.—(*Honourable Senator Neiman*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe that Senator Neiman is waiting for a report, which will then be circulated. Could we stand this order until later this day? I see that Senator Neiman has just entered the chamber.

Hon. Joan Neiman: I ask that the order be stood until later this day, honourable senators.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands.

[*Translation*]

JUDGES ACT
FEDERAL COURT ACT
TAX COURT OF CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-41, an Act to amend the Judges Act, the Federal Court Act and the Tax Court of Canada Act.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, after due consideration, I have not changed my mind. I have been completely convinced by the intervention of Senator Flynn at the second reading stage of this bill.

We therefore agree to second reading of this bill.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Jacques Flynn: Honourable senators, unless a senator asks that this bill be referred to the Committee on Legal and Constitutional Affairs, I move, with leave of the Senate and notwithstanding rule 45(1)b), that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*English*]

MOTOR VEHICLE TRANSPORT BILL, 1987

SECOND READING—DEBATE ADJOURNED

Hon. Finlay MacDonald moved the second reading of Bill C-19, respecting motor vehicle transport by extra-provincial undertakings.

• (1110)

He said: Honourable senators, as you are aware, Bill C-19 and Bill C-18, which was introduced by Senator Macquarrie a few days ago, are companion pieces. They form an overall package of regulatory reforms. Bill C-19, which we are considering today, contains the reforms to economic regulation of extra-provincial trucking and bussing.

This bill has undergone some significant changes since it was first introduced in the other place last November. Members of the Standing Committee on Transport there travelled from coast to coast, listening to Canadians express their satisfaction and, indeed, in some instances, dissatisfaction in some respects with this bill. Provincial governments, of course, have been consulted, and changes have been made after consultations with both the committee and the minister.

As for some background, over the past decades we have seen significant changes in the trucking industry, including changes to the trucks themselves, trucking routes, loads and distances travelled.

In the 1940s the construction of better road networks enabled the industry to begin to spread its wings. The name of the game for truckers was to attract cargo either through expansion of the Canadian market or from Canadian railways.

Trucking, as we know, is a vital and constantly growing part of Canada's national transportation system. As a whole, the trucking industry generates over 70 per cent of total surface rate revenue, and the for-hire segment alone contributes over $6 billion annually to our gross national product.

[Senator Frith.]

As an exporting nation, trucking is increasingly important to our exports. In 1984 truckers carried 50 per cent of our exports to the United States. But over the years the relationship between the industry and the government has changed. Since the passage of the Motor Vehicle Transport Act in 1954, the provinces have been responsible for trucking regulation in both their own and the federal government's jurisdiction.

The passage of this act—the 1954 act—also helped the industry to prosper, but its cost was one of limiting entry into the industry and protecting companies already in it through controls administered by individual provincial boards. Each province has its own requirements for safety, entry, commodities, regulation, and so on.

This approach has encumbered the industry and has forced shippers to pay more for their goods. For example, costly and time-consuming hearings are required to obtain an operating licence in each province that a carrier wishes to serve. As the trucking industry has grown and matured, regulation has been admittedly relaxed in all provinces, especially in recent years. This has given truckers a certain amount of freedom, but still the industry remains saddled with a patchwork quilt of regulation which limits growth and innovation. It restricts services, imposes unnecessary costs on the industry and the customers and, ultimately, on the economy as a whole.

Both the provincial and federal governments believe that this is not the way to meet future needs—and I stress both provincial and federal governments. The change is necessary both to enable the trucking industry to continue to prosper and to assist shippers to compete efficiently and effectively in the domestic and United States marketplaces. It was this reasoning which led the federal and provincial governments to agree upon the February 1985 Memorandum of Understanding on which Bill C-19 is based. It was the source of three main initiatives.

First, all jurisdictions agreed to eliminate "public convenience" and "necessity" as an entry test, and to move to a reverse-onus test as soon as possible. That date has been established as the first of next year. I am prepared to elaborate on this section, if requested.

Second, all jurisdictions agree to implement a uniform fitness test, also effective January 1, 1988. This test requires that all applicants have insurance, demonstrate that they can operate safely, and so on. This was approved by all provinces eight months ago. While a test will apply to all extra-provincial traffic, most provinces have agreed to apply it within the province as well.

When Bill C-19 is enacted, it will benefit extra-provincial trucking in several ways. The regulatory emphasis on entry and price control will be shifted to safety performance. Entry into the industry will be directly linked to safe operation. The Governor in Council will be given the power to make national safety regulations for trucks and buses. Administrative responsibility will continue to be delegated to the provinces. There will be a five-year transition period for existing trucking companies to adapt to change.

The transition period during which the regulation will be phased out has been extended from three to five years from January 1, 1983. The extension was made at the request of the majority of the provinces who, after all, have to administer this new regime.

Different provinces view their circumstances differently on this subject, but they did reach a consensus that five years is most appropriate. In the interest of ensuring uniformity in the enactment of the total reform package, the federal government agreed to this amendment.

The extension of the reverse-onus period will result in well over a decade of gradual adjustment to a less-regulated environment in the industry. Some shippers may feel that this is too long a wait. However, the government also listened to the concerns expressed by the provinces and the industry and the five-year period represents a reasonable balance of opinions.

Truckers were among the strong advocates of the reverse-onus test during the negotiation of the federal-provincial agreement, and they will now have more time for adjustment to the January 1993 move to the fitness-only entry test.

In response to uneasiness expressed by a few provinces concerning the final step to fitness only, Bill C-19 includes a provision to study the effect of the reform in the fourth year of the transition phase.

Another issue worthy of elaboration concerns the equal treatment of truckers on both sides of the Canada-U.S. border. In 1982 the United States imposed a moratorium on the issuing of licences to Canadian truckers. The power to reimpose the moratorium remains in the United States law, and, in addition, a bill now before Congress would reinforce and extend this power.

The Minister of Transport and this government believe that if Canadian truckers are treated unfairly in the United States, Canada should be able to reciprocate against American truckers in this country. Because of an amendment approved by the Standing Committee on Transport, Bill C-19 will provide the Governor in Council with this countervailing power.

Given the close economic relationship between the two countries, we do not anticipate that this power will ever need to be invoked, but we are enacting a regulatory regime that is meant to stand the test of time.

When Bill C-19 is enacted, both shippers and carriers will benefit.

There will be less economic regulation through the elimination of the "public convenience" and "necessity" entry test. This will result in less need for costly legal services and considerable saving for truckers.

The remaining regulations on rates and routes to be served will be gradually eliminated, giving both shippers and carriers more flexibility.

Honourable senators, while the Government of Canada has demonstrated flexibility in developing and modifying the economic reforms in Bill C-19, its commitment to safety has never wavered. Safety remains the first priority, and this government has initiated major improvements in the regulation of safety in every mode of transportation.

Federal and provincial governments and industry representatives have cooperated to produce a uniform safety code for trucks and buses. While this bill was in the committee stage in the other place, the governments reached an agreement on implementation and cost sharing. The code now has a concrete existence. All governments are committed to implementing it, and key components will be in place in federal regulations when this bill comes into force on January 1, 1988.

Let us touch briefly on the costs. The Government of Canada will assist in funding implementation of the National Safety Code to a maximum of $23.5 million over the next five years. The federal government will contribute 100 per cent of the development costs of the information exchange system. They will also contribute up to $250,000 per year per province towards additional operating costs for the first five years.

• (1120)

The provinces, for their part, have promised to spend an additional $6 million per year over the same period to improve enforcement. For example, the provinces will hire new enforcement officers and retrain existing ones, if necessary.

The National Safety Code will form the basis of safety regulations in the future. Several key elements of the code will be included in the federal safety regulations. The detailed standards for these regulations will be finalized by August 1987. Hence, once this bill is passed, federal regulations setting out safety requirements for both trucks and buses will be in place by January 1, 1988.

Provincial safety regulations are already in place to control driver qualifications, medical standards, and so on. All provinces have joined the North American Commercial Vehicle Safety Alliance, which sets the standard for roadside inspections of trucks and buses.

Under Bill C-19 and the National Safety Code we shall have the following improvements: A safety requirement for companies to obtain an operating licence. For the first time in legislation, all applicants for an extra-provincial trucking licence will have to meet tough safety standards. Legally the National Safety Code will be adopted in regulations under the new Motor Vehicle Transport Act and under the laws of each province.

There will be uniformity among the provinces. The code will provide the basis for ensuring that safety requirements for extra-provincial traffic are the same in every province. Also, there will be an information exchange among the provinces. Records on safety deficiencies by companies and individual drivers will be kept and transmitted to all provinces.

In addition, existing nationwide safety programs for driver testing and control, vehicle safety enforcement and insurance, and dangerous-goods legislation will be augmented by the following new initiatives to be implemented on or before January 1, 1988: Upgrading the single driver licensing system, which has been in place for 20 years, to enhance enforcement; standardization of the driver licensing classification; modifica-

tion of medical standards for drivers; modification of regulations for security of loads; a new training course for dangerous goods trainers; and, finally, integration of the Canada Vehicle Safety Alliance with its American counterpart to ensure uniformity throughout North America. They consider this latter initiative as a very significant one, because it will provide a uniform roadside vehicle inspection program.

Regarding administration of the code, it makes good sense from all viewpoints to leave it with the provinces, which have clear jurisdiction over highway safety. It has been noted that nowhere in law is there a delegation of off-the-road safety practices of extra-provincial trucking and bus companies. They have therefore added to Bill C-19 a section which would enable provincial enforcement of safety in the federal jurisdiction.

The costs of trucking service can be held down—and, in some cases, lowered—by reducing the regulatory restrictions on entry, rates and routes. Both the federal and provincial governments are confident that the Canadian trucking industry has matured and is fully capable of meeting the challenge of greater competition that will result from the passage of this bill.

Those benefits will not arise overnight. Similarly, there will be no drastic upheaval in trucking services and no destructive super-heated competition, because the approach to reform has been thoughtful and balanced with a view to ensuring gradual adaptation.

Honourable senators, I commend Bill C-19 for your consideration and approval.

On motion of Senator Turner, debate adjourned.

NATIONAL TRANSPORTATION BILL, 1987

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Macquarrie, seconded by the Honourable Senator MacDonald (*Halifax*), for the second reading of the Bill C-18, An Act respecting national transportation.—(*Honourable Senator Turner*).

Hon. Charles Turner: Honourable senators, as this great country approaches its one-hundred and twentieth birthday, all Canadians, no matter where they live—east, west, north, south or centre—can look back with great pride knowing that when the Fathers of Confederation sat down in Charlottetown, Prince Edward Island, to put the Canadian jigsaw pieces together, one of the items they dreamed about, and later talked about, was how to tie each part of this great country together with ribbons of steel. No matter how hard the work, no matter how hard the trials and tribulations and problems of construction, our forefathers gave Canadians three great methods of transportation—first, ships; second, railways; and, third, airlines. Together these systems of transportation have helped Canada serve and survive the war effort during the Boer War, World War I, World War II and the Korean War, and in the process helped our democratic allies protect the great systems of government we all live under.

[Senator MacDonald.]

The National Transportation Act of 1987, Bill C-18, and the Motor Vehicle Transportation Act, Bill C-19, received first reading in the other place on November 4, 1986. Two days later, November 6, 1986, the Shipping Conferences Exemption Act, 1986 received first reading. Bill C-21 was referred to the Senate Transport and Communications Committee on November 27, 1986, for pre-study, and on June 23, 1987, the chairman presented its fifth report. These three bills are very technical and complicated and, therefore, should not be rushed or rubber stamped by the members of this great chamber. It is highly unlikely in our fast moving and changing society that these bills will re-appear before the house before the year 2007, if history follows the pattern it has developed since 1967 when the National Transportation Act was passed.

Bill C-18 consists of 184 pages, 369 clauses, 8 parts or sections which cover the many facets of deregulating air, rail and truck transportation systems in Canada. As a schoolboy in Toronto, I was taught that our Canadian democratic way of life was acclaimed as "government of the people, government by the people and government for the people." I sometimes wonder what kind of government we have in our country, because having served on the Special Committee on Bill C-22 and having reviewed Bills C-18 and C-19, in my opinion, these bills are the worst pieces of legislation presented in Parliament in many years, because we are not listening to the citizens who will have to operate and live under this new legislation.

Honourable senators, the people of Canada are talking, but no one in government is listening. Good government requires a correct process so that the right results are obtained after long, full and careful public and legislative debate and, if necessary, well thought out amendments. Using this commonsense approach will guarantee full assurance that the public will approve and accept the government sponsored bills. The government of the day is on the verge of changing and making a very historical shift in the public philosophy that has guided the development of Canada's transportation network. Let us be honest with ourselves. The system, with all its problems, is a pretty good system, just waiting for a little new equipment and modernization in some areas of Canada.

Bill C-18 is primarily designed to re-vamp the National Transportation Act brought in in 1967 by the Honourable Jack Pickersgill, the Minister of Transport under the Right Honourable Lester B. Pearson. Its cited purpose is to increase competition in the transportation sector by removing certain regulations that hinder the ability to compete. The transportation modes affected by deregulation measures included in this bill are rail, air and trucking. The major economic benefit that will transpire from this legislation is that Canadian goods and products will get to market at less cost, and more effectively and efficiently. This includes Canadian exports to the U.S., which the government says will reach their destination at a lower cost, thereby increasing their competitiveness.

• (1130)

Every Canadian rail company, commercial airline, private airplane owner, extra-provincial trucking firm and parcel carrier will be affected by this bill in the way in which they are allowed to conduct their business. It is one of the most far-reaching bills in terms of economic implications that this government has introduced to date. Everything from market entry, market exit, safety standards and shipping contracts to the preservation of our commitments to regional economic development are greatly affected by the measures contained in this legislation.

The forerunner of this legislation was a white paper released in July of 1985 by former Minister of Transport, Mr. Don Mazankowski, entitled: "Freedom to Move". The recommendations put forth in that white paper were almost unanimously adopted and form the substance and backbone of Bill C-18.

The Canadian Transport Commission, the CTC, would be eliminated and replaced by a new agency entitled the National Transportation Agency—NTA. Whereas the membership of the commissioners in the CTC numbered 17, the NTA would have nine new members. Presently a commissioner of the CTC is appointed for a maximum term of ten years. The new NTA would have commissioners appointed to five-year terms. Contrary to the present system under the CTC, the minister will now have the authority to issue policy directions to the new agency, thereby severely limiting its independence and ability to function as a regulating body.

Whereas the CTC previously recommended policy directions to the minister, who then acted on them forthwith, the minister will now direct his policy initiatives to the new agency, which would then research the feasibility of those initiatives. Therefore, the CTC would lose its status and recognition as the constant permanent resource body for transport policy initiative while its expertise and knowledge would now be used as a research support unit for policy direction emanating from the minister's office.

The railway companies—CN and CP—will be allowed to enter into what is called confidential contracts with large bulk shippers. In other words, the rates charged by the railway company to the shipper will be permitted to remain confidential and will no longer have to be published. Also, any rebate or allowance provided by a railway company on a published rate will be allowed to remain confidential. As a consequence of this new regulation, rail rates will fall. Large bulk shippers will clearly benefit by negotiating favourable low rates for their voluminous shipments. Another sure consequence will be that railway company revenues will decrease by exactly the same amount as the rates for shippers decrease.

Three major problems arise from confidential contracts: First, the small and medium-sized non-bulk shippers would be cross-subsidizing the rate decreases to the large bulk shippers in order to offset the loss of revenue to the railway companies; second, Canadian Pacific Railway, Canada's only other railway company besides CN, a federal crown corporation, feels that in competing with CN to offer the lowest rate to shippers through confidential contracts, it would not be able to absorb nearly as much lost revenue as would CN and, as a result, would be bankrupt by the year 1992. Third, the trucking industry would not be allowed to enter into confidential contracts and would, therefore, be made subject to unfair competition. Industry representatives fear that pressures to reduce rates would greatly weaken several Canadian trucking firms and render them vulnerable to foreign takeovers, especially by the huge U.S. trucking companies.

This bill contains no provisions setting any limitation on foreign takeovers of Canadian transportation companies. The only guidelines are these:

1. All mergers and takeovers over $20 million and over 10 per cent of the voting shares of a Canadian transportation firm will be reviewed by the Governor in Council;

2. All mergers below these set ceilings will be reviewed by Investment Canada under the normal procedure;

The guiding principle in this section is that all investment that "has been found, or has been deemed to have been found, likely to be of net benefit to Canada" will be approved.

The major difficulty with this is that it leaves all acquisitions over $20 million by foreign investors at the discretion of the Governor in Council. In other words, patronage and ideology become very important players in a most vital element of Canada's economy. The Liberal Party finds this totally unacceptable. Even in a country as economically powerful as the U.S., a 25 per cent limitation on foreign ownership of American transportation companies is firmly in place.

We fear that many good Canadian companies will pass into foreign hands. The Conservative government has chosen to take an unnecessary and unusual risk while disregarding the importance of securing Canadian ownership of the transportation industry. By leaving the entire matter to the discretion of the minister responsible for Investment Canada and the Governor in Council, and by not setting a statutory limitation on foreign ownership, the government has opted to leave the door open to foreign ownership of a sector that is most crucial to the economic well-being of Canada.

New legislation does not include a "notwithstanding" clause binding the bill to a regional development priority. Regional development priorities and agreements must never be abrogated by transportation policy initiatives that fail to recognize the unique needs of the more-distant and remote regions of this country. Without such a statement prefacing the legislation, it is evident that there will be a negative effect on regional development. Until now, regulation has been the mechanism used to alleviate several regional economic development problems. In an unfettered, deregulated transportation environment, government intervention will no longer be possible.

The Conservative government does not accept the degree of importance which we in the Liberal Party attached to the area of economic regional development. Such a position, in our view, is clearly unacceptable and demonstrates a lack of sensitivity to the fact that Canada is a nation with a relatively sparse population distributed over the second largest land mass of any country in the world.

As this bill is now written, there are no provisions for safeguards which would protect the regions from reductions in service, route and rail line abandonments and other eventualities. We feel that in a highly competitive environment—which, with deregulation, is predictable—it is vital that some form of protection against loss of service in any part of Canada be put in place.

● (1140)

Despite all the good words and the allusions to national reconciliation and a new era in federal-provincial relations, the Tory government is again showing us its true colours. Indeed, the new legislation does not incorporate in its declaration of principles an important resolution which was adopted unanimously at the annual Premiers' Conference held last August in St. John's, Newfoundland. This resolution stated that any transportation policy must have, as an underlying principle, the realization of regional economic development.

In addition, on December 3, 1986, the Council of Maritime Premiers resolved to apply the pressure on the present government for an amendment to the bill before us today to ensure that economic development objectives would take precedence over commercial viability objectives of a transportation service when the two conflict.

We regret that the legislation contains no safeguards preventing situations that would effectively reduce safety standards in the airline industry from arising. The American experience has shown us that this is a real danger. Our position is based on four major observations.

1. Deregulation brings on a substantial increase in competition, which, in lean and more difficult times, leads to few remaining options in cost-cutting strategies. At these stressful periods, a lesser managerial integrity will lead to cost-cutting in maintenance, monitoring, inspection and verification of aircraft.

2. Deregulation strongly encourages new entries by relaxing the regulations for entry. These new companies often enter with inexperienced and improperly trained employees to maintain aircraft.

3. Deregulation impacts on established and new carriers to demand concessions from their employees. These often lead to longer working hours, stress, job insecurity, lower wages and fatigue, which are all causes to a higher risk of human error.

4. In the United States of America, the Federal Aviation Administration, (FAA), in 1979, had 2,000 inspectors monitoring 237 air carriers. In 1984 it had 1,300 inspectors for 407 air carriers.

We believe that these four situations speak for themselves. There is no possible way that these direct consequences of deregulation can increase safety standards. They can only act to decrease them. We recommend that before deregulation is allowed to flourish fully in Canada, the federal government introduce the necessary measures to protect the traveller from these serious dangers.

[Senator Turner.]

To compound the problem even further, in his report to the House of Commons for the fiscal year ending March 31, 1985, Auditor General Kenneth Dye stated:

> . . . none of the Transport Canada regions was able to inspect all carriers in its jurisdiction at least once a year.

This means that several air carriers in Canada that year went without any inspection whatsoever. These are not what we call high safety standards, and by no means should deregulation be introduced until strict and unequivocal safety measures are put in place. Any policy which in any minute way puts in peril the safety of airline travellers in Canada will be vehemently opposed by the Liberal Party of Canada.

In addition, a source of concern to all Canadians is the increased incidence of trucking accidents in the United States since the passage of the Motor Carrier Act of 1980. Bills C-18 and C-19 both refer to the need to ensure safety. We are concerned that this objective will only be met if we have in place, as quickly as possible, a uniform national highway safety code. Some agreement will have to be reached whereby the federal government will take the lead to have the provinces implement and enforce a uniform national highway safety code.

Today in the *Toronto Star* it said:

> New Trucking Legislation Scraps Regulated Rates and Calls for Safety Code

But industry representatives said yesterday, after Bill C-19 was passed, that the new bill doesn't contain adequate safety provisions and could result in a deterioration in highway safety. "We're very concerned about the safety implications," said Ken Maclaren, Vice-President of the Canadian Trucking Association. "The safety provisions are unenforceable, and it looks like it will be a year or two before a new national safety code is in place."

Raymond Cope, President of the Ontario Trucking Association, said in a statement, "Deregulation experience in the United States and Australia has clearly indicated that highway safety will sharply deteriorate if comprehensive safety regulations governing the driver, the truck and the hours of permissible service are not in place and actively enforced."

It is also stated:

> Cope said the promise by Transport Minister John Crosbie to have the code in place by 1990 is not good enough.
>
> "These regulations must be in place by the end of 1987 or Canadians will be exposed to unsafe highway operations, preventable accidents, injuries and fatalities."

In the course of the year past, the minister promoted his "Freedom to Move" deregulation package by telling Canadians that airfares on Canadian airlines would drop as a result of deregulation. Meanwhile, both the presidents of the former CP Air and Air Canada stated that air fares had reached bottom.

In short, the Canadian consumer has been duped once again in being led to believe that air fares would drop considerably as a result of deregulation. The minister himself confirmed this last June when he declared that the new National Transporta-

tion Act would not influence air fares toward a downward trend.

Employees in the airline industry face massive layoffs and displacement. Deregulation was introduced in 1978 in the United States. From 1978 to 1985, 40,000 airline employees lost their jobs. The legislation contains no provisions whatsoever to protect employment in the airline industry. Nothing in this bill would bind airline companies to compensate displaced workers or to give fair warnings before layoffs.

It is believed that increased competition will lead to the cutting of costs, a movement towards a "no frills" strategy, route abandonment, and a greater propensity to failure, all of which will lead to reduced employment opportunities and layoffs.

The legislation offers absolutely no provisions that would offset the probable negative impact that deregulation would have on labour in the transportation sector, despite the evidence in black and white of the dislocation problems encountered in the United States as a result of deregulation.

We strongly propose that safeguards be legislated and that new labour-management agreements be encouraged in our country. Agreements dealing with security, classification and retraining in the airline industry would have eased the impact of employment loss.

We are very happy that the new legislation does deal specifically with the accessibility, comfort, safety and rate structure for the handicapped on all modes of transportation. I sincerely hope and stress that mandatory minimum safety and access standards for the handicapped have been incorporated into the new National Transportation Act.

In closing, I wish to read into the record a letter dated June 16, 1987, from the President of Transport 2000 to the Honourable Lowell Murray. Honourable senators, this letter says it all. Transport 2000 is a good corporation, and a good watchdog for all Canadian transportation systems.

• (1150)

> Transport 2000 Canada is a non-partisan, non-profit organization founded to promote public transportation and to represent the interests of consumers in the field of transportation.
>
> Very shortly, the Parliament of Canada will give third and final readings to Bills C-18 and C-19, acts with respect to the deregulation of transportation in Canada. Transport 2000 is writing to request that the Senate of Canada carefully review these bills by holding public hearings and proposing amendments where such amendments can be considered as constructive improvements to the legislation.
>
> Transport 2000 would point out that the passage of Bills C-18 and C-19 has been extremely rushed.
>
> Although amendments to these bills were proposed, closure was invoked in order to limit debate.

The hearings of the House of Commons Standing Committee on Transport accommodated only half of the individuals and groups wishing to testify. To me, that is absolutely wrong.

One hundred amendments suggested by the opposition parties were not even considered.

> The new transportation legislation does not serve the public interest in at least three different respects. First, it does not insist on the highest possible safety standards in transportation. Second, regional economic development concerns are not given precedence over strict cost-recovery considerations in the event of service withdrawals and abandonments. Finally, the concept of public convenience and necessity is not being applied to the rural areas and smaller centres across Canada, except in the far north.
>
> Transport 2000 is concerned that this legislation as presently formulated will work against a balanced national transportation network serving the needs of all regions fairly and equitably. We sincerely believe that the Senate of Canada, through its processes of deliberation, can offer constructive and reasonable improvements to Bills C-18 and C-19 which will be acceptable to all parties.

Honourable senators, in my opinion, Bill C-18 and Bill C-19 are almost a direct copy of the American system of deregulation. They will cause severe hardship for some regions of the country, and will allow large trucking firms to gobble up smaller ones. They will open Canada up to large American companies without giving our Canadian companies access to the American markets.

It is possible that these bills will allow our American competitors into competition with Canadian rail and truck carriers when Canadians will not have the same ease of access to American transportation markets, because of various legislative restrictions, thus affecting jobs and Canadian control of the industries.

In other words, it will be an open season, and all Canadians will suffer, as one way or another Canadian shippers will use American railroads because of the request for the interswitching of rail cars from one railway to another, and because of the expansion of the interswitching right of 18.6 miles or 30 kilometres.

This provision, in my opinion, will allow customers to benefit from greater access to competing Canadian and American rail lines. Canadian railroads will no doubt suffer sharp decreases in revenue, which will mean that they will not have the capital funds to maintain track and equipment; thus, a deterioration of future service for all Canadians.

Honourable senators, if it ain't broke, why fix it?

Let's modernize it, and we will be able to compete in a fast, economical way, giving Canadians once again the best type of transportation system in the great country we all love and call Canada.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move the adjournment of the debate until Monday. Incidentally, I should say that I am doing so to give

any other honourable senator an opportunity to speak to this matter. I do not intend to do so myself.

On motion of Senator Frith, debate adjourned.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—POINT OF ORDER—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Rhéal Bélisle: Honourable senators, I rise on a point of order. I should like to draw to the attention of all honourable senators that Senator Corbin's stance on Bill S-7 is far from being fair to this bill. It has been on the Orders of the Day since April 2. I have, since June 2, asked Senator Corbin when he will speak to the matter. Last night, when we adjourned, I went to him and asked him again if he was going to speak today. His reply was: "Senator, when will you be taking your retirement? Then I will speak." This, honourable senators, was not considered by me to be a humorous joke.

Yesterday, in the debate on the private bill, Senators Flynn and Frith agreed that the purpose of the second reading of a private bill was to send it to the committee where questions could be asked of the witnesses. Then the committee may make up its own mind regarding the principle of the bill.

We have heard many things during this debate, mainly, not to say exclusively, one side of the story. I think it appropriate to underline that the most elementary principle of natural justice demands that both sides of a story be heard. All that I told you in my speech introducing the second reading of the bill holds true, but so many false accusations have been made against the Prelature Opus Dei and its members that justice warrants a fair hearing. This bill should be referred to committee.

Hon. Jean Le Moyne: Honourable senators, I would like to say to Senator Bélisle that Senator Corbin was only cordially pulling his leg. It was just a joke. Senator Corbin is not yet ready to speak. The legal aspects of the thing are very complicated. He will speak when he is ready—probably next week, perhaps later, but he will speak, and all justice will be granted to Opus Dei.

Order stands.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE

On the Order:

[Senator Frith.]

The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have spoken to the leadership opposite. Senators will remember that we were hoping to begin with a witness from government, and then have our former colleague, Senator Forsey, appear as a witness. The government is not in a position to offer such a witness or witnesses at the present time. We therefore propose that Senator Forsey appear today, and he is ready to do so. The idea is that he will start by giving us a chance to consider his position. Then he will come back to join us again on Monday or Tuesday.

I move that we resolve ourselves into Committee of the Whole for that purpose.

Hon. C. William Doody (Deputy Leader of the Government): Is Senator Forsey here?

Senator Frith: Yes.

Hon. Orville H. Phillips: Before the motion is put, honourable senators, if I recall correctly, there was a discussion when the motion was made to invite witnesses to the floor of the Senate concerning the position of the table. I see that the table is still in its previous position. Where will the witness' table be? Will all honourable senators have the privilege of watching the witness, or will we just watch the back of his head?

Senator Frith: There is no doubt that we did not get together on that question as we ought to have. I suggest that for today we proceed the way we did on our consideration of the Canada-France Fisheries and Boundaries Agreement, but that we try between now and Monday to decide on a better position, because we all agree that it should be done that way.

• (1200)

Senator Doody: Perhaps Senator Forsey could sit on each side for 15 minutes!

CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

Senator Phillips: Mr. Chairman, do we have a witness?

The Chairman: Yes, we do. Senator Forsey is just being called. The difficulty is that it was impossible to tell in advance exactly when we would reach this item. Senator Forsey is, indeed, in the building.

Senator Doody: He is in the precinct.

The Chairman: He is within the precinct.

Senator Phillips: In Senator MacEachen's office, I assume.

Senator Frith: He is in yours, as a matter of fact. He is certainly in an office provided for him by the government—

Senator MacEachen: By the government whip.

Senator Frith: That was nice of you, indeed.

Senator Phillips: I will go and get him if you wish.

Senator Frith: Having started out doing something so gracious, do not be ungracious now.

The Chairman: In any case, I saw him personally this morning in room 677-F, so I know that he is present.

Senator Marshall: Mr. Chairman, since you are chairman of the Rules Committee and this Committee of the Whole, do you know if there is any rule to deny a former senator from appearing in the chamber after he has retired?

The Chairman: I know of nothing.

Senator Flynn: Senator Forsey is now here.

Hon. Senators: Hear, hear!

Pursuant to Order adopted on June 18, 1987, the Honourable Eugene Forsey was escorted to a seat in the Senate Chamber.

The Chairman: Honourable Senator Forsey, welcome back to this chamber where you worked so well and so hard for many years. I need not add very much; you heard the applause of your previous colleagues.

On a personal note, I wish to say how pleased I am to see you. You and I were summoned here on the same day in October 1970. Subsequently, our first work, as you will recall, was on the Joint Committee on the Constitution. We find ourselves now back in the same position, so I have a personal word of welcome.

I presume, Senator Forsey, that you have a statement with which you would like to begin, and, after that, we will have questions.

[*Translation*]

Hon. Eugene Forsey: Thank you, Mr. Chairman. Honourable senators, I wish first to thank you from the bottom of my heart for your invitation to appear before you. It is not only an honour and a duty, but also a pleasure to find myself once more in this chamber.

[*English*]

As I once heard Sir Robert Borden say, under somewhat similar circumstances, "This seems like old times."

I should like to start by saying that there are a number of points I want to try to deal with in this matter of the Meech Lake accord. On some of them you may find me somewhat critical; on others you may find me surprisingly uncritical. I should hope that no one will accuse me of being—as I was once called when I was discussing similar matters many years ago—un bigot Anglo-Saxon. Perhaps I may suffer the same fate that I once suffered after a speech at Couchiching on the question of Quebec and the rest of us—French-speaking and English-speaking Canadians—when two people came up to me. One of them said, "You are inspired by hatred of Quebec;" the other came up to me and said, "You have sold out to the French Canadians."

I will try to give you as carefully considered a set of comments on this accord as I can. I trust that I shall not be found particularly prejudiced one way or the other, but that, of course, is a matter of opinion.

The first thing that I want to look at is the provisions dealing with Quebec as a "distinct society" and the principle of linguistic duality.

With both of those as general propositions, I am in complete, and indeed, ardent sympathy, but I think there are certain problems that arise in connection with the principles as they are embodied in the accord.

● (1210)

By way of preliminary, I have been told by some people that the statement that the Constitution of Canada shall be interpreted in a manner consistent with the principle of duality and the recognition of Quebec as a distinct society does not apply to the courts at all, that it is simply a matter for Parliament and the legislatures. I think that is nonsense. I think it is quite clear that this would apply to the courts, that they are being told that they must interpret the Constitution in a manner consistent with these two principles.

The first question I ask myself is: What exactly is meant by "a distinct society"? Does this mean a dominantly French-speaking society or a bicultural society with an immense French-speaking majority? Putting it another way: What exactly is the position of the English-speaking minority in Quebec in this distinct society?

I feel rather strongly about the necessity of being clear on this, because I was for 16 years a member of the English-speaking minority in Quebec. I had every expectation at that time of being a Montrealer and a Quebecker for the rest of my life. I have lived most of my life in, or on the edge of, Quebec. My roots in Quebec go back more than a century. Two of my grandparents and four of my great-grandparents were members of the English-speaking minority. Accordingly, I am intensely interested and concerned about the position of that minority in the distinct society.

The principle of duality is affirmed to be a "fundamental characteristic of Canada," and Parliament, the legislatures and the courts are ordered to preserve it and to interpret the Constitution accordingly. One reading of this is that this means, simply, to preserve the existing situation with respect to the rights of the French-speaking minorities in the nine provinces and the English-speaking minority in Quebec. This is presumably bolstered by subsection (4), which states:

> Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language.

If you read it that way, it would leave the French-speaking minorities in the nine provinces in what many of them would consider to be an unsatisfactory position. It would also leave the English-speaking minority in Quebec in a position that most of them would consider highly unsatisfactory.

It seems to me that the better reading of the order to Parliament, the legislatures and the courts to preserve the fundamental characteristic is that if Parliament or a legislature is not, in the opinion of the minority, living up to its duty of preserving the fundamental characteristic, the minority can appeal to the courts to order Parliament or the legislatures to enact whatever the courts consider necessary to fulfil the constitutional obligation.

The Supreme Court of Canada did this in the Manitoba language case. The Supreme Court of the United States did it in the matter of redistributing seats in the state legislatures and in the case of Brown vs. the Board of Education. I may have the name wrong in that instance, but senators who are learned in the law can easily correct me on that. In any event, there was a case of that sort.

It will probably be argued that subsection (4) prevents this by declaring that nothing in the section derogates from the powers, rights or privileges of Parliament or of the legislatures; but "derogate from" seems to me to imply lessening, taking away from. What about ordering Parliament or a legislature to exercise its powers in a certain way required by the Constitution? The powers would remain, but their exercise would be subject to the new provisions of the accord.

It seems to me significant that the subsection does not adopt the wording of section 36(1) of the Constitution Act, 1982, which states:

> Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, . . .

Why was this wording not adopted in subsection (4) of the Meech Lake proposal? Section 36(1) of the Constitution Act, 1982 keeps the courts right out. Does subsection (4)?

If subsection (4) of the accord means the same as section 36(1) of the Constitution Act, 1982, then the principle of duality really offers the minorities nothing, and is just "words and breath and of no force to oblige a man at all." The minorities are left precisely where they now are.

Subsection (3) affirms the role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec as a distinct society within Canada. This raises again the question of what this distinct society really is and the place of the English-speaking minority in it. If subsection (2) really gives the courts power to order the Quebec legislature so to exercise its powers as to preserve the principle of duality, then this should look after the rights of the English-speaking minority. But, if that minority appealed to them to do so, the courts would probably be faced with the constitutional requirement that they must interpret the Constitution in a manner consistent with a recognition of Quebec as a distinct society, and might hold that this overruled the obligation to preserve duality.

M. Rémillard has already claimed that if the Supreme Court of Canada rules that unilingual signs are unconstitutional, the Quebec legislature can make them constitutional by exercising its power to promote the distinct identity of Quebec. In other words, the French-speaking minorities in the nine provinces might find that the principle of duality enables them to get rights which the legislatures of the nine provinces can now deny them. For example, the right to speak French in the debates of the legislatures of British Columbia, Alberta, Saskatchewan, Ontario, Prince Edward Island, Nova Scotia and Newfoundland.

I speak with some feeling on this, because a little over a fortnight ago I appeared before a committee of the Alberta legislature to defend the right of M. Piquette to ask a question in French. I heard some very peculiar law against my contention. I think I gave a reasonably good account of myself, but I was obliged to admit that though I thought M. Piquette had the right, I thought also that the Alberta legislature could take it away from him.

The English-speaking minority in Quebec might find the principle of duality gave them nothing, indeed, that the principle of the distinct society gave the Quebec legislature and government the power to take away such rights as they now have. In other words, that what was sauce for the French goose was not sauce for the English gander.

If the principle of duality is not to be sheer humbug, and if the autonomy of Parliament and the provincial legislatures, and the rights of the English-speaking minority in Quebec are to be preserved, let alone enhanced, these ambiguities and obscurities, in my opinion, need to be cleared up. Parliament, the legislatures, the minorities and the public generally need to know exactly what we are in for.

The second feature of the accord that I should like to consider is the provisions with regard to the Senate. First of all, the government of a province "may" submit names for appointment. What if it does not? What if it submits a list of names none of which satisfies the national government? But the accord also says that the national government "shall" appoint from the list. Why the different verbs?

A second minor point is the use of the term "the Queen's Privy Council for Canada." The names must be acceptable to the Queen's Privy Council for Canada. I should have expected the term used would be "the Governor General in Council." I am really surprised by the use of "the Queen's Privy Council for Canada," because that has over 200 members, and I cannot help wondering whether there is going to be an attempt to bring the Queen's Privy Council for Canada together to find out whether the nominations are acceptable to it.

I do not think there is any legal quorum for the Queen's Privy Council for Canada. There was up to 1878 in the Governor-General's Instructions, but it was dropped then, and, as far I know, there is now no legal quorum for the Queen's Privy Council for Canada. Incidentally, this provision would change the method of actual appointment, which, as you all know, is now done by instrument of advice signed by the Prime Minister alone. It would go back to what it used to be—to whatever was the date, in the 1950s or the 1960s—to being an

Order-in-Council appointment. At present it is simply by the Prime Minister alone; but it would go back to the old way.

• (1220)

Those are, in effect, minor points, points of draftsmanship, and I have no claim to expertise in the matter of draftsmanship. I may be completely wrong on these. But there is a more serious aspect of the proposals on the Senate.

Under the Constitution Act, 1982, section 42, any change in the method of selecting senators, any change in the powers of the Senate, any change in the numbers from any province, any change in the residence qualification must have the approval of seven provinces whose populations amount to at least 50 per cent of the total population of the ten provinces. Now, that was a pretty stiffish requirement. In my judgment, as I have said repeatedly both before committees and in writing, this meant that, in fact, any change in the Senate involving a constitutional amendment had as much chance of being adopted as I have of becoming Archbishop of Canterbury, Pope or Dalai Lama. Now, that may be regarded as mere persiflage or rhetorical exaggeration on my part. But I think it would be agreed that it would not be easy, even under the existing provisions, to make changes in the Senate requiring constitutional amendments.

For instance, if you look at the famous Triple-E, that starts off by saying "six senators from every province." Well, of course, the western provinces would say, "That's fine." Newfoundland would say, "That's all right." Prince Edward Island would probably give a whoop of joy. I have even sometimes facetiously suggested that they would say, "This solves our unemployment problem." But when you take it to Nova Scotia and New Brunswick—I am part Nova Scotian and my wife is a New Brunswicker. I know something about Nova Scotia and New Brunswick—I can just see Nova Scotia and New Brunswick saying, "What, drop from ten to six? What else will the upper Canadians think of to put us in a bad position? Haven't they taken it out of us enough as it is?"

Then you come to Quebec, and you say, "You will go down from 24 to six". At that point Quebec just goes right up into the stratosphere and doesn't come down until the twelfth of July, if then. You put it to Ontario that it is 24 down to six, and you get the same kind of reaction.

The thing is cold. You simply could not get those four provinces to accept. Four from ten leaves six. If you haven't got your seven provinces, forget it.

That is why I am inclined to say—and I am afraid I am using very rough language here—that the Premier of Alberta on this Triple-E thing has been sold a pup.

But the fact remains that if you are going to say, "Any of these changes will require the consent of every single provincial legislature," you are going to make it even more difficult to make any changes in the Senate involving a constitutional amendment. The changes that the Senate can make itself, the changes that Parliament can make by ordinary statute, would, of course, still be perfectly possible and perfectly easy.

Well, that seems to me to require some thought. I wonder why it is really necessary to make this requirement of unanimity for all these changes. The problem so far as Quebec is concerned I think could have been met very easily and very satisfactorily by saying that in any changes under the seven-province formula, Quebec would have to have a specific minimum proportion of the seats in the Senate.

Now, the other aspect of this about the Senate is that arising from the fact that, as I have said, the chances of getting any constitutional amendments relating to the Senate are going to be very slim, indeed, the probability is that the supposedly temporary, interim arrangement, by which until this glorious day of transcendent Senate reform arrives, the seats will be filled as they become vacant from lists submitted by the provinces.

Well, now, I myself have no particular objection to that. I think it might give us, in some respects, a more active and a better balanced Senate than we have had in the past. I hope that does not sound disrespectful of my late colleagues or of those who have come to the Senate since I faded out. But I think that when the day arrives when the majority, let alone all of the members of the Senate, are people appointed from lists submitted by the provinces, I think you would unquestionably have a much more powerful Senate. It would have exactly the same legal powers as the Senate has now—notably, of course, the power to veto any bill absolutely and forever, repeatedly—but it would have far more political clout.

The members would not have the inhibitions that the senators appointed in the present manner have; and some of them might get very rough indeed. They might say, "What does the House of Commons think it is? We are here to look after the regions. We are here to look after the provinces. We were nominated by our provinces with that specifically in mind. So the House of Commons wants to do such and such, does it? Well, we don't think that ought to be done. We think we have a right to say, 'No'. We were supposed originally to be the sober second thought of the country. We were supposed to stop the House of Commons from wild, radical, what would now be called left-wing excesses."

But they might say, "But what about stopping the House of Commons from wild, radical right-wing excesses?"

There have been some examples recently of bills coming up from the House of Commons to the Senate that I think someone might argue were right-wing excesses. Now, that's a matter of opinion. All I am saying is you may get out of this temporary, interim provision for the Senate a much more powerful Senate. I don't know how the NDP people would like that. I presume they would not like it at all. They, of course, might come back and say, "Oh, don't bother about that. We are going to abolish the blankety-blank thing anyway." But for that they would need unanimous consent of the provinces, which I think they have remarkably little chance of getting.

So, I think that the supposedly interim proposal for the Senate is likely to be all the Senate reform we will get for a very long time, and it may have results which some people who are enthusiastic about the proposals generally may tend to cavil at.

The third point I would like to touch on particularly—and I hope, Mr. Chairman and honourable senators, if you find me unduly long-winded, you will apply closure with a firm hand—are the provisions with regard to immigration and aliens. These, I think, are exceedingly complex. On the details of them I am not in the least competent to pronounce, and I shall not attempt to do so. I think the details probably need very careful scrutiny by people familiar with immigration matters and immigration law. I am not. I simply suggest that it might be useful to have evidence from people with those qualifications. But there are a few points which I think I can make which are rather general.

The accord provides that an agreement with a province that is proclaimed after approval by Parliament and the provincial legislatures overrides *pro tanto* section 91 of the act of 1867, head 25, "naturalization and aliens", and the paramountcy of national legislation under section 95. This, by itself, might wipe out Parliament's power over naturalization and aliens, or severely limit it, and the paramountcy of national legislation over immigration.

But it is qualified by a provision that preserves Parliament's power to set, by act of Parliament:

> national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

Well, what else of Parliament's powers would remain? That is a question that I should like to see answered. I think there is an ancient Latin phrase *inclusio unius, exclusio alterius*, or something of that sort. I think it raises problems.

I would like to point out here that in contrast to the section on the spending power, the national standards and objectives are to be set by an act of Parliament. Now, the "national standards and objectives" are to apply to aliens as well as immigrants; but the "including" does not mention aliens. How much of Parliament's present exclusive power over naturalization and aliens will remain? Is there any possibility that the provinces will get into, by a sort of back door, the naturalization process or the citizenship process? Probably not, but I think it needs scrutiny.

● (1230)

The provinces get control over "the temporary admission of aliens." What precisely does "temporary" mean there? Years ago here there used to be a class of public servants known as "permanent temporaries". They were temporary employees who were re-appointed at the end of their six-month term, and this went on and on for years. I am a little afraid there may be some permanent-temporary aspects to this measure.

The next point is that an amendment to an agreement that has secured force of law may be made by proclamation after approval by Parliament and the provincial legislature concerned—that is normal under the act of 1982—or "in such manner as is set out in the agreement." What does this mean—by a federal order in council, by a provincial order in council, by federal and provincial orders in council taken together, or what? Why is this alternative method of amendment inserted, and what does it mean?

The new section 95E appears to add a condition to the general amending formula in regard to the new provisions in relation to immigration and aliens. The seven-province formula would apply, but only if the legislatures of all the provinces that have agreements approved. What if only six provinces have agreements?

The principles of the Cullen-Couture Agreement between the Government of Canada and the Government of Quebec are to be incorporated into a new agreement to be given the force of law under the provisions of the new sections 95A to 95E. The new agreement—and all provinces will be entitled to substantially the same—will cover:

> —the selection abroad and in Canada of independents, immigrants, visitors for medical treatment, students and temporary workers, the selection of refugees abroad and economic criteria for family reunification and assisted relatives.

The federal authorities will

> withdraw services (except citizenship services) for the reception and integration (including linguistic and cultural) of all foreign nationals wishing to settle in Quebec, where services are to be provided by Quebec with such withdrawal to be accompanied by reasonable compensation.

The compensation would, of course, be paid by Canada to Quebec, and its amount, in case of dispute as to what was reasonable, would presumably be settled by the courts.

Those provisions cover a great deal of ground. If it is to be made part of the Constitution, it needs very careful scrutiny, especially as it can be extended to every province.

There may be solid reasons for giving Quebec special powers in this matter.

Parenthetically, I would like to say that I am never terrified by the idea of giving special powers to a particular province or group of provinces. It all depends on what the powers are. Various provinces have special status now in regard to certain matters. My native province of Newfoundland has a very special status with regard to education. Saskatchewan and Alberta have special status with regard to education. Quebec has special status with regard to its civil law, and certain provinces have special status in regard to bilingualism. I see no difficulty with special status as such. I see no difficulty in principle with Quebec having special status with regard to immigration. If it is to have this special status under the Constitution, it requires very careful scrutiny to see that what is in the Cullen-Couture Agreement is fully warranted.

However, to my mind, it does not follow that because you give these powers to Quebec, you should necessarily give them to all the other provinces. I suppose you can argue that almost any province in this country is a distinct society. Certainly I could argue that that was true of Newfoundland. After all, we in Newfoundland were once an independent dominion. No

other province in Canada can say that. We had our High Commissioner in London, and we could have had diplomats all over the world, if we had been rich enough and foolish enough. Nobody else can say that. However, that is by the way. The point I am really making is that it does not follow logically that because you give a certain power in this matter to Quebec it has to be given to all the other provinces. I think the question of whether this power should or should not be given deserves scrutiny.

I come now to the most peculiar feature of these proposals on immigration, that the Constitution would:

> —guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total established by the federal government for all of Canada proportionate to its share of the population of Canada, with the right to exceed that figure by 5 per cent for demographic reasons.

Quebec's proportion of the total population of Canada, according to the latest figures I could get, is around 25, 26 or 27 per cent. Let us say for convenience that it is 25 per cent, though that it not quite large enough. Suppose the federal government sets the total immigration for a given year at 100,000. This means Quebec is guaranteed 25,000, 26,000 or 27,000 with the right to an extra 5,000. How can anyone guarantee that Quebec will get 30,000 of the 100,000 that has been set as the total for the whole country? This guarantee reminds me of a proposal in the original NDP platform in 1961 for a guaranteed full employment act, a proposal on which I made some sardonic comments at the time. Can the federal government guarantee that 25,000 or 30,000 immigrants will land at Dorval, Mirabel, Quebec City or any other particular port of entry? Can it guarantee that if they do land there they will stay? If they land in Quebec, must they go through the formalities under the constitutionalized agreement with Quebec? What will their status be under sections 95A to 95E? These are questions I should like to see cleared up. It may be that I am being obtuse, but I have tried these questions on a variety of people whose experience, knowledge and intelligence I respect, and they have been as baffled by them as I have.

Suppose that only 18,000 immigrants—which I believe is somewhere near the average over a number of years—go to Quebec. Will there be an attempt then to say, "Well, they are supposed to be guaranteed 30 per cent." In other words, the total will have to be adjusted downwards, and the number left to the rest of the country will have to be adjusted accordingly so that 18,000 will be 30 per cent of the total. That would mean, if my arithmetic is not astray, that the national total must be cut from 100,000 to 70,000, and the quota for the rest of the country from 70,000 to 42,000. I wonder what is involved in this guarantee which, on the face of it, looks to me most peculiar.

The fourth main point I want to deal with is the provision regarding the Supreme Court of Canada. Quebec is guaranteed "at least" three judges, instead of the present three. I was struck by the phrase "at least" introduced there. I have no particular objection to it, but I was struck by it in that it is something new.

When a vacancy occurs, the government of "each" province "may" submit to the federal government for appointment the names of members of the bar of that province who have been members of that bar for ten years or judges of "any court in Canada" for at least ten years. The federal government can appoint the Chief Justice from among the members of the court without getting the approval of the provinces. Other appointments it "shall" make from the lists submitted by the provincial governments. Where the federal government is appointing any of the obligatory three judges from Quebec it must appoint someone from the list submitted by the Government of Quebec. It would seem that the government of any province could submit for appointment the name of any member of the bar of that province who has been a judge of any court in Canada for at least ten years. Some lawyers are members of the bar of more than one province. So, apparently the Government of Alberta could submit for appointment—except in the case of the appointment of one of the obligatory Quebec three—the name of an Alberta barrister who had been a judge of any court in any other province for ten years.

● (1240)

If the federal government chose to appoint a fourth judge from Quebec, any province could submit the name of a member of the Quebec bar who had been a judge of any court for ten years.

Also, apparently no one could be appointed from the bar of the Yukon or of the Northwest Territories, and there is, of course, no provision for the territorial governments to submit names. Any appointment must be "acceptable to the Queen's Privy Council for Canada"—in other words, the Government of Canada. What happens, however, if you have a province submitting names which the Government of Canada considers thoroughly objectionable, and says that they just will not do? If you think that is far-fetched, various people have been unpleasant enough to suggest that we might once again have a Péquiste government in Quebec. For that matter, there might be a very eccentric government in various provinces. Sometimes English-speaking people are inclined, I think, to be a little brash in suggesting that odd governments turn up only in Quebec. That suggestion will not hold water and will not withstand examination.

Suppose, for example, you get a freak government in a province—and we have had some very queer governments in provinces in my time—suggesting candidates who are thoroughly unacceptable. What happens then? Does the federal government go back and say: "Try again." If so, how long does this go on? Is there any means of getting over a deadlock if the province in question simply says: "That is our list. If you do not like it, you can go to Jericho or even further." If the federal government then says: "We will not accept anyone on that list," what happens then?

I now come to the spending power. For any future shared-cost programs in areas of exclusive provincial jurisdiction, provinces can choose, as at present, not to participate. At

present, if they choose not to participate, they get nothing from the federal treasury. If they choose to participate, they get money from the federal treasury or equivalent tax points, but only if they conform to certain standards set by act of the Parliament of Canada. Under the new section, if they choose not to participate in a program "established by the Government of Canada"—and not the Parliament, as in the section on immigration and aliens—they get "reasonable compensation" if they carry on a "program or initiative that is compatible with the national objectives."

What is meant by "initiative"? What is meant by "compatible"? What is meant by "the national objectives"? Who sets the "national objectives"? It looks as if it were "the Government of Canada". If so, "compatible with the national objectives" is not the same thing as "conforming to standards set out in an Act of Parliament." It could be merely a statement by the Prime Minister or by a minister. The provincial "program" or "initiative" might be a far cry from what Parliament was prepared to pay out money in aid of; but the courts might rule that the provincial program or initiative was eligible for what the courts considered "reasonable compensation" if the program or initiative did not actually fly in the face of what the Prime Minister or the federal government had said, or even of what Parliament had put in an act. If, for example, the federal government announced a national day-care program, in rhetorical flourishes, the courts might rule that a provincial handful of pilot projects was "compatible with the national objectives." On the other hand, there might be a provincial program that was not universally available, or that involved extra-billing, and the courts might say, "Well, it's day-care, and it doesn't contradict what the Prime Minister said," and Parliament would have to pony up. Parliament would again be subordinated to the courts, and provinces might be able to raid the federal treasury for support of mere tokenism.

I have a sixth point respecting compensation for opting out of amendments which would reduce provincial powers, rights or privileges and transfer a provincial power to the Parliament of Canada. At present such a transfer involves "reasonable compensation" from the federal treasury only if it relates to "education or other cultural matters." Of course, again, this might mean the courts ordering Parliament to pay what the courts considered "reasonable."

However, if it is to be done for education and other cultural matters, why not for any transfer? If one province shifts power, and the expenditure involved in the exercise of that power, to Parliament and so saves money, why should another province, which hangs on to the power and must make the expenditure the power involves, not get compensation for what it still has to spend? The courts could not play fast and loose with the amount, because they would simply have to look at the actual amount the opting-out province was spending.

There does not seem to me to be any solid reason for not extending the principle from education and culture to all the transfers for powers. The practical importance of this provision is likely to be very small, as very few amendments transferring powers from the provinces to Parliament are likely to get adopted under the seven-province formula. Some of the smaller and poorer provinces might like to get rid of costly powers. However, even if, let us say, the four Atlantic provinces wanted to do it, they would be three short of the necessary seven. Even if they got one or two other have-not provinces to join them, they would still be short. Neither Ontario nor Quebec is at all likely to want to give up any power whatsoever. Therefore, I am inclined not to share the objections which a good many people raised to that particular provision in the accord.

With respect to changes in the amending formulas, the whole of section 42 of the Constitution Act, 1982, which puts certain amendments under the seven-province formula, disappears, and the matters concerned are brought under the unanimity rule. The chief effect of this is to give every province an absolute veto over any proposals for Senate reform which involve constitutional amendments, and over the extension of existing provinces into the territories and the creation of new provinces. The seven-province formula, for all practical purposes, already rules out any Senate reform proposals which would require constitutional amendments. The absolute veto for any province probably makes no real difference, since it is symbolic rather than practical.

In my opinion, no one is likely to object much to making it harder for the existing provinces to spread into the territories. I may be wrong on that, but it seems to me pretty unlikely. The Constitution Act, 1982 had already made it much harder for the territories to attain provincial status. Giving every province a veto seems to me to be adding an extra obstacle for which it is not easy to find solid reason. Surely Quebec cannot have considered this a necessary condition for signing the accord. What other province can have insisted on it? Why should the federal government have insisted on it? It seems just a gratuitous buffet in the face for the Yukon and the Northwest Territories, and delivered by a body in which they were not represented and which, as far as I know, gave them no chance to be heard.

I have a further point. Putting the First Ministers' conferences into the Constitution does not seem to me to be of much practical importance, although I have had some second thoughts about that which I will come to in a moment. These conferences exist now; they meet annually; they discuss constitutional questions, including possible amendments. They are not going to disappear. They are given no new powers. I am no more enamoured of them than Sir John A. Macdonald was in 1887. In constitutional matters I have always been, through all the changes and chances of my rather chequered career, a John A. Macdonald Conservative. That is why I sat in the Senate as a Pierre Elliot Trudeau Liberal. Therefore, I am not very enthusiastic about putting the First Ministers' conferences into the Constitution. However, I am not sure that it would make a great deal of practical difference. I am not sure that giving them an extra cachet now, after they have become so firmly entrenched in practice, is going to make any real difference. Including in their agenda forever Senate reform and fisheries merely ensures that Mr. Getty and his support-

ers, and Mr. Peckford and his, and their respective successors, have a guaranteed annual opportunity to talk about these subjects, and, of course, to try to persuade their fellow premiers and the Prime Minister of Canada to agree unanimously to some Senate reform amendment or amendments, and to persuade the Prime Minister and the premiers of the necessary six other provinces to make changes in the jurisdiction over fisheries. But they could do this anyhow, day in and day out, Constitution or no Constitution, First Ministers' conferences or no First Ministers' conferences. I will come back to my second thoughts on this point in a moment.

● (1300)

A further point I would like to make is that it is regrettable that the list of things that are to be on the agenda of the First Ministers' conferences does not include the whole question of aboriginal rights. It might have had only symbolic importance, but for the native peoples that might have been considerable. I am not inclined to think that the First Ministers can be blamed for not putting in something substantive on the aboriginal peoples, because, after all, there have been a number of very strenuous attempts to do this in First Ministers' conferences, one very recent, and they have failed. It would have been extraordinarily difficult to get anything fresh on this subject into the accord. However, there might have been something included with Senate reform and fisheries, giving the aboriginal peoples the assurance that these things would come up seriously, regularly and inevitably in future First Ministers' conferences.

I would like to say something very general, and with this I conclude. I have been an extraordinarily long time, almost like Charles II, who said of himself that he was an unconscionable time a-dying. Well, I have been an unconscionable time drying up.

I would like to suggest that two or three general considerations might enter into your future deliberations on this subject. It seems to me highly probable that what we have in this accord may, in the first place, transfer appreciable powers from Parliament to the provincial legislatures. Is that what we want? Is that what will be good for the country? In the second place, it seems to me quite possible that the accord will mean a considerable shift of power from Parliament and the legislatures, on the one hand, to the courts, on the other hand. Again, is that what we want? The Constitution Act of 1982 has already produced a massive shift of power from Parliament and the legislatures to the courts. In the third place, it seems to me quite possible that the provisions on the Senate may produce a considerable shift of power in the long run—not immediately— from the House of Commons to the Senate. As a former senator, I do not quake from base to apex at that thought, but it is possible that there are a lot of people in the country who would be dubious about this, shall I say, the more outré democrats? I think the point deserves some consideration.

Does the country really want or need a shift of power from the House of Commons to the Senate? I wonder whether anybody in the House of Commons will take a look at this in the joint committee.

There are a number of other points I might have made, and I will just mention one. There is the fact that in section 16 of the accord there are a number items that are not to be prejudiced by anything in the accord. However, there are other things that are not mentioned, and there are people who are uneasy about the features of the Charter that are not mentioned in section 16, who are afraid that you might find the minority language clause and mobility clause and various other clauses in the Charter affected by, let us say, the "distinct society" provisions.

I do not know how well-founded those qualms are, but they are matters which some people are very much interested in and which ought to be cleared up. The feminists are also afraid that the guaranteed rights for both sexes under the Charter may be prejudiced by the omission of any mention of them in section 16.

On that point, which I suppose might be described as ending on a whimper rather than a bang, I conclude my much-too-long and, I fear, rather discursive preliminary general statement.

The Chairman: Thank you, Dr. Forsey. Honourable senators, do you wish to proceed with questions at this time?

Senator Frith: Honourable senators, first, could we determine whether retired Senator Forsey will be available, let us say, on Monday, to continue? He has given us quite a banquet for weekend digestion. We may have some questions to raise with him on Monday.

If he would be available Monday, then my proposal to the committee is for us to adjourn now until 2 p.m., because we have a few things to deal with on the order paper. I propose that the committee rise and report progress, and ask leave to sit again next week. I propose that we continue with Dr. Forsey then. However, we should determine whether he would be available and whether that would suit his plans.

The Chairman: Is that suitable to you, Dr. Forsey?

[*Translation*]

Dr. Forsey: Honourable senators, I shall be at your disposal at any time, except in the middle of the night.

The Chairman: Honourable senators, in view of such kindness, there will be no problem.

Senator Frith: Honourable senators, I therefore move that the committee adjourn, report progress and that it ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting will now resume.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake accord and texts

subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

Motion agreed to.

The Senate adjourned.

• (1400)

At 2.00 p.m. the sitting of the Senate was resumed.

[*English*]

PATENT EXTENSION (ASPARTAME) BILL

REPORT OF COMMITTEE PRESENTED AND ADOPTED

Leave having been given to revert to Reports of Committees:

Hon. Ian Sinclair, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Friday, June 26, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred the Bill C-259, An Act to extend the term of a patent relating to a certain food additive, has in obedience to the Order of Reference of Thursday, 25th June, 1987, examined the said Bill and has agreed to report the same with the following amendment:

Page 1, clause 2: Strike out lines 8 to 10 and substitute the following:

"of Canadian Patent No. 846,137 is extended to December 31, 1987."

Respectfully submitted,

IAN SINCLAIR
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Sinclair: With leave, I move its adoption now.

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

[Senator Molgat.]

Hon. Senators: Agreed.

Senator Sinclair: Honourable senators, Bill C-259, which was considered by the Banking, Trade and Commerce Committee pursuant to the order of reference of the Senate, is a most unusual piece of legislation. It deals with a private right, yet, it is not a private bill. It is a private bill of a type—it is a private-public bill which apparently resulted in people of contrary interests not having knowledge of its consideration. Accordingly, when the committee examined it, we were told first that instructions with regard to the bill were given to the sponsor by the Department of Consumer and Corporate Affairs and the minister, the Honourable Harvie Andre.

Following that, consultations took place between the sponsor and the owner of the company making NutraSweet—namely, Monsanto Chemical Company—and members of the NutraSweet organization. The sponsor of the bill was very forthright in stating to us that people of contrary interests should be given an opportunity to present their views concerning this unusual extension of a patent, because such an extension normally does not occur. Because there were people both in Canada and outside Canada who wished to be heard, because of the numbers that were involved, and because the patent would have expired on July 7 next unless extended by means of legislation, the committee decided to recommend to honourable senators that an extension of the patent be granted until the end of the year. The committee suggests that the bill be passed, as amended.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on a question of procedure, should not someone move an amendment to the bill, or is it taken for granted that the bill is automatically amended through the committee report?

Hon. Royce Frith (Deputy Leader of the Opposition): Did we not adopt the report of the committee?

The Hon. the Speaker: Honourable senators, the report was presented and recommended the passage of the bill as amended.

Senator Frith: I believe our procedure is correct, but I think it is a good idea to get this straight. I believe that if a committee reports a bill with an amendment, and if that report is adopted, we have then adopted the principle of the bill; we have adopted an amended bill. Therefore we go to third reading right away. I think that is the correct procedure. The bill is then put, as amended. It is the report that has amended the bill.

Motion agreed to and bill, as amended, read third time and passed.

[*Translation*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

VISIT OF DELEGATION TO FEDERAL REPUBLIC OF GERMANY—DEBATE CONTINUED

On the order:

> Resuming the debate on the inquiry of the Honourable Senator Leblanc (*Saurel*) calling the attention of the Senate to the visit of the Canada-Europe Parliamentary Association delegation to the Federal Republic of Germany, from January 15 to 27, 1987.—(*Honourable Senator Leblanc (Saurel)*).

Hon. Fernand E. Leblanc: Honourable senators, the parliamentary delegation that visited the Federal Republic of Germany from January 15 to 27, 1987, to study the German federal election process, was led by Mr. Jack Ellis, M.P. for the riding of Prince Edward-Hastings and Chairman of the Canada-Europe Parliamentary Association.

Mr. Ellis deserves to be congratulated by the entire delegation for his competence and dedication. Personally, I would also like to congratulate the Executive Secretary, Mrs. Danielle Parent-Bélisle and her assistant, Ms. Carol Chafe, who not only helped to organize the delegation but also accompanied delegates during their trip to Lahr, Bonn, Munich, Berlin and Heidelberg.

The Canadian delegates included three senators: the Honourable Jerahmiel Grafstein, the Honourable Norman Atkins and myself, as vice-chairman of the Canada-Germany Friendship Group. In addition to the six Conservative members of the House of Commons who were part of the delegation, we also had one Liberal member, Mrs. Thérèse Killens, M.P. for St-Michel-Ahuntsic and Mr. Ernie Epp of the New Democratic Party, M.P. for Thunder Bay-Nipigon.

The visit was organized to allow Canadian parliamentarians the opportunity to study Germany's political system, in particular the organization and running of the election campaign, the issues being debated and the role of the political foundation of each party.

I don't think it would be useful to expand further on a report that has already been released to all senators. However, I would like to take this opportunity to express my thanks to all Canadians and Germans who co-operated in whatever way with the Canadian delegation, to help members learn as much as possible about this very important subject, the Federal Republic of Germany's electoral system.

I would like to take this opportunity to ask the two other senators who accompanied the delegation to give us their comments, if they wish to do so.

The Hon. the Speaker: Honourable senators, I should have informed the Senate that if Senator Leblanc spoke, his speech would have the effect of closing the debate on this inquiry. Unless the Senate should wish to decide otherwise, the debate on this inquiry is now closed.

Senator Leblanc (Saurel): Mr. Speaker, when I mentioned the fact that I was going to table a notice of inquiry to the two senators who accompanied the Canadian delegation to Germany, they both indicated they would be interested in speaking as well. I wonder whether we could make an exception to our rules and keep this item on the order paper, so they can decide whether they want to participate or not.

The Hon. the Speaker: Are honourable senators agreed to ignore the rules?

Hon. Senators: Agreed.

The Hon. the Speaker: Agreed. Perhaps Senator Leblanc (Saurel) would like to adjourn the debate in his name?

Senator Leblanc (Saurel): Agreed, Mr. Speaker.

The Hon. the Speaker: Senator Leblanc (Saurel) moves that the debate be continued at the next sitting of the Senate. Is it your pleasure to adopt the motion, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Leblanc (Saurel), debate adjourned.

• (1410)

THE ESTIMATES, 1987-88

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the Twelfth Report of the Senate Standing Committee on National Finance (Second Interim Report on 1987-88 Main Estimates), presented in the Senate on 23rd June, 1987.—(*Honourable Senator Leblanc (Saurel)*).

Hon. Fernand E. Leblanc: Honourable senators, I seem to be taxing the patience of senators today. Of course it is sheer coincidence that both orders are consecutive.

This twelfth report of the National Finance Committee represents our second interim report on the 1987-88 Main Estimates. Through these two reports, the purpose is to advise the Senate about the National Finance Committee progress concerning the government response to the recommendations tabled during the 33rd Parliament. The first report dealt with tax expenditures and accounts receivable. This one deals with the form and use of supplementary estimates as well as the Financial Administration Act. Both fields fall under Treasury Board jurisdiction.

With respect to the form and use of supplementary estimates we asked Treasury Board officials what was their reaction to our recommendations on: first, the ambiguous use of the one dollar vote to transfer money from one vote to another; second, the imprecise use of Treasury Board Vote 5 to cope with urgent expenditures and, finally, the inconsistencies between the descriptions of certain programs in Estimates Part III and references to these programs in the supplementary estimates.

As to the Financial Administration Act, we wanted to know the reaction of Treasury Board to our recommendation that

the law be amended to ensure coherence between debt write-off and forgiveness.

On all points Treasury Board admitted that the committee recommendations were relevant and declared that the necessary corrections had been or were being made. Treasury Board also agreed to consult the committee and seek our advice on alternate solutions which would allay some of our concerns.

I am pleased to report this to the Senate today because it goes to show that certain departments follow the advice flowing from the excellent work done by Senate committees.

At this point I should like to quote a letter dated June 18, 1987 sent by the Auditor General to me as Chairman of the Standing Senate Committee on National Finance. It reads:

> Dear sir, in its Eleventh Report dated May 28, 1987, the Senate Standing Committee on National Finance recommended that I serve notice—

These are the words of the Auditor General—

> —to Government departments that the memorandum accounts for the receivables which appear in Volume II of the Public Accounts are to be audited. I can inform you that for the fiscal year ending March 31, 1987, I asked my departmental audit teams to examine all these memorandum accounts, with the exception of those held by the Department of National Revenue for income tax and customs duty. The latter accounts will be audited in a year or so.
>
> We will have a thorough discussion with the Comptroller General's Office about the results of our exercise in the departments, in order to improve their procedures, if necessary, so that their receivables can in future be entered into the audited statements of the Government of Canada.
>
> The support given by your committee to the inclusion of these accounts receivable in the financial statements of the government constitutes a major step towards the improvement of federal financial reporting and the acceptance of accounting standards for the federal and provincial governments, which standards have been set by the Canadian accounting profession as a whole.
>
> Sincerely yours,
>
> Kenneth M. Dye, F.C.A.

Copy of this letter was sent to Mr. Michael H. Rayner, Comptroller General of Canada, and to Mr. J. A. MacDonald, Chairman of the Committee of the Accounting and Auditing of Public Sector Organizations.

I know that the Senate does its best to ensure that the government pays attention to its own recommendations. Instead of waiting for the Senate and the government to agree on a universal solution, the Committee on National Finance has, on its own initiative, asked various departments to give their reaction to its recommendations. Until now, we are satisfied with the response we have obtained from the Treasury Board, to name but one, and we shall continue our survey of other departments when we resume our work next fall.

[Senator Leblanc.]

Mr. Speaker, if no one else wants to take part in this debate, I believe that it can be concluded at this time, and I shall ask that the report be adopted.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:
>
> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, yesterday we stood this order. I believe Senator Frith said a word about the possibility of allowing the television team—or however you may want to describe the group—to experiment during the next meeting of the Committee of the Whole.

● (1420)

Honourable senators, I have no problem with that as long as the decision on the substance and the principle involved is delayed.

Perhaps the question should be put to senators as to whether they have any objection to an experiment being conducted by the television people during the next sitting of the Committee of the Whole on the Meech Lake accord.

If that meets with the approval of honourable senators, then I would like to adjourn the debate on the motion.

Hon. Orville H. Phillips: Honourable senators, Senator Flynn has just asked us to give approval to an experiment. The question is: What is the experiment? Senator Frith and Senator Flynn have obviously been involved in negotiations, so surely the rest of us are entitled to know what took place during those negotiations.

Hon. Duff Roblin: Honourable senators, I think that a portion of the resolution, which we are ostensibly discussing this afternoon, requires a little amplification.

In the substantive part of the resolution about televising in the Senate the last paragraph reads:

> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons.

It is to that particular portion of the resolution that I would like to direct some attention, because I wonder just how we can give effect to that principle.

If one studies the rules that were originally laid down in the House of Commons with respect to television, one will see that there are a couple which may cause some trouble. One is the transmission, in full colour, in French and English, of broadcast quality. Perhaps that is not insuperable, but the important one, a rule which goes to the very heart of an electronic *Hansard*—which is what they have in the other place—is that the proceedings be fed out to networks and other users without editing, alteration or revision of any kind by the House of Commons. I am not exactly sure how to interpret that phrase, but at first glance it seems to me that what they intend by that is that the televised proceedings of the other place should be fed into the networks without any editing or amending by anyone—just as nature gave it.

That certainly will not be our experience, because I do not believe that the televised proceedings of this house are being fed into a network anywhere. If I am incorrect on that point, I am sure that I will be informed about it.

What will happen, I suspect, is that instead of an electronic *Hansard* in which the proceedings are disseminated, warts and all, on the television network, we will have the proceedings recorded in some way or other. Then the networks, because they are not broadcasting the whole proceedings, will excerpt and make selections as to what part of the proceedings they wish to put on the air.

In effect, we should expect that we are going to get the same kind of 90-second treatment, you might say, that you would get if you were appearing on the television camera outside this chamber when the networks, in the first instance, decide what portion of the proceedings will get air time.

I am not entirely sure that I have this correct, and I raise it because it is a matter of concern. If my interpretation is correct, then I suspect that this statement about adhering to the principles and practices of the House of Commons is not entirely accurate, because we may not be able to do it. I think there should be some clarification on this point. If we are not going to follow the proceedings of the House of Commons and the principles and practices that govern their transmissions, then perhaps we should give some thought to changing the wording of this resolution so that it reflects reality.

That is a point that perhaps the sponsor of the resolution could comment on and let us know just in what way he anticipates that the televised proceedings of this house will be disseminated to the general public.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Roblin is substantially correct in his understanding. At the moment, honourable senators, I am responding to a point of clarification, and I am not attempting to close the debate because, in fact, we have before us a motion for adjournment which I also may want to comment on.

It is quite correct that the motion is asking for television access, that is, that the networks have access to a television feed. It is not an electronic *Hansard* that we are speaking about. Therefore, Senator Roblin is correct in that it will not just be feeding out the entire proceedings with or without editing by the house.

He is also correct when he says that we should understand—and if we require to change the wording, we should do so—that the rules of the House of Commons that we are going to apply will be applied "where applicable," because the motion is asking for something different from an electronic *Hansard*. Therefore, all of the rules that were established in the other place that apply to an electronic *Hansard* cannot apply to our situation. We are dealing with something less. Therefore, it is a matter of having them apply where applicable, such as no panning, and takes only of the persons asking or answering questions.

That is why I toyed with the idea of having an experiment to see how it would work. However, if that is unsatisfactory, as I gather it is from what Senator Phillips has said, then I will, of course, agree to the adjournment of the debate, since Senator Flynn has not had a full opportunity to speak to the matter. Then, on Monday we will be asking for a vote on the motion, because if the experiment idea will not fly, then we will have to move to the actual motion itself.

Senator Roblin: Honourable senators, I should like to ask a further question. The point of my intervention was to say that the reference to the principles and practices of the House of Commons would bind us to something that we are obviously not prepared to do. It means, therefore, that this motion ought to be amended in the course of this debate, and before we are called upon to vote on it. My question is whether that will be arranged.

Senator Frith: That is why I think we should add the words "where applicable". I believe the addition of those words would meet the concern of Senator Roblin, which I think is a legitimate one. I believe it is clear that we are not asking for an electronic *Hansard*, so we should say that we are going to apply the rules that were established in the House of Commons, where applicable. We have already conducted an experiment with committees operating in that way, but we have not done it in the chamber, and that is what I am asking for. I am asking that we televise the proceedings of the Committee of the Whole on the Meech Lake accord.

Senator Phillips: Honourable senators, in his remarks Senator Frith referred to my opposition. I did not express any opposition to the priniciple, because, right now, no one except Senator Frith seems to understand what he has in mind.

I would like to get some clarification from Senator Frith as to how many cameras will be involved and where they will be located. Will they be located outside the bar, in the gallery, or will they be located on the floor of the Senate? Surely that is important information which we should have before we decide on the experiment.

Senator Roblin has referred to editing. Are we going to have someone in charge of editing, as they have in the House of Commons? If it is going to be a news item, then I understand

there has to be some editing. Where would be the control booth? Where would the individual in charge be placed? That leads us to the question of who is in charge. Is it the Speaker, the Clerk, the Clerk Assistant, Mr. Lovelace, or the chairman of the Rules and Orders Committee? Experiments without knowing what one is doing can be very dangerous.

● (1430)

Senator Frith: If you know what you are doing, you do not need an experiment. The reason for the experiment is to find out.

Senator Phillips: A lot of people know what they are doing when they are experimenting. They have done investigations beforehand.

I have one further question for the honourable senator. Usually when the cameras are located on the floor of the Senate for the opening of Parliament there are at least four seats removed from the floor of the Senate. Are we going to remove the seats of honourable senators for the experiment? I wish he would give us some information so that we will have an idea of what we are discussing. We are discussing an experiment which has been discussed between himself and someone else, and we have no idea as to what that discussion was.

Senator Frith: Honourable senators, let us get this straight: I am not going to be able to answer all of the questions. It is a new experience. It will be like the experience that we had during the opening of Parliament. It will not be the same. It will not be exactly the same as the House of Commons. I do not know the answers to all questions. The only answer I know is what I have already said, which is that I understand there will be up to three cameras. I believe that two of them will be placed, one on each side of the chamber, so that they can take pictures of the person speaking.

I really do not know all the answers. I guarantee that if we are to have an absolutely complete understanding, down to the last detail, of every rule—so that we can be sitting here with a whole set of rules, watching the camera and television people, and then say, "Oh, oh, you have just contravened paragraph 6(2)(*a*)"—it will not happen that way.

If, in fact, any honourable senator needs a complete understanding of everything that will take place, with a corresponding list of guarantees, then he or she must vote against the motion, because I will not be able to provide that. This interim suggestion, which I first discussed with Senator Flynn, was to give us an idea so that when we come to the main motion we could say, "Yes, it was okay, but I did not like that part, but this part was okay."

That is the way they have had to work it out, virtually with a Bible, on the other side. The way it now operates is that if someone has a complaint, they meet and say, "Look, that will not do, you have to change it," and they do.

I have tabled some documents saying that is so; but I guess that if the experiment idea is not accepted, then I will be asking for a vote on Monday on the main motion. I thought the experiment would give us an opportunity to see how it works—and, in some cases, give opponents of the idea some ammunition if it did not work. But it seems that even on the basis of an experiment some honourable senators want a much more complete list of answers to questions than it is possible for me to give.

[Senator Phillips.]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe that, in effect, we had part of a dry run recently in the Standing Senate Committee on Energy and Natural Resources when we held hearings on the proposed takeover of Dome Petroleum. In my humble opinion, that was a complete disaster. We had about seven cameras in the room. Some chairs were moved, the cameras were placed against the table, and those of us who were sitting above the cameras could not see the witness, and those who were sitting below the cameras could not see the chairman. The heat in the room was absolutely insufferable, and it was really an unfortunate experience.

Senator Frith: Were you present at the hearings by the Banking, Trade and Commerce Committee?

Senator Doody: I was fortunate enough to get a seat. I got there early.

Senator Frith: But were you at the Banking, Trade and Commerce experiment, under Senator Murray?

Senator Doody: Yes. That also was a very full house. All of the chairs around the table were occupied, but the cameras were more discreetly placed in that hearing.

I am saying that we have had some experiments and some experiences, and I would have thought there would be some merit in trying to compare the advantages or disadvantages of some of the experiments which we have already tried and applying them to a set of general rules to govern the experiment which we are now considering.

It seems to me from the way we are going that it will be a wide open experiment, with no guidelines, and it might very well prejudice some of us against a more general use of cameras in this place.

My words are simply words of caution. I would like honourable senators to have a more concrete view of exactly what is in mind before the experiment starts.

Senator Roblin: Honourable senators, may I ask a question combined with a suggestion? We are not likely to be under great pressure to have television installed in the chamber on Monday or Tuesday, unless I misunderstand the situation. There may be some merit in attempting, during the time following the adjournment, to work out a plan of operation, recognizing that it will not cover everything and that it will be subject to amendment as experience indicates. I believe it would be helpful to the house if we had a more detailed operating plan to deal with whatever of the observations made on the matter can practically be attacked. I know that in the other place they had a special committee of the House of Commons which met long and often—as no doubt the Leader of the Opposition will confirm—in order to try to get a plan of

action to which the House would agree. That plan was eventually submitted to the House and approved.

I am not saying that we have to follow that procedure. But is there not a possibility that during the recess we could tackle this matter in a more systematic way and try to produce a scenario—that is probably an appropriate word—as to how this matter would be expected to work in the house? It would give us an opportunity to look that over before we are asked to vote on a resolution which really is very sweeping.

Senator Frith: I believe there is some common ground. I suspect that Senator Roblin is right, that we may not have an application or request on Monday for the use of the facilities. But I would like to have the motion dealt with, and then perhaps we can do exactly what Senator Roblin says, and during the vacation try to work out something more satisfactory in terms of detail.

It may very well be that we will, in fact, pass this motion and we will never see a television camera in here, because they may never want to come here to cover it. As I say, this is not an electronic *Hansard*. It will not automatically happen when we pass the motion.

Senator Roblin: Who will pay for it?

Senator Frith: On this basis there is no cost, except the cost of electricity for the lighting. With electronic *Hansard* it is quite a different story.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am not seeking to make any comment upon the exchange on this particular item; but on the general question of television, I was attracted to a notice, which we received prior to the Governor General reading the Speech from the Throne in this chamber, that television would be the order of the day. Rather than raise the matter at that time, and possibly find that no authority existed, I did nothing; but I am curious to know by what authority the Speech from the Throne is televised in the Senate chamber. It is my understanding that no authority exists. It is a matter that I leave floating in the atmosphere—

Senator Frith: In colour.

Senator MacEachen: —so that if it descends at some future time, no one will be surprised.

Senator Phillips: Honourable senators, may I repeat one of the several questions that I directed to Senator Frith? I did not expect a detailed answer to them all, but surely in his discussions he must have considered the fact that several senators might have their seats displaced. That is a question of privilege for those senators involved. Could you give us some further information on how he dealt with that matter?

● (1440)

Senator Frith: Honourable senators, Senator Molgat has been dealing with this question more recently than I have in that he has been discussing it with people on the other side. He might be able to answer the question better than I, although he told me the last time we spoke on the matter that two senators' chairs would have to be removed.

An Hon. Senator: Not mine!

Hon. Eymard G. Corbin: Honourable senators, it is well known in certain circles that I am rather lukewarm to the introduction of television into the Senate. However, I am a good party player, and I tend to be guided by the collective wisdom of consensus when consensus is there. Having said that, I would like to express some reservations about having scaffolding, TV cameras, technician crews and cables on the floor of this assembly.

Parliament Hill has have become a national carnival. All you have to do is peep out your window, look to the east, and you will see a glorious tent with rock music coming from it and with Coke vending machines—or Pepsi, if that is your choice. Of course, for the Canada Day celebrations we have a big canopy over the front steps. The other day we had a kite-flying team from Holland spreading out their wares on the front lawn. The place is becoming rather ridiculous. You would think that this was the national playground, or something like that.

An Hon. Senator: Isn't it?

Senator Frith: After all, they own the place!

Senator Corbin: I suppose it is in the minds of some people. However, before I entered politics, I looked upon Parliament as a dignified institution, indeed, an institution which ought to be treated with a great deal of dignity, whether it be my party or another party in power, or whether or not there are one or two kooks on the floor of the house spreading their brains for everyone to examine.

The fact is that this is where the heart of the nation throbs. There is no way that the justices of the Supreme Court would allow bazaars to take place on their front lawn. We have allowed this whole decadent atmosphere to go a little too far for my taste. I am just a junior boy around here, as Senator Walker will sometimes say, but I have seen what has happened in the House of Commons with the coming of television. In my view the task of journalists has been made much easier, but I do not think it has contributed that much to the quality of debate on the floor of the House. Every MP has suddenly become a star, or thinks he or she is a star. No longer are questions directed in an attempt to resolve the serious problems at hand. Questions are thrown into the lenses of the cameras to get the reactions of the voting public. MPs have forgotten about the very essence of the institution of Parliament. Rather than talking intelligently to each other and debating serious matters they jostle for positions in the electoral mind of the people. In my opinion, legislation, as a consequence, suffers greatly. It seems that the trend now is to be guided by a daily referendum, and every morning to sift through the collection of newspaper clippings we get to see what was decided by the referendum according to what was seen on the national news the previous evening.

Now we want to put cameras on the floor of the Senate. So be it, if that is what the majority wants. If that is what the leadership of my party wants, I shall just keep quiet, shut up, and perhaps not vote on the matter. But for goodness sake, is

there a need to have all that apparatus on the very floor of the Senate? Up here to my left is a whole gallery which is reserved for members of the press.

Senator Marshall: It is never used.

Senator Corbin: Yes, it is hardly ever used, except when we decide that we will not go along with the wishes of the honourable members on the other side of the building. Then we have four or five journalists trickling in here and almost pleading for us to get on with the decision we are supposed to take on the particular matter so that they can get the heck out of here in a hurry and go back to wherever it is they hang out. So, I am not at all supportive of this idea of having television crews and apparatus on the floor of the Senate. There is enough empty space at the edges of this very large and, for that matter, very beautiful room, and it seems to me that that is where we ought to put those camera crews. Mind you, being a backbencher in this place I will not be on the screen every 15 minutes. I am a very modest and humble person, and I am not a constitutional expert. So, I have nothing to gain, though that is certainly not the reason I am against this whole set-up.

In other words, what I am asking—and I do not expect anyone to respond today—is that we ensure that the integrity of the Senate, in terms of the dignity of the house, is fully preserved and maintained, and if camera crews are introduced that they be located in an area where they will not disrupt the movement of honourable senators on the floor of the house, whether it is in the back row, the middle row, the front row, or along the edges. Technically, I cannot understand why they cannot be located somewhere up there.

When we dealt with the patriation of the Constitution in 1982, in room 200 of the West Block, we worked and sweated under the lights and under the camera crews. It was no fun, but that was the wish of Parliament in that day and age, involving a rather substantial debate. I do not want to belittle the exercise. The signature of Quebec on the constitutional accord is in itself an important event, and there is no doubt about it. However, it is not an event equal in importance to the one we had in 1982, although it does tie the knot neatly. I do not think there is the same justification for all this glamour, these lights, these cameras, and the rebroadcasting. I feel that we could do a much better job if we did it in the quiet and serenity of our everyday operations, without somebody breathing down our necks, catching sight of the back of our heads, or whatever. I cannot understand people who feel that to get the message across one absolutely has to be on television.

This is a house of revision. There is not the same need for broadcasting our deliberations here as there is in the other place, in the elected chamber. These are some thoughts that I wanted to put on record, because it is well known on the other side of the house that in the past I have not played ball all the way.

I am more concerned with the inner workings and the serious workings of the institution rather than the passing glory of an image on an electronic screen. I do not think it will change much in the long run, but unless you tell me that the television crews are to be located elsewhere than on the floor of the Senate, I may well vote against the proposition.

● (1450)

Hon. Gildas L. Molgat: Honourable senators, in view of the fact that the proposal is related to the Meech Lake study, and although the steering committee had not asked me to do this, I thought that as chairman I should at least find out what it might mean if, in fact, the decision were made by the Senate to conduct the study. Therefore, I did inquire, and I believe I can give you some useful information as to what it would mean.

I was particularly concerned because of the experience that we had had in the Standing Committee on Standing Rules and Orders regarding tape recording, as honourable senators will recall. What did happen at one of our committee meetings was that a tape recorder was brought in without authorization, and the person moved around with the tape recorder and recorded on tape conversations which were, in fact, the private conversations of senators. The committee studied this matter carefully and recommended to the Senate a set of proposals which the Senate accepted. Therefore, I was concerned about what this would mean to the functioning of the committee.

Honourable senators, this is what I have been told by those who would be involved in establishing it. First, there would be a maximum of four cameras. In other words, there would be no more than four television cameras, and possibly only three. Second, that they would be in a fixed position on tripod. There would be no movement of cameramen about the room. They would stay in one position. In order to achieve proper coverage, there would have to be one camera on either side. That would mean the removal of one chair on either side, probably that of the Honourable Senator Rossiter and that of the Honourable Senator Rousseau. Those senators would temporarily have to be seated in another location.

An Hon. Senator: Two women!

Senator Molgat: In case the ladies see this as a sexist approach, it just so happens that their two locations are the ones that give best coverage to the chamber from a technical standpoint. Those would be the only two chairs that would be moved.

The other two cameras—if there are to be two—would presumably be at the back of the chamber. As I say, there would be no movement; the cameras would be stationary. On the days when there was to be television, the cameramen would come in and stay in position. They would not be moving in and out during the course of the discussion here. Of course, there would have to be lighting during that period.

There is one problem that we are already aware of and that has been previously discussed, and that is the location of witnesses. That matter came up this morning again, and it is something that the Senate should consider; whether, when the Senate sits in Committee of the Whole, the present location is the appropriate location for the witness. As you saw this morning when Senator Forsey was with us, inevitably half of the Senate is behind the witness, which is not an ideal situation

even if we do not have television coverage. Therefore, if we proceed with television coverage, it might mean a change, possibly a table here at the front beside the Speaker's Chair or possibly in front of Black Rod's table at the back so that all of the Senate would be in a better position to face the witness. The chairman of the committee would be the one who would have difficulty if the witness were located here at the front beside the Speaker's Chair.

There is one thing to keep in mind, although the two items do not necessarily go hand in hand, but I am told that if we do proceed to television coverage, we would probably have a request for still-picture coverage. Apparently in the House of Commons this is what happened. When they moved into television, there was immediately a request by still photographers. In the House of Commons this element can easily be accommodated because of the lobbies and the curtains. Here in the Senate the situation would not be the same. In any case, that would be a decision that the Senate would make if it wanted to take that second step. However, if it had to be done, it would mean probably a photographer in each corner, or possibly upstairs in the gallery. Again, they would not be moving about and there would be no interference. That is a separate decision, but I thought I should at least warn the Senate that that request might be made so that if it does come at a later date, it will not be a surprise.

Honourable senators, that, I think, is basically the information that I can give you as to how it would function. If you have any further questions, I would be happy to answer them, if I can.

Hon. Jean Le Moyne: Would senators need union cards from the Actors' Guild? Secondly, I hope that the whips will be very busy, because the cameramen will have fun photographing the empty spaces in this chamber.

Senator Roblin: There is something that my friend has not mentioned, and I ask him about it now: What use would be made of these pictures?

Senator Molgat: The decision as to when the camera would be here, and for which witnesses, would be that of the pool, as they call it. The use of material would also be a decision of the pool. As has been stated here, this is not electronic media; this is access to our debates by a television camera, so the people who take the pictures decide what to do with them.

Senator Phillips: Honourable senators, I have a question for Senator Molgat. I think he was vaguely simplistic in saying that only one seat on each side would be moved. I find it difficult to imagine a tripod supporting a camera and a cameraman and yet occupying no more space than either Senator Rossiter or Senator Rousseau. I think it will take up a great deal more space, and it will certainly block the aisle.

The next question I have concerns the removal of the cameras. This morning the Senate was in Committee of the Whole for a period and now we are into a regular sitting. How long does it take to put the cameras in place and how long does it take to remove them, or do you intend them to stay, even though the proceedings are not being televised?

Senator Molgat: On the second part of your question, senator, I am sorry I cannot give you a precise answer as to how long it would take to remove the equipment.

Insofar as the amount of space taken is concerned, I had the same doubts that you did, Senator Phillips, and I asked for confirmation that this would indeed mean the removal of only one chair. I was told that, yes, definitely, it only means a small platform on which the tripod can sit so as to be sufficiently high to give proper coverage. I was assured that it would not mean the removal of the desks but simply one chair. That is the answer I was given.

Senator Phillips: The honourable senator has not answered the second part of my question. Will the cameras stay in the chamber between the sittings of the Committee of the Whole? For instance, if we are in Committee of the Whole on Monday, will the cameras stay here on the floor of the Senate in case we go back into Committee of the Whole on Tuesday?

Senator Molgat: I cannot give you a precise answer to that. My understanding is that if it is a day on which the cameras are to be here, they would be brought in prior to the session and remain here during the whole of the session. However, if it is a day when the Senate does not have a sitting of the Committee of the Whole, I presume the equipment would be removed. I cannot guarantee that, but I think that that is the case.

• (1520)

Hon. Brenda M. Robertson: Honourable senators, it is not often that I agree with my good friend from New Brunswick, Senator Corbin, in debate, but I must associate myself with his remarks in this particular instance.

I am terribly worried about this process, and very glad there are no cameras in this chamber this afternoon. I do not know if Senator Molgat understood the implication of a couple of things that he said. One of the things he said was that Senator Rousseau's chair and Senator Rossiter's chair would be removed. Shortly after that he said that the television men would be there and there while the senator women would be God knows where. I would like the public to see and hear this, this great men's club. It is really quite disgraceful.

I have been away from the house for the last three days. I have just come back from a seminar on women's issues. Those of you who know me well know I am a mainliner. I do not get uptight about women's issues. However, what I see going on in this chamber is simply disgraceful; it really is. If the cameras must come, put them up in the press gallery. Do not ask Senator Rossiter and Senator Rousseau to move. Where are you going to put them?

Senator Argue: I will volunteer my seat. There are lots of empty seats.

Senator Robertson: There are always lots of empty seats, indeed. Perhaps we should have the cameras so they pan around. Maybe that would be better.

Senator Molgat: I rise on a point of priviledge. Is Senator Robertson really serious in suggesting that my comments were

addressed to women or to men, or that there was any kind of sexist connotation? It is a pure accident that there happens to be two honourable female senators sitting in those chairs. Certainly my comments were not meant in that way in the least.

By the way, there are other vacant chairs, one directly behind you, Senator Robertson, and one right next to me.

Senator Frith: There are also women cameramen.

Senator Robertson: Honourable senators, as I said when I started my remarks, I am sure the honourable senator did not understand the impact of what he was saying. I accept that your remarks were said without any malice or any bias. However, when it is said like that, what in the world would the people out there think? It is really quite ridiculous.

Hon. Philippe Deane Gigantès: Honourable senators, I would like, in all humility and with much regret, to disagree with both of my colleagues from New Brunswick. I am prepared to give my seat to Senator Rossiter or Senator Rousseau and sit on the floor crosslegged. I am sure my honourable friend, Senator Molgat, who is the soul of courtesy, had no intention of offending anyone.

As for our being a circus, if you will allow me my usual piece of pedantry, Socrates thought that writing, a new-fangled means of communication of his day, should be banned, because he said it imprisoned thought. At every new step in the development of means of communication there has been resistance on the grounds that it was somehow going to devalue the intellectual content this new means was to carry. There was similar criticism of the printing press, because it was so much more loving and personalized and careful to sit down and to write with a quill pen for le Duc de Berry, with illuminations in the margins by great artists.

Television is here to stay. We are not going to get rid of it. I do not think that the Senate can dodge this issue. That does not mean, necessarily, that television will be interested in observing us. However, should television be interested in observing us, I promise you I will not speak while television is here, because I am poor on TV. I have enough vanity to want to avoid it, but we cannot retreat collectively from the twentieth century and tell them not to come.

Senator Flynn: I do not have any further contribution to make after this debate.

Senator Sinclair: If we are through with this very interesting subject, I have an intervention. Are we through with it?

Senator Doody: No.

The Hon. the Speaker: It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Rousseau, that—

Senator Doody: Excuse me, Mr. Speaker, is the motion being put now?

Senator Frith: I can understand why the Speaker is going to put the motion. We were not doing anything, so I do not blame him for it at all.

[Senator Molgat.]

In view of the observations that have been made and the fact that we obviously have some strong feelings on this subject, I suggest that I close the debate on Monday and that we vote on the question then. I will adjourn the debate. If I speak to it on Monday, that will close the debate, and then we can have the vote.

Senator Phillips: Will the honourable senator attempt to have a little more information on Monday than he has today? Because, while I have not completely ruled out the idea of trying TV on a temporary basis, I would like to know a little more about the subject than the honourable senator has been willing or able to give us at this time.

Senator Frith: If the honourable senator will tell me what questions he wants answered, I will try. However, "a little more information" will go on forever. We have already had a lot more information added from Senator Molgat. So if the honourable senator will tell me what questions he wants answered, I will try to answer them. I am not undertaking not to close the debate and ask for disposition of the motion on the basis of whether or not I answer his questions satisfactorily, or give any answers for that matter.

Senator Phillips: I did not ask him to provide a satisfactory answer, but I asked him if he will be able to. Perhaps that was part of the reason for the questioning.

One most important question was left unanswered, and that is: Who is in charge of the television proceedings?

Senator Frith: I can answer that right now. The Senate is.

Senator Phillips: In what way?

Senator Frith: What do you mean by "in charge"? Do you mean who is going to push the buttons?

Senator Phillips: In your introduction you mentioned that we could have the Speaker, we could have the Table, we could have Mr. Lovelace. Is Mr. Lovelace in charge of it; is the Clerk in charge of it; is the Clerk Assistant in charge of it? I am using your own words.

Senator Frith: I am using your words. I never said that Mr. Lovelace or the Chair would be in charge. I said there would have to be somebody delegated to represent the Senate in dealing with the networks. I said it could be any of those.

In the meantime, it seems that the chairman has been talking to them, and it could be the steering committee. However, essentially it will be the Senate that will be in charge in that sense. Will there be a senator out there switching buttons? No, if you mean "in charge" that way. The networks will be running the technical operation. Their permission to be here and what arrangements are made with them and what complaints we have, and so on, will all be in the hands of the Senate.

Senator Roblin: I thought my honourable friend agreed with me that he ought to amend his resolution on this question as appropriate.

Senator Frith: Yes, and I thank Senator Roblin.

Senator Roblin: If that is the case, it might be advisable to have some other person adjourn the debate so that the amendment can be brought in in proper form. My honourable friend is not in a position to do it.

Senator Frith: If we all agree that it should be so amended, let's amend it now, and agree, with consent, that it should be so amended.

Some Hon. Senators: Agreed.

On motion of Senator Frith, debate adjourned.

• (1510)

CRIMINAL CODE
CANADA EVIDENCE ACT

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ON SUBJECT MATTER OF BILL C-15 TABLED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. Joan Neiman: Honourable senators, the Standing Senate Committee on Legal and Constitutional Affairs has the honour to table its tenth report respecting the subject matter of Bill C-15, to amend the Criminal Code and the Canada Evidence Act.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 1464.*)

The Hon. the Speaker: Does Senator Neiman wish to revert to Order No. 1, which is on the same subject?

Senator Neiman: I would prefer to give honourable senators an opportunity to read the report, because it is somewhat lengthy. I would be prepared to speak on it at the next sitting of the Senate.

SMALL BUSINESSES LOANS ACT

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-63 TABLED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to table its seventeenth report respecting the subject matter of Bill C-63, to amend the Small Businesses Loans Act, in advance of the said bill coming before the Senate, or any matter relating thereto

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 1470.*)

VISIT OF SENATE DELEGATION TO JAPAN

DEBATE CONCLUDED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Charbonneau calling the attention of the Senate to the visit of a Senate delegation to Japan, from April 13 to 19, 1987, in response to an invitation from the Japanese House of Councillors.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I congratulate Senator Charbonneau on the intervention he made at page 1325 of the *Debates of the Senate* of June 22 last. It was a marvellous trip under his excellent leadership. The account he gave of the trip and the emphasis he placed upon those aspects that were important and upon what was achieved were very well done. I hope he will permit me to speculate that he drew upon the expertise and efforts of Kay Higgins, who accompanied us on the trip and who took careful notes. I congratulate her, and I thank her for her efforts and everything she did to help make the trip a successful one.

There are just two points that I want to expand upon. First, at page 1328 mention was made of a visit to the Keidanren. At that time the question of free trade came up and, along with it, the Liberal Party's attitude towards it. The response I was reported to have given—and I expect that these were my exact words, because I am sure that Miss Higgins got them down correctly—is the following:

> . . . in principle, if the agreement was in the interest of Canada, as could be expected, the Liberal Party—traditionally a free trade party—would not impede it.

I had certainly intended to say "as would be hoped," but I probably did say "as could be expected." I mention that because I do not think even the government supporters feel that we can be certain about any agreement, Canada's interests or not.

Finally, I want to thank the Speaker for the favourable review that he gave my performance on the Koto, but I am bound in honesty to say that the review really overrated the performance.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

CHILD CARE

NATIONAL POLICY—DEBATE ADJOURNED

Hon. Mira Spivak rose, pursuant to notice of Monday, June 22, 1987:

> That she will call the attention of the Senate to the question of a national policy on child care.

She said: Honourable senators, there are several historic national debates taking place at this time in which the Senate will figure prominently—not, however, the most recent debate on television coverage of Senate proceedings. The debate on child care will affect our country as fundamentally, perhaps more so, as any of these debates, such as that on the Constitutional Accord or that on capital punishment. I believe that the Senate should participate in the shaping of the policy on child care, as it will in the others.

It is easy to ascertain the reasons for an increasing emphasis on this area of social policy in recent times. The "traditional" model of the Canadian family—two-parent, one-income, full-time homemaker mother—is now in the minority. Accompanying this trend has been a sharp increase of female participation in the labour force. In 1967, 16.7 per cent of women with children under six were in the labour force; in 1987, this is true of over 56 per cent of women with children under three and over 63 per cent of women with children age three to five.

This has resulted in what many observers term a "crisis in child care." The question of child care has, to put it mildly, been studied a lot—by two royal commissions, a federal government task force on child care, which includes 20 separate studies, a House of Commons Special Committee on Child Care, and numerous briefs, papers, research studies and books.

The shortage of child care services was pointed out by the 1970 Royal Commission on the Status of Women, which, at that time, called for a national day care act to provide affordable good quality care for children of parents working outside the home. Fifteen years later, in the report of the Royal Commission on Equality in Employment, Judge Rosalie Abella said:

> Considering that more than half of all Canadian children spend much of their time in the care of people other than their parents, and that more than half of all parents need child care services for their children, social policy should not be permitted to remain so greatly behind the times.

● (1520)

In 1987, although the issue is still controversial and the debate value-laden and emotional, the time seems ripe for the remedy. A national policy on child care is in the offing. A consensus exists, in the editorial pages, among families, social agencies and the general public on the need for expansion of child care services. A cool, practical approach to child care policies, based on the needs of Canadian families and on the facts—not nostalgia for the past—is what is needed.

Canada, which has not been a leader in the child care field, would do well to draw on the experience of several European countries, such as the Scandinavian countries, France and some East European countries. A range of policies exist which include the provision of extensive, flexible day care services of high quality as well as generous paid parental leave and benefits, and sufficient income support to give a parent the option of staying home to care for his or her child.

[Senator Spivak]

In Canada most working mothers must rely on informal arrangements, and only about 18 per cent of the children who need child care services have access to licensed care of a high quality.

I would like today to touch on the elements which are necessary and desirable, I think, in the context of child care policies for the present, and which will carry us into the future. There is the need for a solution to the shortage of child care services and facilities; the necessity of high-quality care; a comprehensive federal policy framework and funding mechanism; and an improved parental leave, parental benefits system. Our goal should be the establishment of an accessible comprehensive child care system which would grow to meet the needs of Canadian families through the provision of greatly enhanced public policy and funding.

To begin with the need for more child care services, most observers agree that this is the most urgent priority for the federal government. Estimates of the child care needs of Canadian families have been provided by the National Day-care Information Centre in Health and Welfare Canada and are based variously on the number of mothers in the labour force, parents in the labour force full time, and parents who are students. These estimates are varied, approximate and incomplete, yet, it is quite clear from even these figures—and no better ones are available—that the current number of about 220,517 licensed spaces in Canada represents only a fraction of the need.

Information about family preferences for child care also augments our knowledge of child care needs. Several studies have been done in Canada on family preferences for child care which show common patterns, namely, that parents' first concern is for quality of care, even though cost and convenience may be barriers; parents are concerned that they do not have access to quality care, and significant numbers express concern with care arrangements they presently have or have investigated; parents perceive different types of care as representing the best arrangements for children of different ages; for example, individualized care by sitters, family day care homes and relatives is seen as best for infants and very young children while centre care is seen as better for older pre-schoolers.

Federal government policy, then, in order to address these needs and preferences, must encourage provinces to develop and expand services through a shared-cost program and through the infusion of grants to create additional child care spaces. The services supported should include a variety of facilities to suit family needs. For example, the Government of Manitoba grants support to pre-school day care centres, nursery schools, school-age day care centres for children six to twelve years of age, occasional day care centres and family day care homes—all of which are licensed—and private home care, for which a licence is optional.

Government policies should include as well the development of services for parents at home with young children, part-day pre-school programs, parent resource centres and child care information services.

It is worth noting as well that the Special Committee on Child Care recommended the introduction of tax incentives, in the form of an accelerated capital cost allowance, to encourage business to set up workplace day care centres. Other corporate initiatives have met with some success in the United States to encourage the provision of more child care services.

To turn to the question of quality, research on the quality of care—though a fairly recent phenomenon—has progressed to the point where identifiable, measurable indicators of quality have become known. Assessment of the quality of child care centres can be carried out according to specific criteria, such as staff size, minimum qualifications for staff, maximum group sizes for children, curriculum and specific requirements with respect to physical space, health and safety, so that more precise, legislated child care standards are possible.

These standards should speak not only to the custodial aspects of care—that is the child's physical needs—but also to those factors which address the development of the child. Recent research indicates that early childhood development is critical for language learning, for the acquisition of certain intellectual skills and for emotional growth. Failure to develop adequately will affect a child's competence, self-esteem and performance in the future.

Critical to this important question of early childhood development as well is the staff of the child care centre or family day care home. It is essential, according to the most recent research, that those dealing with young children have education or training related to child development or early childhood education. At the moment not only are regulations relating to staff varied and generally inadequate among provinces—with Manitoba perhaps being a notable exception—but child care workers receive among the lowest salaries and benefits in Canada.

Federal policy, then, must reflect the most recent findings relating to quality of care, and federal funding through grants for child care services must incorporate higher salaries for child care staff, relative to each province, than now prevail.

Several other points relating to the question of quality care must be made. The provision of quality care needs more than legislated standards and an adequate monitoring system by provincial governments. The question must be asked: Who is the most appropriate sponsor of the service to ensure that quality care is provided? The answer is that parent involvement and control is the best insurance of quality, giving parents the opportunity to determine the kind of care which is best for their children.

Both Quebec and Manitoba have provided for parent involvement in service by requiring all centres which receive subsidies to be run by boards of directors, with significant parent participation on the boards. Federal funding should take note of this quality control measure—that is, of parental involvement—and also the issue of non-profit versus commercially operated child care as it relates to quality. On this contentious issue I must side with those who argue that the wish to maximize profits may seriously jeopardize the quality of care given. The continuous monitoring of quality, and the responsiveness to the needs of parents and communities, is not generally possible through a commercial operation.

Federal subsidies should not be provided to commercially operated centres both as a matter of principle and because the variables which influence a high standard of care are incompatible with measures which commercial centres, particularly chain operations, must employ to operate at a profit.

An Hon. Senator: Hear, hear!

Senator Spivak: All child care facilities, however, including for-profit facilities, should be subject to similar regulations governing quality of care.

How should the child care system be funded? At present most child care in Canada is supported to a significant extent by the fees paid by the users of care. Some assistance is made available by federal and provincial governments. The Canada Assistance Plan provides for the federal cost sharing of provincial and territorial expenditures for child care services on behalf of lower income families—those "in need" or "likely to be in need." The child care expense deduction gives assistance, mostly to middle and higher income families, through the tax system. The federal government also offers grants to families through Canada Employment and Immigration and Indian and Northern Affairs.

This is neither an integrated approach to funding child care nor is it one suited to current development needs. The limitations of the Canada Assistance Plan are several.

First and most importantly, the method of assistance—through cost sharing of subsidies to low income parents—prohibits the necessary expansion of services; it does not provide for the sharing of capital costs up front; it does not clearly provide for the sharing of new kinds of services; and it is limited to sharing costs with the provinces on a 50-50 basis only so that poorer provinces, which do not have sufficient matching funds, cannot expand their services as readily as richer provinces.

The Child Care Expense Deduction also has structural problems, it benefits higher and middle income earners more than lower-income families, and, even then, many families cannot take advantage of this deduction because private caregivers may fail to give receipts for their service. The recent tax reform proposals, while dealing with other child benefits, have not dealt with the deduction for child care expenses. It is hoped that the government will deal with this matter in its measures on child care by converting the deduction to a tax credit.

A third problem on the question of financing is the issue of the level of parent fees. Manitoba has chosen to put a limit on the amount of fees charged, regardless of the parents' income, to avoid the "ghettoization" effect which could result if day care centres in more affluent areas were able to charge higher fees than other centres. Parent fees should be part of the financing of child care, but they should be based on ability to pay, and there needs to be a limit on the fee which parents can be expected to pay, regardless of income.

Thus, it appears that a new federal cost-sharing program is necessary, one in which federal funding would be linked to desirable objectives of child care policy, such as the expansion of services through grants; the imposition of standards by provincial governments, which would include all of the variables affecting quality based on current research; non-profit sponsorship and parent participation and control; fees which would adequately recognize the ability to pay; and the encouragement of a variety of services both for parents in the labour force and for those who choose to stay at home.

The federal government has a traditional role in assisting provinces and territories in providing for an adequate national level of social services. This role is enshrined in the Charter. It has done so through use of its spending authority, to encourage provinces to meet emerging national priorities, as well as through the tax system, and it must continue to do so.

There is one other element in a child care policy that I wish to mention, and that is the improvement of parental leave and benefits. The House of Commons Special Committee on Child Care stressed the importance of responding to parents' wishes for additional time to spend caring for very young children—parents, fathers as well as mothers. The report thus made a number of recommendations with respect to the Unemployment Insurance Act which would have the principal effect of extending the period of benefits for which maternity benefits are paid to 26 weeks, and allowing fathers to claim benefits for most of that period, at the discretion of the mother. The two-week period after the birth of the child would have to be taken by the mother. To make this recommendation effective, the committee also recommended that provinces review their labour legislation with a view to having parental leave periods conform with the proposed changes to the Unemployment Insurance Act.

These recommendations should be strongly supported as an important first step towards the time when it will be possible for parents to combine work and family responsibilities with greater freedom.

Honourable senators, the Canadian Day Care Advocacy Association, in examining the submissions of almost 1,000 groups and individuals to the Special Committee on Child Care hearings in ten provinces and two territories, has said that a "relatively clear consensus on the main child care policy issues is emerging in Canada."

If so, that public support and advocacy can help transform child care in Canada from a welfare system to a public service. In their words, it will be a new service to provide high-quality, non-profit and user-friendly child care delivered through a range of services in order to meet a variety of community needs. It will include a system of extended and better paid parental leave and benefits and supports to help parents who stay at home.

The major objections to the realization of such a scheme by those who fear increasing government support of child care are those of cost. Who will pay for it? My answer is that the same question can be raised in any area of government policy, whether it is an enhanced defence policy or the creation of jobs through regional development programs. It is a question of priority and of cost-benefit analysis. Investment in child care, as in any other area of social policy, is labour intensive, and it has many other spin-off benefits. But the return on the investment, a solid foundation for the future, is likely to make paying for child-care the best investment the Canadian taxpayer has ever made.

[Senator Spivak.]

Hon. Senators: Hear, hear!

Hon. Philippe Deane Gigantès: Honourable senators, I should like to praise my colleague who has just spoken. Her speech was enlightened, generous and civilized, and, unless it is the wish of someone else to do so, I would like to adjourn the debate.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I will not detain the Senate very long, but I do want to express my appreciation to Senator Spivak for presenting this analysis of a possible new system of day care service in Canada.

I was struck by her reference to the Canada Assistance Plan, which has been an integral part of the social system of Canada for a good number of years, and particularly her conclusion that the Canada Assistance Plan was not an appropriate vehicle or instrument by which day care could be provided in Canada. There may be good reasons why the Canada Assistance Plan is not suited for that purpose. Certainly it is not a source of funds for capital construction, and that may indeed be a disability. However, when Senator Spivak mentioned that the Canada Assistance Plan is not capable of expanding its services or providing new services, that possible flaw could be remedied by negotiation between the Government of Canada and the provinces to specify day care as one of the services that could be funded on a joint basis between the Government of Canada and the provincial governments.

That is just a comment on what the senator said, and she might take it into account as she continues her reflections upon the question of day care.

Another point was also well made, namely, that the Canada Assistance Plan was funded on a 50-50 basis with the provinces. Of course, as Senator Robertson would know, it is more difficult for the poorer provinces to provide that 50 per cent than it is for the wealthier provinces. That has been one of the conundrums of Canadian public policy for a long time.

I believe at one point Senator Spivak did espouse a shared-cost program with the provinces as a way of providing day care services. That same flaw would apply to any shared-cost program unless there were a provision to grant greater assistance to the poorer provinces, as was done under the Medicare Program. As I recall, the original program provided for a higher proportion of costs to be borne by the Government of Canada for the poorer provinces.

Senator Doody: There is the equalization formula.

Senator MacEachen: Of course, as Senator Doody points out, there is the equalization program.

The purpose of my comments is not to pour cold water on the proposals made by Senator Spivak, quite the contrary, it is simply to underline some of the factors which she introduced into her speech, and simply to encourage her to examine, perhaps, once again, whether the Canada Assistance Plan does not offer some way, even on an interim basis, to finance day care services in the country.

Senator Spivak: Is this a question?

Senator MacEachen: It was a comment.

Senator Spivak: Honourable senators, I am certainly not an expert on matters such as variable cost-sharing formulas. I do not know for certain that the Canada Assistance Plan could not be altered in such a way as to provide a variable cost-sharing formula other than 50-50. It is not that the Canada Assistance Plan could not be used for a national child care program in the same way as other social services. According to my conversations with, and reading the suggestions of, those who advocate a national child care policy, I find that it is the feeling of the majority of observers that the area of child care has now reached the stage where it is a body of social policy, in the same way perhaps as public education or medicare, which requires its own mechanism and cost-sharing formula. One should not tinker around any longer with what basically is a piece of legislation designed to assist families in need or who are likely to be in need. This is more the sort of program which affects a great number of families in Canada, regardless of income, and it deserves its own piece of legislation.

● (1540)

With all due respect, senator, you are far more experienced than I in these matters, and it might very well be possible to amend that other piece of legislation and to be able to present this in the proper context. I guess that what I was trying to say is that these are the principles that I think should be incorporated, and it seems to me that those principles should be incorporated, from what I gather from other observers, in a separate piece of legislation.

On motion of Senator Gigantès, debate adjourned.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

POWER TO ENGAGE SERVICES—NOTICE OF MOTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Bonnell wanted to give notice today of a motion to be moved on Monday. He is not able to be present today, so I will do it for him.

I give notice that on Monday next, June 29, I will move that:

> The Special Committee of the Senate on the subject-matter of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, have power to engage the services of such counsel and technical, clerical and other personnel as are necessary.

For some reason, while the committee has the funds to do this, it did not have the authority to do it.

FEDERAL-PROVINCIAL RELATIONS

EQUALIZATION AND FINANCIAL MATTERS—TABLING OF CORRESPONDENCE BETWEEN PREMIER OF MANITOBA AND GOVERNMENT OF CANADA—MOTION ADOPTED

Hon. Gildas L. Molgat, pursuant to notice of Tuesday, May 26, 1987, moved:

> That there be laid before this House copies of all correspondence from 4th September, 1984, to 30th April, 1987, relative to equalization and financial matters exchanged by the Premier of the Province of Manitoba and (i) the Prime Minister of Canada; (ii) the Minister of Finance of Canada; and (iii) the Minister of State (Federal-Provincial Relations).

EQUALIZATION AND FINANCIAL MATTERS—TABLING OF CORRESPONDENCE BETWEEN MANITOBA MINISTER OF FINANCE AND GOVERNMENT OF CANADA—MOTION ADOPTED

Hon. Gildas L. Molgat, pursuant to notice of Tuesday, May 26, 1987, moved:

> That there be laid before this House copies of all correspondence from 4th September, 1984, to 30th April, 1987, relative to equalization and financial matters exchanged by the Minister of Finance of the Province of Manitoba and (i) the Prime Minister of Canada; (ii) the Minister of Finance of Canada; and (iii) the Minister of State (Federal-Provincial Relations).

EQUALIZATION AND FINANCIAL MATTERS—TABLING OF CORRESPONDENCE BETWEEN PREMIER OF QUEBEC AND GOVERNMENT OF CANADA—MOTION ADOPTED

Hon. Gildas L. Molgat, pursuant to notice of Tuesday, May 26, 1987, moved:

> That there be laid before this House copies of all correspondence from 4th September, 1984, to 30th April, 1987, relative to equalization and financial matters exchanged by the Premier of the Province of Québec and (i) the Prime Minister of Canada; (ii) the Minister of Finance of Canada; and (iii) the Minister of State (Federal-Provincial Relations).

EQUALIZATION AND FINANCIAL MATTERS—TABLING OF CORRESPONDENCE BETWEEN QUEBEC MINISTER OF FINANCE AND GOVERNMENT OF CANADA—MOTION ADOPTED

Hon. Gildas L. Molgat, pursuant to notice of Tuesday, May 26, 1987, moved:

> That there be laid before this House copies of all correspondence from 4th September, 1984, to 30th April, 1987, relative to equalization and financial matters exchanged by the Minister of Finance of the Province of Québec and (i) the Prime Minister of Canada; (ii) the

Minister of Finance of Canada; and (iii) the Minister of State (Federal-Provincial Relations).

He said: Honourable senators, I have moved these four motions together because they are all in similar form, except for a slight difference. My comments will be brief. As all honourable senators are aware, equalization payments are of particular importance to small provinces. Provinces such as my own experienced serious conditions as a result of the depression of the 1930s, and it was only because of the Rowell-Sirois Report and the eventual equalization structure that we were enabled to have any standard of services whatsoever.

Recently there seems to have been a trend away from equalization payments. I know that my own province has been in correspondence with the federal government on this matter, and it has been the subject of dispute between the Province of Manitoba and the federal government. I noted recently that the Province of Quebec was having not exactly the same problem but, nevertheless, problems with the question of equalization, and it was unhappy with what was happening there.

It is for that reason that I have asked for this correspondence in order that I can get the information to see what is the problem, and to see whether or not we should re-examine here in the Senate the whole question of equalization, which is critical for the small provinces of this country.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt each of the four motions?

Hon. Senators: Agreed.

Motions agreed to.

THE CONSTITUTION

CONSTITUTION AMENDMENT, YEAR OF PROCLAMATION (NEWFOUNDLAND ACT)—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government), pursuant to notice of Monday, June 22, 1987, moved:

That, whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto:

SCHEDULE AMENDMENT TO THE CONSTITUTION OF CANADA

1. (1) Section 3 of the *Newfoundland Act* is renumbered as subsection 3(1).

[Senator Molgat.]

(2) Section 3 of the said Act is further amended by adding thereto the following subsection:

"(2) a reference to this Act, or a reference to the Terms of Union of Newfoundland with Canada set out in the Schedule to this Act, shall be deemed to include a reference to any amendments thereto"

2. (1) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is renumbered as Term 17(1).

(2) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is further amended by adding thereto the following:

"(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in Newfoundland all the same rights and privileges with respect to denominational schools and denominational colleges as any other class or classes of persons had by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (*a*) of paragraph one of this Term and the words "all such colleges" in paragraph (*b*) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland."

3. This amendment may be cited as the *Constitution Amendment, year of proclamation (Newfoundland Act)*.

He said: Honourable senators, I should like to take a few moments of your time to speak to this motion. As Senator Eugene Forsey pointed out this morning, there are certain differences in all provinces, and there is nothing unique about a special arrangement with any one province.

This particular motion, which seeks an amendment to the Constitution of Canada, deals with the education system in Newfoundland. As honourable senators are aware, Newfoundland is unique in that of all the provinces it is the only one in which education is totally organized on a denominational basis.

The Government of Newfoundland is seeking an amendment to Term 17 of the Terms of Union of Newfoundland with Canada, with a view to entrenching the rights of the Pentecostal Assemblies in Newfoundland with respect to education.

At the time of union in 1949, seven denominations were specifically authorized by the law of Newfoundland to operate schools and to share in public funds for this purpose. They were the Anglican, the Roman Catholic, the United, and the Presbyterian and Congregational Churches; also the Salvation Army and the Seventh Day Adventists.

Subsequently, all of the denominations have come together as an integrated school system, with the exception of the Roman Catholics, which still operate a separate school system.

The Pentecostal Assemblies were recognized under provincial law as being organized for educational purposes in 1954. So they, too, operate a second denominational school system. As a matter of fact, they were not protected by Term 17 of the

Terms of Union, their school rights having been created after the confederation with Canada.

There has been a continuing desire by the Pentecostal Assemblies in Newfoundland to be put in a position constitutionally similar to the other privileged school-operating denominations. Therefore, a previous proposal to amend Term 17 of the Terms of Union was introduced in the House of Commons in 1971, but it died on the Order Paper with the dissolution of that Parliament in the fall of 1972.

In November 1984 the Government of Newfoundland made a new proposal to amend Term 17 to include the Pentecostal Assemblies.

This particular proposed amendment, notice of which I gave a few days ago, would do here in the Senate what has already been done in the House of Commons, and what has already been done by the provincial Assembly in the Province of Newfoundland.

The proposed amendment would give constitutional protection to the Pentecostal Assemblies with respect to educational rights, and would put them in the same constitutional position as the other recognized denominations in the province. In effect, it would correct the current inequality.

Under section 43 of the Constitution Act, 1982, any provision of the Constitution of Canada that applies to one or more, but not all, provinces may be amended by way of proclamation by the Governor General following resolutions of the Senate, the House of Commons and of the legislature of each province to which the amendment applies.

As I have said, the House of Commons has passed the resolution and the Newfoundland Legislative Assembly has passed the amendment. It remains only for the Senate to do the same.

The amendment would allow the entrenchment of the rights of the Pentecostal denomination in Newfoundland on a basis similar to the other recognized denominations. It does not purport to create new rights for the Pentecostal Assemblies or to change in any way the existing education system in Newfoundland. It merely aims at entrenching the existing rights.

I might point out that no other religious group in the province is currently seeking to operate its own schools and to receive government funding in this respect. All other groups are very small in number. I believe the next largest non-recognized group for this purpose are the Jehovah's Witnesses, who have something in excess of 2,000 reported members; and, as I say, they are not looking for this kind of entrenchment.

So, honourable senators, I commend this motion to you and ask that you consider it favourably.

On motion of Senator Petten, for Senator Lewis, debate adjourned.

● (1550)

VETERANS APPEAL BOARD BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-66, to establish the Veterans Appeal Board and to amend other Acts in relation thereto.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

The Senate adjourned until Monday, June 29, 1987, at 2 p.m.

APPENDIX "A"

(*See p. 1457*)

LEGAL AND CONSTITUTIONAL AFFAIRS

REPORT OF STANDING SENATE COMMITTEE ON SUBJECT MATTER OF BILL C-15

FRIDAY, June 26, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TENTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-15, An Act to amend the Criminal Code and the Canada Evidence Act, in advance of the said Bill coming before the Senate, or any matter relating thereto, has, in obedience to the Order of Reference of Tuesday, November 4, 1986, examined the said subject-matter and now reports with the following comments and recommendations.

The Committee has held extensive hearings and has heard from a number of witnesses. (List of Witnesses who appeared before the Committee and Submissions received are attached as Appendices A and B.)

During the course of our deliberations, the Committee was kept apprised of amendments made to the Bill in the Legislative Committee of the House of Commons. This has made our study of the Bill considerably easier, for many of those amendments constitute changes upon which we would have made recommendations. Those changes having been made, we wish to indicate our full support for them, and we would urge the government to accept those amendments when the Bill returns to the House for final consideration.

This being said, the Committee still has some concerns about certain aspects of the Bill. The first has to do with sentencing. Although we support the enactment of new sexual offences concerning misconduct with children and young persons, we note that they have the potential for the imposition of long penitentiary terms of imprisonment. While long sentences may have a deterrent effect on some offenders, we are not convinced that they will serve a useful purpose for the majority of sexual offenders. What is needed in this area is more treatment for such offenders, rather than longer penitentiary terms alone. In this regard, we would recommend that the government accelerate and give special consideration to its plans to rework the law dealing with mentally disordered offenders.

Another aspect of the Bill with which we are concerned also has to do with sentencing. The sentence structure of the proposed legislation contains certain anomalies. For example, the penalties prescribed for the offence in s. 166 (parent or guardian procuring sexual activity) do not appear to be proportionate when compared to the punishment for sexual interference (s. 140) or sexual exploitation (s. 146). We recommend that, when the review of the legislation is undertaken four years hence, rationalization of sentence structures be given consideration. We also have a specific recommendation with respect to the offence of "simple" bestiality (subs. 155(1)). We see no reason for the retention of a severely punished indictable prosecution option. We recommend that the offence be punishable solely on summary conviction.

The re-enactment of the vagrancy offence in paragraph 175(1)(e) of the Code raises some questions. We note that some attempt was made to limit its scope in the Legislative Committee by deleting the words "or wandering". We remain concerned, however, by this offence, which appears to have the potential to unnecessarily inhibit persons who have served their sentences. We were assured by departmental officials that the offence is rarely prosecuted; that it is used by the police as a means of controlling the movements of convicted sex offenders, who may be encouraged to comply by the threat of arrest and prosecution.

This explanation of the offence has not served to alleviate our discomfort with it. We do not take issue with the submission that it may be necessary to limit the access of offenders to places where they may victimize children again. But we do question whether the blanket offence in paragraph 175(1)(e) is a proportionate response, and whether it is constitutional. We believe that it is another matter which must be given serious consideration when the legislation is reviewed in four years.

The Committee fully supports the repeal of corroboration requirements in s. 246.4. We agree that there should be no absolute rule that children's evidence must be corroborated before it can support a conviction. We are concerned, however, about the re-enactment in that section of words first added to the *Criminal Code* in 1983, to the effect that a judge, in certain sexual offence prosecutions "...shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration".

Some witnesses who appeared before the Committee took the position that this provision is precluding judges from making any comment at all on the absence of corroborative evidence. Departmental officials, on the other hand, assured us that the section was intended to, and in practice does no more than prevent a presiding judge from making an instruction as to the "unsafe" nature of uncorroborated convictions. As yet, however, there have been no appellate decisions upholding this interpretation.

We are of the opinion that a trial judge should be free to comment on the absence of corroboration, so long as he or she refrains from making an instruction of the kind noted above. We recommend that the Department closely monitor decisions under s. 246.4, and take immediate action if those decisions place restrictions on the traditional role of the judiciary in providing assistance to the trier of fact in the assessment of evidence.

During our deliberations, the Committee gave serious consideration to an amendment to s. 442 which would have the effect of placing restrictions on the identification in the media of persons accused of sexual offences until conviction or discharge, analogous to the restrictions on identification of victims of such offences. Although we remain sympathetic to that idea because of the unique and serious consequences that unfounded allegations can have, we ultimately accepted the contention of departmental officials that the implications for law enforcement of such an amendment need more study. We would urge, however, that the review committee should examine this matter when the legislation is studied in four years.

Our next comment is with respect to proposed s. 643.1, which allows for the pre-trial video-taping and admissibility, in proceedings, of the testimony of complainants under 18 in sexual offence prosecutions. We have misgivings about this section. We recognize that it is intended to facilitate the presentation of the evidence of children who may be intimidated or traumatized by the prospect of giving evidence in a criminal court, or who may be asked to recount events at trial that occurred some considerable time before. We acknowledge that the intent of the section is beneficial, and that it seeks to deal with a genuine problem relating to children's evidence.

Our concerns have less to do with the theoretical need for such a provision, than with its possible practical effects. A number of witnesses contended that such taping may be counter-productive; it may have the effect of focusing attention less on the child's evidence than on inconsistencies between a taped statement and oral evidence. It could open new avenues for the discrediting of children's evidence, and divert attention from the real issues at trial. In several jurisdictions in the United States, apparently, issues such as these have led to the effective abandonment of video-taping under similar legislation.

The use of video-taping will be permissive; the Crown will not be obliged to use this method of taking evidence. When it is used, its impact must be closely monitored. We urge the review committee to study the value and the effects of this new procedure with great care.

We would also suggest that more guidance should be given as to how video-taping is to be carried out. The wording of proposed s. 643.1 is so vague that there could be considerable variations in the techniques used. We have been informed by departmental officials that the provinces will be formulating guidelines to govern taping. We trust that this process will result in uniform national standards. Accordingly, we would recommend that steps be taken to formulate nationally-applicable regulations governing matters such as editing; who may question children who make taped statements; the use of certain camera techniques; what must be shown of the questioner and respondent; and verification of elapsed time. We believe that standards such as these would not add much expense, if any, to the process; and they would promote a large degree of uniformity and fairness, as well as facilitating the ultimate admissibility of tapes. They would also ensure equality of treatment, and avoid a case-by-case accretion of procedural safeguards.

Our final comment has to do with the review committee. It should have the most comprehensive information base available to permit it to perform its task. Thus we would suggest that the Department of Justice (if they have not done so already) should ensure that statistical and other information as to how the legislation is administered and enforced once it is brought into effect is gathered and made available.

The Committee heard evidence of the need for a national centre of expertise on all matters related to sexual abuse of children. The Committee

recommends that the federal government encourage the establishment of such a centre which, as part of its mandate, would collect and disseminate accurate information regarding sexual abuse of children.

The Committee heard a great deal of evidence as to the traumatizing effect of court procedures on children and in particular the psychologically destructive impact of prolonged delays. The Committee urges the Minister of Justice to discuss this serious concern with his provincial counterparts at the earliest possible opportunity with a view to finding a means of facilitating and expediting the judicial process where children are involved.

In conclusion, subject to the concerns which we have expressed above, we wish once again to express our approval of the Bill in general.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

APPENDIX "A" TO THE REPORT

List of Witnesses

Thursday, November 20, 1986: (Issue no. 2)
From the Department of Justice:
- Mr. Richard G. Mosley, General Senior Counsel, Criminal Law Policy and Amendments Section;
- Mr. N.H. Avison, Senior Criminal Justice Policy Co-ordinator, Policy, Program and Research Branch.

Wednesday, December 10, 1986: (Issue No. 3)
From the Children's Hospital Child Protection Centre (Winnipeg):
- Dr. Kenneth McRae, Director of the Child Development Clinic and Director of the Child Protection Centre;
- Dr. Charles Ferguson, Director of Pediatrics and Ambulatory Care;
- Ms. Laura Mills, Psychologist, Child Development Clinic and Child Protection Centre;
- Ms. Leslie Baizley, R.N., Clinical Research Nurse;
- Ms. Brenda Gravenor, Senior Therapist.

Wednesday, December 17, 1986: (Issue No. 4)
From the Canadian Council on Children and Youth:
- Mr. Brian Ward, Executive Director;
- Prof. Nick Bala, Law Professor, Queen's University.

Tuesday, February 3, 1987: (Issue No. 5)
The Hon. Michael Ballantyne, Minister of Justice, Government of the Northwest Territories.

From the Canadian Bar Association:
- Mr. Victor Paisley, Q.C., Vice-Chairman, Canadian Bar Association's Committee on Pornography, Prostitution and Sexual Abuse of Children;
- Mr. Bryan Williams, Q.C., President, Canadian Bar Association;
- Mr. William V. Monopoli, Director of Legislation and Law Reform.

Wednesday, February 4, 1987: (Issue No. 6)
From the Erikson Institute:
- Dr. James Garbarino, President, The Erikson Institute for Advanced Study of Child Development, Chicago, Illinois, U.S.A.

Thursday, February 5, 1987: (Issue No. 7)
The Honourable Edmund L. Morris, Minister of Social Services, Government of Nova Scotia.

- Dr. John Anderson, Director of Ambulatory Services, Izaak Walton Killam Hospital for Children and Associate Professor, Department of Pediatrics, Dalhousie University.
- Ms. Mary Cooley, Chairperson, Services for Sexual Assault Victims.
- Ms. Sharon Hope-Irwin, Representative, Cape Breton Transition House and Manager of Town Day Care, Glace Bay, Nova Scotia.

Tuesday, February 10, 1987: (Issue No. 8)
From the American Bar Association:
- Mr. Howard Davidson, Director of Legal Resource Center, Washington, D.C.

Wednesday, February 11, 1987: (Issue No. 9)
- Mr. Serge Ménard, "Le Bâtonnier".
- Mr. François Handfield.
- Ms. Marie-Michèle Daigneault.
- Mr. Alain Manseau.

Wednesday, February 18, 1987: (Issue No. 11)
- Mr. Cameron Smith, Former Managing Editor, The Globe and Mail.

Thursday, February 19, 1987: (Issue No. 12)
- Dr. John Bradford, Director of Forensic Psychiatry, Royal Ottawa Hospital and Associate Professor, University of Ottawa.

Thursday, March 12, 1987: (Issue No. 14)
From the Parliamentary Spouses Association:
Maureen McTeer;
Patricia Crofton;
Jane Crosbie;
Cecil Fennell;
Janet Foster;
Bernice Petten.

Wednesday, March 25, 1987: (Issue No. 16)
From the Alberta Native Women's Association:
Ms. Donna Weaselchild, President.

Thursday, March 26, 1987: (Issue No. 17)
From Queen's University:
William L. Marshall, Ph.D., Director, Kingston Sexual Offenders' Clinic.

Thursday, April 2, 1987: (Issue No. 19)
From the National Youth in Care Network:
Mr. Kevan Roeters, National Development Officer and others.

Thursday, June 11, 1987: (Issue No. 22)
Appearing:
The Hon. Ramon J. Hnatyshyn, P.C., M.P., Minister of Justice and Attorney General of Canada.

APPENDIX "B" TO THE REPORT

The Committee received submissions from the following groups:

ALBERTA ASSOCIATION OF CHILD CARE CENTRES
Edmonton, Alberta

ALBERTA NATIVE WOMEN'S ASSOCIATION
Edmonton, Alberta

BIG BROTHERS OF YORK
Aurora, Ontario

BRADFORD, DR. JOHN
ROYAL OTTAWA HOSPITAL
Ottawa, Ontario

CANADIAN ASSOCIATION OF SOCIAL WORKERS
Ottawa, Ontario

CANADIAN BAR ASSOCIATION
Ottawa, Ontario

CANADIAN CHILD WELFARE ASSOCIATION
Ottawa, Ontario

CANADIAN COUNCIL ON CHILDREN AND YOUTH
Ottawa, Ontario

CANADIAN CRIMINAL JUSTICE ASSOCIATION
Ottawa, Ontario

CANADIAN FEDERATION OF UNIVERSITY WOMEN
London, Ontario

CANADIAN FEDERATION OF UNIVERSITY WOMEN
Stratford, Ontario

CANADIAN FEDERATION OF UNIVERSITY WOMEN
BELLEVILLE AND DISTRICT CLUB
Belleville, Ontario

CANADIAN FEDERATION OF UNIVERSITY WOMEN
BROCKVILLE AND DISTRICT CLUB
Lyn, Ontario

CANADIAN FEDERATION OF UNIVERSITY WOMEN
KINGSTON CLUB
Kingston, Ontario

CANADIAN FOUNDATION FOR CHILDREN AND THE LAW
Toronto, Ontario

CANADIAN PSYCHOLOGICAL ASSOCIATION
Old Chelsea, Quebec

CANADIAN TEACHERS' FEDERATION
Ottawa, Ontario

CATHOLIC WOMEN'S LEAGUE OF CANADA
Winnipeg, Manitoba

CENTRAL TORONTO YOUTH SERVICES
Toronto, Ontario

CHILD ABUSE COUNCIL OF WINDSOR-ESSEX
Windsor, Ontario

CHILDREN'S AID SOCIETY OF METROPOLITAN TORONTO
Toronto, Ontario

CHILDREN'S HOSPITAL CHILD PROTECTION CENTRE
Winnipeg, Manitoba

CHILDREN'S SERVICES COORDINATING AND ADVISORY GROUP FOR THE DISTRICTS OF SUDBURY AND MANITOULIN
Sudbury, Ontario

CHILDREN'S SERVICES COUNCIL (WINDSOR-ESSEX)
Windsor, Ontario

COMMUNITY ADVISORY COMMITTEE OF OTTAWA-CARLETON, THE
Ottawa, Ontario

DAVIDSON, HOWARD AMERICAN BAR ASSOCIATION
Washington, D.C. U.S.A.

DICKSON, NANCY
UNIVERSITY OF BRITISH COLUMBIA
SCHOOL OF SOCIAL WORK
Vancouver, British Columbia

FAIR, GRANT
Pickering, Ontario

FAMILY AND CHILDREN'S SERVICES OF LONDON AND MIDDLESEX, THE
London, Ontario

FAMILY AND CHILDREN'S SERVICES OF THE DISTRICT OF THUNDER BAY
Thunder Bay, Ontario

FAMILY AND CHILDREN'S SERVICES OF OXFORD COUNTY
Woodstock, Ontario

FAMILY AND CHILDREN'S SERVICES OF THE WATERLOO REGION, THE
Kitchener, Waterloo

FINKEL, DR. K.C.
DEPARTMENT OF PEDIATRICS
MCMASTER UNIVERSITY
Hamilton, Ontario

FREUND, KURT
CLARKE INSTITUTE OF PSYCHIATRY
Toronto, Ontario

GARBARINO, DR. JAMES
ERIKSON INSTITUTE FOR ADVANCED STUDY OF CHILD DEVELOPMENT
Chicago, Illinois, U.S.A.

KELLY, D., AND COLLEAGUES
Guelph, Ontario

KLOEPFER, STEPHEN
New York, U.S.A.

MARSHALL, WILLIAM, K.
QUEEN'S UNIVERSITY
Kingston, Ontario

MCDONALD, NEIL
Ottawa, Ontario

MCNABB ADVISORY COMMITTEE
THE MCNABB SCHOOL
Ottawa, Ontario

NATIONAL ASSOCIATION OF WOMEN AND THE LAW
Ottawa, Ontario

NATIONAL YOUTH IN CARE NETWORK
Ottawa, Ontario

NEW BRUNSWICK, GOVERNMENT OF
THE HONOURABLE DAVID R. CLARK
ATTORNEY GENERAL
Fredericton, New Brunswick

NEW BRUNSWICK, GOVERNMENT OF
THE HONOURABLE NANCY CLARK TEED
MINISTER OF HEALTH AND COMMUNITY SERVICES
Fredericton, New Brunswick

NORTHERN ALBERTA DIACONAL CONFERENCE OF THE CHRISTIAN REFORMED CHURCH
Edmonton, Alberta

NORTHWEST TERRITORIES, GOVERNMENT OF
THE HONOURABLE MICHAEL BALLANTYNE
MINISTER OF JUSTICE
Yellowknife, N.W.T.

NOVA SCOTIA, GOVERNMENT OF
THE HONOURABLE EDMUND L. MORRIS
MINISTER OF SOCIAL SERVICES
Halifax, Nova Scotia

ONTARIO, GOVERNMENT OF
THE HONOURABLE IAN SCOTT
ATTORNEY GENERAL
Toronto, Ontario

ONTARIO CENTRE FOR THE PREVENTION OF CHILD ABUSE
Toronto, Ontario

ONTARIO MEDICAL ASSOCIATION
Toronto, Ontario

OTTAWA-CARLETON REGIONAL HEALTH UNIT
Ottawa, Ontario

PARLIAMENTARY SPOUSES ASSOCIATION
Ottawa, Ontario

PRENEY, LEE
Islington, Ontario

PUBLIC SOCIAL RESPONSIBILITY COMMITTEE OF THE ANGLICAN DIOCESE OF NIAGARA
Niagara, Ontario

QUEBEC BAR ASSOCIATION
Montreal, Quebec

QUINSEY, VERNON
MENTAL HEALTH CENTRE
Penetanguishene, Ontario

RAUF, M. NAEEM
Edmonton, Alberta

RIDGELY, NANCY
Fort Saskatchewan, Alberta

RONALDSON, ROBERT AND DIANE
Orangeville, Ontario

SASKATCHEWAN, GOVERNMENT OF
THE HONOURABLE BOB ANDREW
MINISTER OF JUSTICE AND ATTORNEY
GENERAL
Regina, Saskatchewan

UNIVERSITY WOMEN'S CLUB OF BURLINGTON
Burlington, Ontario

UNIVERSITY WOMEN'S CLUB OF GUELPH
Guelph, Ontario

UNIVERSITY WOMEN'S CLUB OF OSHAWA AND
DISTRICT
Whitby, Ontario

WISEMAN, DANIEL
Ottawa, Ontario

APPENDIX "B"

(*See p. 1457*)

SMALL BUSINESSES LOANS ACT

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-63

FRIDAY, June 26, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SEVENTEENTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-63, An Act to amend the Small Businesses Loans Act, in advance of the said Bill coming before the Senate or any matter relating thereto, has, in obedience to the Order of Reference of Tuesday, 16th June, 1987, examined the subject-matter of the said Bill and now reports as follows:

The Committee heard evidence from the Honourable Bernard Valcourt, Minister of State (Small Business and Tourism), and officials.

This Bill seeks to streamline the regulations governing the loans provided under the *Small Businesses Loans Act* (SBLA) and to make fishermen eligible for loans guaranteed under this Act. At present, fishermen are able to borrow funds under the *Fisheries Improvement Loans Act* (FILA). However, the authority to guarantee loans under FILA is set to expire on 30th June, 1987.

For fishermen, the major advantages of bringing them within the purview of the SBLA are: a) that they will be able to borrow funds for a wider range of activities, including the purchase of land, and b) there will be a significant increase in the funds available for government guaranteed loans, from $30 million to $2.5 billion. Even though the money is spread among a larger number of borrowers, it will be less likely that fishermen will be unable to borrow money during any lending period because the funds available have been exhausted. The one major drawback for fishermen will be that that the government guarantee will cover up to 85% of the value of the loan, rather than 100%, as is the case under FILA. The increased risk-sharing by the lender may make it more difficult for some fishermen to obtain a loan. Other differences between the SBLA and FILA are set out in an appendix to this report.

Your Committee recommends that the Bill, when examined by the Senate, be favourably considered.

APPENDIX

A COMPARISON OF *THE FISHERIES IMPROVEMENT LOANS ACT* (FILA) AND *THE SMALL BUSINESSES LOANS ACT* (SBLA).

Program Features	FILA	SBLA
Lending Ceiling	$30 million	$2.5 billion
Maximum Loan	$150,000	$100,000
Interest Rate	prime + 1	prime + 1
Repayment Period	15 years	10 years
Risk Sharing		
Government	100%	85%
Lenders	0	15%
Cost Recovery	0	1%
Claims as Percent of Loans	5.5%	2.6%
Loans as Percent of Asset Value:		
Land	Not eligible	90%
Premises	90%	90%
Fixed Equipment	75%	80%
Moveable Equipment	90%	80%

Respectfully submitted,

IAN SINCLAIR
Chairman

THE SENATE

Monday, June 29, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

QUESTION OF PRIVILEGE

Hon. Eymard G. Corbin: Honourable senators, I rise on a question of privilege. Last Friday, and during my absence—and I have only been able to take cognizance of *Hansard* just a minute or two ago—Senator Bélisle rose on a point of order. On page 1440 of *Debates of the Senate* for June 26, 1987, he said:

> I should like to draw to the attention of all honourable senators that Senator Corbin's stance on Bill S-7 is far from being fair to this bill.

There is extraneous noise, and it bothers me.

Senator Frith: I think it is being looked into.

Senator Corbin: I guess the door to the translation booth must have been open. Would someone correct that problem, because every time I open my mouth there is an echo. Maybe I should sit down and shut up!

In any case, Senator Bélisle—from whom I was quoting—says:

> . . . Senator Corbin's stance on Bill S-7 is far from being fair to this bill.

Of course my stance is not fair with respect to the contents of the bill! It is a debatable and disputed matter. What do you expect? He goes on to state:

> It has been on the Orders of the Day since April 2. I have, since June 2, asked Senator Corbin when he will speak to the matter. Last night, when we adjourned, I went to him and asked him again if he was going to speak today. His reply was: "Senator, when will you be taking your retirement? Then I will speak."

I never said, "Then I will speak." Senator Bélisle then says:

> This, honourable senators, was not considered by me to be a humorous joke.

He then goes on with considerations about the bill.

It is beyond my understanding that Senator Bélisle would take my comment to him seriously, the way he did. I am chagrined that he did, because that was certainly not the position I intended to take, namely, that I would not speak until he retired. First of all, that is no business of mine, and, second, I do not intend—and I repeat it to him, because I told him privately—to hold up the bill unduly.

Nevertheless, I was in the process of continuing my research on some aspects of the legislation, on some aspects of the procedure, and on some aspects of Opus Dei. Surely to goodness it is my right in this place to adjourn the debate on a matter on which I have already begun to speak. I understand that it is done regularly. In fact, I have witnessed a number of senators speaking to a number of questions—whether they were inquiries or bills—and repeatedly asking for the adjournment of a debate. So I do not consider that I am abusing a situation.

There is also another consideration. Suppose that I do finish speaking today or tomorrow, or next October sometime, does that mean there is not someone else in this chamber who would want to speak to the second reading of the bill to incorporate the Regional Vicar of Opus Dei? Senator Bélisle does not know that and I do not know it.

I will simply repeat that I intend to terminate my comments on Bill S-7 once I have completed my research. That, in itself, is not an unusual position for an honourable senator in this place to take, because there are many precedents to that effect.

Honourable senators, by way of final comment, I would like to say that this is very much a private bill, and a private bill, in my book, comes after all the rest, and it so happens that I had other priorities and other urgent matters to attend to in the Senate of Canada, both in this chamber and in its committees. I cannot find the time I would like to put into the completion of the remarks I wish to make with respect to Bill S-7. I do not liked to be pushed against a wall. I do not like to be asked every day, "Will you speak? Will you speak? Will you speak?" I will speak when I am bloody ready to speak.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear!

Hon. Rhéal Bélisle: Honourable senators, may I be permitted to say that I hope that when the honourable gentleman is ready, I will answer his challenge. That is all I have to say now.

[*Translation*]

STANDING RULES AND ORDERS

SECOND REPORT OF COMMITTEE PRESENTED

Hon. Gildas L. Molgat, Chairman of the Senate Standing Committee on Standing Rules and Orders, presented the following report:

Monday, June 29, 1987

The Standing Committee on Standing Rules and Orders has the honour to present its

SECOND REPORT

It has been brought to your Committee's attention that certain committees of the Senate have been allowing legal

counsel, research assistants and other persons who are not members of the committees to direct questions to witnesses appearing before those committees.

This practice is inconsistent with Senate practice and is in contravention of Rule 77(7) of the *Rules of the Senate.*

Your Committee urges all committee chairmen to conduct committee meetings in conformity with the *Rules of the Senate*, and to ensure that the questioning of witnesses is conducted by senators only.

Respectfully submitted,

GILDAS MOLGAT
Chairman

• (1410)

[*English*]

CONSIDERATION OF SECOND REPORT OF COMMITTEE—DEBATE ADJOURNED

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Hon. Gildas L. Molgat: With leave of the Senate, now.

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

Hon. Senators: Agreed.

Senator Molgat: Since the report of the Standing Committee on Standing Rules and Orders is a very short one, honourable senators, my comments need not be very long, either. It has been brought to the attention of that committee that there have been some infractions of the rules regarding who can ask questions at meetings of any committee of the Senate. Rule 77(7) is clear that no committee has any power that the Senate does not have unless the Senate has agreed to give to the committee that power. Due to the fact that the only persons who can speak here in the Senate chamber, unless the Senate agrees otherwise, are honourable senators, then, by the same token, in committees the only persons who can question witnesses are senators themselves.

The Standing Rules and Orders Committee discussed this matter when it was raised at one of its meetings. It was not felt that any new rule was necessary. We thought that it might be wise to report that we had discussed the matter and to remind honourable senators who are chairmen of committees of rule 77(7) in particular, especially where it has happened that staff or others have proceeded to question witnesses in committees. If there is the need for questions from staff, it is felt that the staff member should pass the questions on to an honourable senator and that the senator should proceed to do the questioning.

Honourable senators, I did not feel it was necessary to move the adoption of the report because it does not involve any new rule. It was simply a report to inform honourable senators.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this debate is considered closed.

[Senator Molgat,]

Hon. Earl A. Hastings: Honourable senators, I have not had an opportunity to study the report and, with that in mind, would adjourn the debate.

On motion of Senator Hastings, debate adjourned.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

FOURTH REPORT OF COMMITTEE PRESENTED

Hon. M. Lorne Bonnell, Chairman of the Special Committee of the Senate on the Subject Matter of Bill C-22, presented the following report:

Monday, June 29, 1987

The Special Committee of the Senate on the Subject Matter of Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, has the honour to present its

FOURTH REPORT

Your Committee, which was authorized by the Senate on April 2, 1987 to study and report upon the subject-matter of Bill C-22, and on June 25, 1987, to which was referred Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

On May 12, 1987, the Senate approved a budget of the Special Committee which included an amount for such personnel. To date the Committee has not found it necessary to hire the necessary personnel. Now that the Bill has been referred to the Committee, it respectfully requests that power to engage such services be granted.

Respectfully submitted,

M. LORNE BONNELL
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Bonnell: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe that some honourable senators would like to have a copy of the report.

The Hon. the Speaker: While the report is being circulated, I believe that Senator Sinclair wishes to table a report.

CUSTOMS TARIFF AND DUTIES RELIEF ACT

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-69 TABLED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to table its eighteenth report respecting the subject matter of Bill C-69, to amend the Customs Tariff and the Duties Relief Act, in advance of the said bill coming before the Senate, or any matter relating thereto.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 1504.*)

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

TWENTY-EIGHTH MEETING HELD AT VANCOUVER, BRITISH COLUMBIA—NOTICE OF INQUIRY

Hon. R. James Balfour: Honourable senators, with leave of the Senate, I give notice that tomorrow, Wednesday, June 30, 1987, I will call the attention of the Senate to the Twenty-eighth Meeting of the Canada-United States Inter-Parliamentary Group, held at Vancouver, British Columbia, from June 4 to 8, 1987, and to the report of the said meeting.

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

Hon. Senators: Agreed.

FISHERIES

COMMITTEE AUTHORIZED TO PUBLISH AND DISTRIBUTE INTERIM REPORT ON MARKETING OF FISH IN CANADA

Hon. Jack Marshall, Chairman of the Standing Senate Committee on Fisheries, with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

> That in the event of an adjournment of the Senate which exceeds a week, the Standing Senate Committee on Fisheries be authorized to publish and distribute its second interim report on its examination of the marketing of fish in Canada and all implications thereof, as soon as it becomes available; and
>
> That in the event of a prorogation of Parliament, the Honourable Senators authorized to act for and on behalf of the Senate in all matters relating to the internal economy of the Senate during any period between sessions of Parliament or between Parliaments, be authorized to publish and distribute the above-mentioned interim report.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

• (1420)

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Tuesday, June 30, 1987, at 10 o'clock in the forenoon.

Motion agreed to.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

CONSIDERATION OF FOURTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Special Committee of the Senate on the Subject Matter of Bill C-22, to amend the Patent Act and to provide for certain matters in relation thereto.

Hon. M. Lorne Bonnell: Honourable senators, I believe copies of the fourth report have been made available to you.

The Hon. the Speaker: Would honourable senators prefer to have a little time to read the report? We can always revert to it.

Hon. C. William Doody (Deputy Leader of the Government): Your Honour, as it is so short, I think we can read it as we go along.

Senator Bonnell: Honourable senators, I have a few comments before I give an explanation of this report. This morning the committee met *in camera*. The committee feels that the bill requires further study. In particular, some doubts were raised about the constitutionality of the proposed Prices Review Board under the Patent Act. The committee wishes to hear expert testimony in regard to the constitutionality of this bill. The committee also wishes to conduct a clause-by-clause study of the bill and to examine other matters that are relevant to it. As chairman of this special committee, I would like to bring to the attention of the Senate the fact that such further study may take several weeks. The report before you asks that, if necessary, the committee have the power to hire counsel. I believe that a motion is now on the order paper giving notice of that committee recommendation made this morning. Therefore, honourable senators, I move the adoption of the report.

Hon. Orville H. Phillips: Honourable senators, I rise on a point of order. Do we not have two motions for the same thing on the order paper? On Friday Senator Frith moved a motion to enable this committee to engage counsel, and now—

Senator Frith: I gave notice.

Senator Phillips: —Senator Bonnell is giving notice in his motion. I do not believe that we should have two motions for the same thing on the order paper.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I gave notice on Friday, as Senator Phillips has said, that I would move such a motion. I have not moved it, so there is no motion of mine before the Senate asking for this authority. There is now before the Senate, however, a motion from Senator Bonnell with the same effect. Obviously, if that motion is passed, I shall not be moving my motion.

Hon. George van Roggen: Would the Honourable Senator Bonnell accept a question?

Senator Bonnell: Yes.

Senator van Roggen: It is my understanding that the government of my province of British Columbia was not able to or did not appear before the committee when it was taking evidence across the country but has since communicated with the committee to the effect that they have concerns with the bill.

In addition to the other matters you have mentioned you would be looking at, are your plans to take evidence from the Province of British Columbia so that its representations can be on the record?

Senator Bonnell: Honourable senators, in answer to my honourable friend, the committee has not definitely decided what they will do. However, they have discussed the possibility of determining the impact on the different provinces. No definite decision was made on whether there would be any further discussions with British Columbia or any of the other provinces.

Basically, this morning the committee decided that they have heard most of the witnesses across the provinces that they need to hear, and now they need to hear expert witnesses.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, in view of the fact that Senator Bonnell has asked the Senate permission to hire staff for the special committee dealing with the subject matter of Bill C-22, including technical experts, lawyers and probably cost accountants too, could he tell us just how much has been spent by this committee to this day and whether the amount he is seeking will provide him with adequate funds.

Could he tell us also whether the committee is planning to travel outside the National Capital region to meet experts in Quebec, Ontario, British Columbia or elsewhere? Do his fellow committee members and he believe that their travelling is over?

[Senator Bonnell.]

[*English*]

Senator Bonnell: Honourable senators, as you well know, the Senate graciously gave me some funds some time ago. I, being born a Scotsman, did not use all those funds. In fact, I have hired no one up to this date. I did most of the work myself with my committee. We hired no expert advice. We did not even hire a secretary. We have produced this twenty- six page report without hiring any staff.

However, we did spend some money travelling across Canada. There were transportation costs. We travelled at economy rates, and I can assure Senator Phillips that the hotels we stayed in were not first class hotels. Some of the hotels did not even have elevators. We did not go over our budget, and we still have funds available to hire staff, if we decide we need them.

The fact that you are giving me permission to hire staff does not necessarily mean that we will be hiring them. I do not want to bring the Senate back in the middle of July for the sole purpose of obtaining permission to hire a secretary or legal counsel. By doing it today, I thought you might enjoy your summer holidays for a week or two before I report back to you.

Senator Doody: Honourable senators, is there any way of cutting back on the interference? I am having a great deal of difficulty, and I want to grasp every word that comes from my esteemed colleague across the way. I do not know if the doors are open in the interpretation booth or if there is some sort of diabolical device that has been planted up there to try to distract us.

The Hon. the Speaker: Senator Doody, I understand from Black Rod that the doors are closed in the interpretation booth. It is strictly a technical problem. Technicians are on their way to try to repair it.

Senator Doody: I thank Mr. Speaker for the information, and we look forward to the prompt arrival of the technicians.

I would like to say to Senator Bonnell in passing that if, indeed, the Special Committee on Bill C-22 decides—and it has decided, obviously—to meet beyond the 30th of this month, then certainly the government side of this house will be only too happy to cooperate in any way that we can, including having the Senate sit during that period.

Senator Bonnell: Thank you, Mr. Deputy Leader.

[*Translation*]

Senator Simard: Honourable senators, I do not think that Senator Bonnell has answered my question. He has told us that the committee had saved money, that the members and their supporting staff had found accommodation in hotels which were not necessarily first class and where there were no elevators.

He has failed to answer my two questions, namely, whether he felt he would have enough money to hire all the staff mentioned in the fourth report, and also whether he was planning to travel during the summer outside of the National Capital region.

• (1430)

[*English*]

Senator Bonnell: Honourable senators, I think we have sufficient funds to hire the experts we need, the people we need and the staff we need without receiving any extra funds.

As far as where we might travel as a committee during the summer is concerned, that will be decided by the committee, not by the chairman. The chairman always carries out the wishes of his committee, but if there is somewhere that the committee decides they should go to hear somebody, then I suspect that the decision will be made by the committee. If they wish to send me to hear a special witness and bring back that news to the committee, then maybe they will send me or some other delegate. I would not want to commit my committee to not travel anywhere during the summer months, but I am telling you that it is not our intention as a committee to travel across this country to hear any more witnesses.

Hon. Finlay MacDonald: Honourable senators, I have a supplementary question to Senator Simard's. I suppose that this report is in the form in which—I have not read a sufficient number of them to know—a report is usually couched. You have obviously given notice that Bill C-22 will have a longer life and will not pass the light of day before recess—that has been made abundantly clear—but why are you not precise, Senator Bonnell? You indicate here that you were given authority to hire special personnel and you did not.

Senator Frith: He had funds, but did not have the authority.

Senator MacDonald: But presumably you have the funds to hire them, so why do you come back to ask for that which you have already received?

Senator Frith: He did not. He had the funds, but—

Senator Olson: That is your interpretation.

Senator MacDonald: It is?

Senator Olson: He did not have the authority to hire them. That is what he is asking for.

Senator Petten: He has the money.

Senator Argue: He has the money, but he cannot spend it.

An Hon. Senator: He has the cheques, but not the clout!

Senator Bonnell: To get the record straight for my good friend Senator MacDonald, yes, when we put through the motion earlier in April we put through a budget. However, we neglected to seek authority to hire the services of such counsel, technical, clerical and other personnel as may be necessary for the purpose of such study. That routine paragraph, which is included in most motions, was somehow left out. As a result, I am adding it in here now as part of this report and putting the motion today. Ordinarily—in most other motions of the Senate—it would have gone in with the budget and with the motion to set up the committee.

Senator Phillips: Honourable senators, I am not quite sure whether this question should be directed to Senator Bonnell or Senator Frith. I believe the question would more properly be directed to Senator Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration.

I have here a copy of the budget proposed by the Special Committee on the Subject Matter of Bill C-22, which was approved by the Internal Economy Committee. Why did the Internal Economy Committee grant funds for a purpose for which the special committee was not empowered?

An Hon. Senator: You are a member of that committee!

Senator Phillips: I opposed that; I opposed it!

Senator Doody: I opposed it, too!

Senator Frith: Honourable senators, it is because we made a mistake, and we are hoping that we can rectify it now.

Senator Phillips: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Phillips, seconded by the Honourable Senator MacDonald, that further debate be adjourned until the next sitting of the Senate.

An Hon. Senator: You are delaying the whole thing!

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

Some Hon. Senators: No!

Senator Frith: Why are we adjourning it?

Senator Doody: Senator Murray will be with us late this afternoon. He will probably be too late for this session, but he will be here tomorrow. It is conceivable that he may wish to have a word on this matter.

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

Senator Bonnell: Honourable senators, I know that the motion to adjourn is not debatable, but I would like to say that tomorrow I will not be here myself because of other matters. I hope that honourable senators realize that if they do not pass this motion, you will probably not get your report back until sometime late in the fall.

Senator Doody: I find it difficult to reply and still be gracious! I fully appreciate Senator Bonnell's difficulty—I know why he cannot be with us tomorrow; and I commiserate with him and I fully understand—but whether holding this debate over for one day so that the Leader of the Government can comment on it is worthy of keeping the whole Senate here until the fall escapes me. However, there may be some logic in there; if there is, we will try to find it. All Senator Phillips suggested was that we adjourn the debate today so that Senator Murray can speak on it tomorrow, if he wants to—perhaps he will not want to.

Senator Frith: Honourable senators, I think that the request to adjourn the debate for one day in order to give Senator Murray an opportunity to speak to it is reasonable. We can vote on it tomorrow. No one will be hired between now and

tomorrow, so I suggest that we support the motion for adjournment on that basis.

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

Hon. Senators: Agreed.

On motion of Senator Phillips, debate adjourned.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, at the risk of being repetitious, I have to repeat that Senator Murray is not with us at this point. He will be in town later this afternoon—perhaps too late for this sitting. He will be here tomorrow, but, in the meantime, I will take notice of any questions that honourable senators wish to present.

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION

Hon. Lorna Marsden: Honourable senators, on June 23 Senator Doody provided a delayed answer to a question concerning the consultants on tax reform. The response is listed on pages 1339 and 1340 of the *Debates of the Senate*. As it reports subtly, the response indicates that there was not a single woman on the Income Tax Panel or the Sales Tax Panel.

I was in contact with a member of one of those panels over the weekend who tells me that there were indeed two women on those panels. Can we ask the government to go back to see whether there were other members who were not listed in that response? I understand the name of one of them is Eleanore Richardson and the other woman was a partner in Clarkson, Gordon in Toronto. It may be that the government has not done as badly as it thinks it has.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I understand that the names of the two ladies whom Senator Marsden mentioned are not listed in the answer, is that correct?

An Hon. Senator: That's right!

Senator Marsden: There is a Richardson listed, but the initial is not the same as the person that I have listed.

Senator Doody: I will do what I can to clear up the mystery, honourable senators.

[Senator Frith.]

CANADIAN NATIONAL RAILWAYS

RELOCATION OF EXECUTIVE OFFICES FROM EDMONTON TO MONTREAL

Hon. H.A. Olson: Honourable senators, would the deputy leader take as notice a question about—it is rumour, but it is almost more than rumour, because one of the members of Parliament of the House of Commons from Edmonton has complained about it—the CNR planning to move a number of the executive offices from Edmonton to Montreal.

Could the Deputy Leader of the Government take as notice the question about this and report tomorrow so that we can find out whether it is only a rumour, if it is, in fact, happening, or if, in fact, CN intends to move these executive offices. If that is so, what does the government intend to do about it?

● (1440)

Hon. C. William Doody (Deputy Leader of the Government): I will attempt to track it down. I am not quite clear as to the origin of the statement. I missed part of the question, and I am not sure if it is a rumour, more than a rumour, or whether it is a quotation of a fact from some member of Parliament. If it is an allegation by some member of Parliament, obviously it would be easier to track down, but if it is just a rumour, we may never be able to trace it. How does one trace down rumours?

Senator Olson: I used all of those terms so there would be no misunderstanding. I do not know whether it is a fact yet because I do not believe that CN has acknowledged it.

It has been discussed in the other place to some extent, and a number of reporters have talked to various people within CN about it. So, it is more than a rumour. There is some substance behind it.

I think that if the honourable senator reads my question as I put it a few moments ago, he will see what I mean.

Senator Doody: I will see what I can find out.

[*Later*]

Hon. Hazen Argue: Honourable senators, on the subject of the transfer of CN executive officers from Edmonton to Montreal, it seems to be of sufficient substance that Mayor Laurence Decore, Mayor of Edmonton, is sending a telegram to the Prime Minister and to the Minister of Transport about this subject. I am sure that Senator Olson and all of us will be interested in the reply to the mayor's telegram.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR—REQUEST FOR ANSWER

Hon. H.A. Olson: Honourable senators, I wonder if the Deputy Leader of the Government has a reply to the question I have addressed a number of times, and that is whether or not the government is planning an acreage deficiency program for 1987 somewhat similar to what we had for 1986. I have asked this question a number of times, but, as yet, I have not had an answer to it.

There are some people who believe that tomorrow may be the last day that we will have to ask questions and to receive answers. Therefore, I ask him if he would give me an undertaking now that he will answer that question before we adjourn for the summer, which event may happen tomorrow.

Senator Flynn: You will be back in the fall.

Senator Olson: The farmers want to know now. They do not want to wait and suffer all the anxiety that goes with that. I am sorry that Senator Flynn does not understand that. There are a lot of farmers in western Canada who are having a very difficult time economically.

Senator Flynn: We know that very well.

Senator Olson: Senator Flynn ought to understand that when problems like this are being discussed he ought to sit and be quiet and listen to some intelligent answers from the leaders in this place. So far I am not receiving them.

Senator Flynn: I am sure the answers will be more intelligent than the question.

Hon. Hazen Argue: Honourable senators, I have a supplementary question to put to the deputy leader on the same general subject Senator Olson raised.

I ask if the Prime Minister and the government are taking into consideration the request by major farm organizations in this country that the deficiency payment this year should be at least three times as big as it has been in order to meet the deficit, and that the payment of something like $800 million to western producers has not, in any way, prevented foreclosures and a very severe downturn in the prairie economy.

I just want to register that I, for one, am not satisfied with a repetition of an inadequate program and I think the government should give consideration to an adequate one.

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—CANADIAN AND AMERICAN APPROACHES

Hon. Philippe Deane Gigantès: Honourable senators, I would like the Deputy Leader of the Government to ask—and respond to me at some later date—whether the picture that I now get of free trade negotiations and the constitutional issue responds to the following: When it comes to free trade, we, the Canadians, want arbitration whereas the Americans want arbitrariness. That is, of course, because both sides, both they and we, agree on the common ground for this discussion, which is that we want to have Canada's cake and eat it too, and they also want to have Canada's cake and eat it too.

THE CONSTITUTION

FIRST MINISTERS' ACCORD—SENATE REFORM

Hon. Philippe Deane Gigantès: As far as the Meech Lake accord is concerned, would the Deputy Leader of the Government agree that I am correct in thinking that hereafter the Triple "E" Senate is possible— meaning, equal, elected and extraneous?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I am more inclined to congratulate the honourable senator on his delightful command of the Queen's English rather than on his logic and reasonableness.

I cannot accept any of the premises on which the questions have been based, but I will certainly try to get what information I can.

Senator Gigantès: Thank you.

STATUS OF WOMEN

CANADIAN JOB STRATEGY—AVAILABILITY OF FUNDS

Hon. Lorna Marsden: Honourable senators, on June 12 last the Honourable Barbara McDougall, Minister responsible for the Status of Women, and the Honourable Benoît Bouchard, Minister of Employment and Immigration, announced two changes to the Canadian Job Strategy, both of which are significant for women in this country. They moved the severely employment disadvantaged option from job development to job entry and, in the skill shortages component, non-traditional occupations will be designated to help meet the demand for qualified women.

Both these changes are welcome changes. However, there was no announcement made of any budget change to go with the two adjustments. In other words, it is the estimate of many people that if a significant budget increase is not made, especially in the second change—in the skill shortages component—this will be an absolutely empty and meaningless adjustment.

I wonder if the Deputy Leader of the Government would investigate and find out if there is to be money added to the skill shortages component in particular to make this a useful adjustment for the women of Canada?

Hon. C. William Doody (Deputy Leader of the Government): I will attempt to get the answer for the honourable senator.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT APOLOGY AND COMPENSATION—STATUS OF NEGOTIATIONS

Hon. Jerahmiel S. Grafstein: Honourable senators, this month marks the third anniversary of the commitment made by the then Leader of the Opposition and now Prime Minister Mulroney with respect to addressing the issue of an apology and compensation to Canadians of Japanese descent for acts done by the government during World War II and following.

In June 1984 in the run-up to the 1984 federal election campaign, Mr. Mulroney promised that there would be an apology, as a priority. He also promised that there would be individual compensation to those Canadians of Japanese descent who had had inflicted upon them acts of the govern-

ment which deprived them of their freedom and also their property.

Subsequent to that, the Liberal Party leader, Mr. Turner, committed himself to both those propositions, an apology and a form of partial individual compensation.

Could the Deputy Leader of the Government in the Senate apprise the Senate whether or not the commitment made by Mr. Mulroney on that date—the third anniversary of which has now passed—has come any closer to fruition, and could he bring us up to date on these long and laborious negotiations that have been carried on episodically since that date?

Hon. C. William Doody (Deputy Leader of the Government): I have no new information on this matter, but I will certainly make inquiries on your behalf.

EMERGENCIES BILL

GOVERNMENT'S INTENTION RE LEGISLATIVE ACTION

Hon. John B. Stewart: Honourable senators, on Friday last the House of Commons gave first reading to a bill, Bill C-77, which will repeal the War Measures Act and replace it with a statute to be called the Emergencies Act.

Could the Leader of the Government in the Senate inform this house whether it is the intention of the government to go forward with this bill at this session so that it becomes law before the end of the session, or will this bill stand over until the next session of Parliament?

Hon. C. William Doody (Deputy Leader of the Government): I have no knowledge of it coming forward in this session. I have not been instructed or told that it will be coming forward. If I do hear something to that effect, I will certainly bring the information to the chamber.

Senator Stewart: Will the honourable senator do more than that? Will he make inquiries and ascertain what the intentions are?

Senator Doody: I certainly will.

BUSINESS OF THE SENATE

LEGISLATIVE PROGRAM

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask the Leader of the Government a question having to do with the business of the Senate?

We know that the House of Commons did advance some legislation on Friday which will, presumably, be available to us when deferred votes have been taken. Today the House of Commons is dealing entirely with capital punishment.

What I want to ask the Leader of the Government in the Senate is whether he can assure us that we will not be asked suddenly to deal with new bills on the last day of the session, that is, tomorrow, without having received any advance notice of whichever particular bill may come forward or what might be dealt with on the last day by the House of Commons.

[Senator Grafstein.]

• (1450)

Hon. C. William Doody (Deputy Leader of the Government): I really cannot give the honourable senator a guarantee in that regard. Things have not changed much this past year over the previous seven years that I have been here. There are always some surprises awaiting us as we get closer to the end of the session. I have been told that several bills will be coming to the Senate. The bills to which Senator MacEachen just referred as having had their third reading votes deferred will be voted on at 5.45 this afternoon, and I understand that we will receive those tomorrow morning.

There are some other bills which I think might come to the Senate. They do not appear to be overly contentious, although I say that with some trepidation, having sat in another place for some time. People who introduce housekeeping bills usually have an awful lot of other garbage stored in the closets as well.

There is the farm loans bill, which I am told will not cause any problems; there is Bill C-70, respecting workplace hazards; there is Bill C-79, respecting customs tariffs, which has been pre-studied and reported upon; there is Bill C-56, respecting financial institutions, which has also been pre-studied. Bill C-21, respecting shipping conferences, has been pre-studied. I think it will be voted on today. With respect to Bill C-71, which deals with the Deschênes commission, I really cannot give senators any more information than the title. If it is, indeed, a difficult piece of legislation, then the option is open to the Senate to deal with it as it will. Bill C-42, respecting financial institutions and the deposit insurance system, will be dealt with today in the other place. We will receive it in the morning. Bill C-63, which deals with the Small Businesses Loans Act and the Fisheries Improvement Loan Board, is not, I am told, a contentious bill.

To the best of my knowledge, honourable senators, those are the bills that we can anticipate for tomorrow. I do not really have any problems with them. Those are possibly famous last words, but there they are.

Senator MacEachen: Honourable senators, I do not think I caught the meaning of the honourable senator when he said, "I don't foresee any problems." Did I catch the expression properly?

Senator Doody: Yes. Being a naive and simple gentleman, I really see no great difficulty that the Senate could run into with these particular bills. As I said, however, those could very well be famous last words in that they will live to haunt me forever. There may well be areas that will cause concern, but I have been led to believe that that is not so.

Senator MacEachen: Honourable senators, I believe that for the first time the government has mentioned the possibility that Bill C-71 will come to the Senate. That is the bill affecting war criminals. It has not received second reading in the House of Commons. I hope that the Leader of the Government exempted that bill when he said that he did not foresee any problems, because this is a new bill, from our point of view, and we would have to examine it most carefully. If it does receive treatment in the Commons, the word is that a

number of government members would find it offensive, indeed, to have the bill go through all its stages without study in committee. Obviously it will be up to the Senate to decide whether it wants to pass a bill of that significance in all its stages in the last hour or two that the Senate sits. I simply emphasize that this is the first time, to my knowledge, that mention has been made of Bill C-71 as a possible candidate for legislation that will be passed in all its stages in the Senate before the end of the session.

Senator Doody: Honourable senators will note that I, too, referred to that bill specifically. Obviously we will have to examine it when it gets here. As I said, I know nothing about it other than its title. The Senate will examine it if it gets here—it may not.

CANADA POST CORPORATION

POSTAL STRIKE—APPOINTMENT OF MEDIATOR

Hon. Charles Turner: Honourable senators, I have a question for the Deputy Leader of the Government in the Senate. In today's *Toronto Star*, referring to the appointment of a mediator in the postal dispute, it states:

> McGarry told reporters yesterday he will continue to call selective strike actions unless it is clear that a pause will contribute to a settlement.
>
> He emphasized the union is not prepared to make any significant concessions on the key issues—job security and increased workloads for individual carriers.
>
> Canada Post Vice-President André Villeneuve said the corporation remains firm in its pursuit of greater flexibility and productivity.

The article also states:

> But the labour minister said circumstances had changed and Kelly's mediation could be beneficial.

Could the deputy leader tell me what circumstances have changed?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I am not prepared to comment on that, but I will attempt to get an answer for Senator Turner.

ANSWERS TO ORDER PAPER QUESTIONS

EMPLOYMENT AND IMMIGRATION

CANADA EMPLOYMENT AND IMMIGRATION ADVISORY COUNCIL—MEMBERS

Question No. 18 on the Order Paper—**By Hon. Jack Marshall**

> 26th May, 1987—What is the breakdown by province and territory showing the members of the Canada Employment and Immigration Advisory Council (CEIAC)?

Reply by the Minister of Employment and Immigration:

> Following is the breakdown by province and territory showing the current 20 members and Chairman of the Canada Employment and Immigration Advisory Council (CEIAC).
>
> **British Columbia/Yukon**
>
> Joy Langan
> Director
> Labour Participation Dept.
> CLC/United Way
> Vancouver, British Columbia
>
> **Alberta/NWT**
>
> Mrs. Judy Lo
> Human Rights Officer
> Alberta Human Rights Commission
> Calgary, Alberta
>
> Alvin Reed
> President
> Carmacks Construction Ltd.
> Edmonton, Alberta
>
> **Saskatchewan**
>
> Jacob Pete
> Independent Management Consultant
> Saskatoon, Saskatchewan
>
> **Manitoba**
>
> Mrs. Joan George
> Community Activist
> Thompson, Manitoba
>
> **Ontario**
>
> Diana J. Ferguson
> President
> The Gloucester Organization Inc.
> Toronto, Ontario
>
> John S. Reid
> Senior Advisor and Director,
> Government Relations
> Canadian Advanced Technology Association
> Ottawa, Ontario
>
> Helen K. Sinclair
> General Manager
> Planning and Legislation
> The Bank of Nova Scotia
> Toronto, Ontario
>
> J.P. Robert LaRose
> Management Consultant
> Toronto, Ontario
>
> Kevin Hayes
> National Representative

Policy & Planning
Research and Legislation Department
Canadian Labour Congress
Ottawa, Ontario
Jean Moore
Promoter of the Interests of Persons with Disabilities
Kingston, Ontario
Tony P. Wohlfarth
National Representative
Research Department
Canadian Auto Workers (CAW - Canada)
Willowdale, Ontario

Quebec
Yvan R. Bastien
Assistant Vice President
(Personnel)
Quebec Region
Bell Canada
Montreal, Quebec
Fernand Boudreau
President
Metro Montreal Council of Workers
Montreal, Quebec
Gérald Poirier
Director, Day Centre
Foyer Chanoine Audet Inc.
St-Romuald (Lévis), Quebec
Gabrielle B. Grimard
Chairman Director General
Entreprise d'Électricité Grimard Inc.
Chicoutimi, Quebec
Marcel G. Pepin
Research Services
Confederation of National Trade Unions
Montreal, Quebec

Chairman
Jacques Vasseur
President
Administration 2000 Inc.
Montreal, Quebec

New Brunswick
Glenna Young
Manager of Personnel Relations
Eastern Bakeries Limited
Saint John, New Brunswick

[Senator Marshall.]

Nova Scotia
Frances J. Soboda
President of Local 4253
United Steelworkers of America
New Glasgow, Nova Scotia
Gerald Grandy
Associate
Vincent-Englehart Ltd.
Certified Management Consultants
Halifax, Nova Scotia

FISHERIES AND OCEANS

CANADIAN SALTFISH CORPORATION—DIRECTORS

Question No. 19 on the Order Paper—**By Hon. Jack Marshall**

26th May, 1987—Who are the Directors of the Canadian Saltfish Corporation by federal district and province?

Reply by the Minister of Fisheries and Oceans:

There are nine Directors on the Board of the Canadian Saltfish Corporation as follows:

Dr. James G. Barnes
St. John's, Newfoundland
Mr. William R. Moyse
St. John's, Newfoundland
Mr. Harold Murphy
St. John's, Newfoundland
Mr. Pierre Vagneux
Ste-Foy, Quebec
Mr. David Hiscock
Brigus, Newfoundland
Mr. Max Short
St. John's, Newfoundland
Mrs. Priscilla Earle
Carbonear, Newfoundland
Ms. Barbara Fong
St. John's, Newfoundland
Mr. Alexandre Dumas
Lourdes-de-Blanc-Sablon, Quebec

CONSTITUTIONAL ACCORD, 1987

SPECIAL JOINT COMMITTEE—COMMONS MEMBERS

The Hon. the Speaker informed the Senate that the following message had been received from the House of Commons:

HOUSE OF COMMONS
CANADA

Friday, June 26, 1987

ORDERED,—That a Message be sent to the Senate to acquaint Their Honours that the names of Mrs. Blais-Grenier, Messrs. Cooper, Daubney, Duguay, Friesen, Hamelin, Ms. Jewett, Messrs. Kaplan, Nystrom, O'Neil, Ouellet and Speyer have been appointed to serve on the Special Joint Committee on the 1987 Constitutional Accord.

MICHAEL B. KIRBY
for the Clerk of the House of Commons

MOTOR VEHICLE TRANSPORT BILL, 1987

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Robertson, for the second reading of the Bill C-19, An Act respecting motor vehicle transport by extra-provincial undertakings.—(*Honourable Senator Turner*).

Hon. Charles Turner: Honourable senators, Bill C-19, the Motor Vehicle Transport Bill, 1987, replaces the Motor Vehicle Transportation Act, 1953-54, which will be repealed.

Bill C-19 introduced the new criterion upon which to base the granting of a licence for the operation of a truck undertaking. This new criterion is to be "fit, willing and able." If an undertaking applying for an extra-provincial licence is fit, willing and able, it will be granted a licence unless a person objects and can bring to the provincial transport board evidence to the contrary. The holder of the licence must also comply with safety standards and have proper insurance and bonding coverage. Only then will a public hearing be held. The person objecting must prove, in the absence of evidence to the contrary, that, first, the applicant is not fit to operate a truck undertaking or is unwilling or unable to operate the undertaking or, second, that any of the following consequences may result from the operation of the truck undertaking.

This new market entry criterion is part of the deregulation policy of the present government. The objective is to ease the entry of truck undertakings into the market and, therefore, to increase competition within the Canadian trucking industry. It replaces the criteria presently in place that are known as "public convenience and necessity." Under this transport regulation a trucking firm must show that its application for a licence will result in a necessary service to the Canadian public and will increase the convenience provided to the public. This measure limits market entry only to those trucking operations that will add a necessary service.

Once this act has been in place for three years, all restrictions and conditions will cease to have effect, with the exception of a compliance to safety standards and the holding of proper insurance and bonding coverage. In other words, this new criterion will not come into force until three years after the enactment of this bill. Intra-provincial truck undertakings will require not only a local licence but also an extra-provincial truck undertaking licence. The fit, willing and able criteria will not apply to extra-provincial bus transport. That will be governed in the way it has always been, namely, within the provincial Transport Board's discretion.

• (1500)

Constitutionally, jurisdiction over trucking is divided between the federal and provincial governments, but federal economic regulatory responsibilities have been delegated to the provinces since the passage of the Motor Vehicle Transport Act in 1954.

Over the past 30 years the for-hire trucking industry has experienced substantial growth. For-hire trucking now generates from $6 billion to $6.5 billion annually in revenues. With the 1980 U.S. deregulation of the trucking industry, there was pressure on the Canadian government to ease the burden of regulation. By February 1985 a federal-provincial accord was concluded, setting out a framework for deregulation. The essential points of the Memorandum of Understanding are, first, the shifting of the burden of proof for an extra-provincial operating authority from the applicant to the objector; second, the elimination of the requirement for the approval of the motor carrier rates and charges; third, the exemption of the transportation of certain commodities from economic regulation; and, fourth, streamlining the application process.

Bill C-19 proposes to review the MVTA to reflect the conditions of the 1985 federal-provincial accord. The Minister of Transport proposed to change the entry criterion from a test of "public convenience and necessity" to a "fit, willing and able" requirement. In the future, an application for a carrier's licence will be approved unless an objector can show that the proposed service is contrary to "public convenience and necessity"—the reverse onus test. The other change proposed by the Minister of Transport is to remove the control of rates and fares.

The amendments to the MVTA will have a great impact on the Canadian trucking industry. The Canadian industry can expect strong competition from American trucking companies for the trans-border traffic and from the railways for the long-haul traffic. The possible result of these pressures could be a trend to consolidation.

Following the U.S. Motor Carrier Act of 1980, there was significant restructuring of the United States trucking industry. By 1982 approximately 350 firms, with over 87,000 employees, went out of business. Concentration has increased as the top ten carriers increased their aggregate market from 38 per cent to 48 per cent by 1982. Labour has experienced pressure for lower wage settlements. Some observers maintain that U.S. trucking deregulation caused final desperation in firms which compromised safety expenditures.

The federal government has provided financial assistance to the Atlantic provinces throughout the 1970s and 1980s for upgrading and new highway development. The objectives of these cost-shared highway programs were to increase socio-

economic opportunities in Atlantic Canada, to enhance the national primary highway network, to permit the adoption of specified uniform truck load weights and vehicle configurations, and to improve safety for trucking and the travelling public.

Because highway upgrading is expensive and places a heavy financial burden on the provinces in Atlantic Canada, the federal government became involved in an effort to eliminate regional disparities and to provide some national standards. From 1977 to 1980 Transport Canada was committed to a $200 million program shared 50-50. From 1981 to 1985 Transport Canada was committed to a second phase expenditure of $168 million, again shared 50-50.

There is no less a demand for highway improvement in Atlantic Canada and in other parts of Canada. However, there is no reference made by the Minister of Transport, in his development of a new national transportation policy, with regard to highway assistance for those regions.

Honourable senators, I sincerely believe that the following questions have to be placed before the government: First, the trucking industry in Canada stands to lose significantly in the trans-border traffic with the United States. What measures should be taken to ensure that a Canadian trucking industry survives, and that concentration does not result in fewer companies offering less competition? Second, in the federal-provincial negotiations regarding transportation, what proposals does the Minister of Transport have with regard to highway improvement funding? Will the funding for highway improvement from the federal government be terminated, and what are the regional implications of such a decision?

Deregulation of the Canadian trucking industry will mean free trade in trucking, and will be most advantageous to the U.S. trucking firms. While it is true that Canadian carriers have had relatively easy access to trans-border trucking operations between Canada and points in the United States since the U.S. Motor Carrier Act of 1980, the Canadian carriers have not had easy access to intra-state routes, which are still highly regulated in 43 of the 50 states. Moreover, Canadian carriers, who have penetrated deeply into the United States with Canadian export products, have frequently had to return empty to Canada because immigration laws deny them the right to carry U.S. domestic traffic in Canadian registered equipment and utilizing Canadian drivers.

Here in Canada deregulation at the national level is being accompanied by parallel deregulation at the provincial level to produce a total deregulation package. These packages are scheduled to go into effect on January 1, 1988. Deregulation will, therefore, provide U.S. trucking firms with easy access to both trans-border and intra-provincial operating authorities within Canada.

Although the United States trucker must contend in Canada with immigration laws which prohibit the utilization of foreign-based equipment and foreign drivers for domestic traffic movements, this does not pose the same logistical problem for him as it does for the Canadian carrier who is penetrating deeply into the United States market. A southern U.S. trucker, who has entered Canada with a shipment from Texas and is unable to obtain a back-haul from a Canadian point, is but a couple of hours from the United States border, and has an extensive U.S. market from which to draw.

Trucking is the dominant mode of transport for Canadian exports to the United States. Based on 1984 statistics, the total annual value of exports transported by road to the United States approaches $50 billion. This accounts for about 53 per cent of the value of all exports to the United States. The international revenues for Canadian carriers account for about 12.5 per cent of total operating revenues. These figures clearly demonstrate that the trans-border trucking market is of major importance to Canadian carriers.

In recent years there has been a balance in the participation in the trans-border trucking market between Canadian carriers, on the one hand, and United States carriers, on the other. While Canadian truckers have had an edge on U.S. carriers in terms of the number of trips, research studies have shown that the value of U.S. shipments were somewhat higher and that, as a result, the U.S. trans-border trucking operator earned a higher revenue per kilometre than the Canadian carrier.

Deregulation in the United States has shown that there is increasing market concentration in the less than truckload sector. The share of the market controlled by the major U.S. firms Yellow, Roadway and Consolidated Freightways has risen from less than 20 per cent in 1979—a year before deregulation—to more than 30 per cent by 1987. Based on Australia's experience, which was deregulated in 1953, those three companies will come to control some 60 per cent to 70 per cent of the market within the next decade.

● (1510)

What are the possible consequences for Canadians, you might ask. Each of those U.S. companies is three to five times the size of the very largest Canadian trucking firms, such as CP, TNT, Route Canada, Kingsway, Reimer, Motorways and Glengarry. If, then, there is to be substantial market concentration in Canada over the next ten to fifteen years with three or four carriers dominating the market, which three or four will it be? The U.S. giants or the Canadian giants? What implications does this have for Canadian jobs and the Canadian gross national product? These are things which seem to require instant investigation. I do not in any way mean to suggest that Canadian trucking firms are not competitive. They are both hardy and resilient competitors. But the playing field as between the U.S. carriers and Canadian carriers has not been evened up as yet. Until such time as appropriate tax reform has been implemented in Canada, Canadian truckers will pay higher taxes than their U.S. competitors. This means lower profit margins and less financial reserves with which to ride out the price wars which will take place. It appears to me that this body should ensure that all the relevant social and economic implications have been thoroughly considered before Bill C-19 is enacted into law.

There has been some debate in recent months as to whether or not a linkage between trucking deregulation and deteriora-

tion in highway safety has been adequately proven. Some statistics and studies suggest a linkage while others do not. It may be several years before there are sufficient reliable statistics from which to draw solid conclusions. Until such time as we, the legislators, are in possession of such dependable research findings, we have to err on the side of the presumption that there is a link, a definite link. Thus, then, we have to pay some attention to those statistics and reports from such places as California, New York State, Florida, Arizona and Australia, which suggest a linkage between deregulation and/or deterioration in safety.

A 1986 U.S. study involving 100,000 interviews and conducted by Transportation Research and Marketing in conjunction with the Commercial Vehicle Safety Alliance produced some disturbing findings, first, the average speed of trucks increased sharply, following deregulation, from 60 miles per hour in the 1977-to-1979 period to about 65 miles per hour in the 1983-to-1986 period. Second, the average age of equipment rose from 3.5 years in the initial period to 5.2 years in 1986. Third, in the pre-deregulation period, only 3.7 per cent of truck drivers were operating in excess of 15 hours per day. In the post-deregulation period, this number climbed to some 8 per cent. Fourth, during 1985 and 1986 California, which had deregulated in 1980, inquired into its safety experience and found that its accident rate had shot up, that the workers' compensation rate for trucking employees had increased by 44 per cent between 1978 and 1985, that the California industry was spending 10 per cent less on vehicle maintenance and repair, even though their truck fleets were older, and that support of the trucking industry for the Certified Practising Safety Administrator Program and the Annual Safety Congress had dropped by 83 per cent and 49 per cent respectively.

The foregoing data and statistical information suggests that we in Canada will want to have at the outset of deregulation a comprehensive set of safety regulations covering the driver, the vehicle and the hours of service. Moreover, these regulations must be enforced in a businesslike way.

Honourable senators, the Minister of Transport, the Honourable John Crosbie, has indicated that the National Safety Code, which was agreed to by the provinces and the federal government this past March, covers these needs. He has pointed out, however, that the code is to be phased in between 1988 and 1990. That certainly raises the question as to whether the safeguards which will be in place as of January 1, 1988—the effective date of deregulation—will meet the need, or will such programs, such as those governing hours of service, still be months away from implementation in several Canadian provinces? In the competitive struggle which will rage as of January 1, 1988, will some less responsible trucking operators attempt to secure their market position by running their drivers excessively long hours, with its driver fatigue and accident implications? We cannot leave this to chance. We must act now. The Government of Canada must either take the steps necessary to ensure that legislation, regulation and enforcement covering the driver, the vehicle and the hours of service are in place by January 1, 1988, or it must reserve unto itself the responsibility to proclaim into effect the trucking regulation bill, Bill C-19, when the safety programs are ready on all fronts.

This could be handled with but a very minor change to Bill C-19 by amending clause 29(1) to read as follows:

> This Act, except section 24, shall come into force on a day to be fixed by proclamation.

Honourable senators, like thousands of trucking company employees, air line company employees and railway company employees, I am convinced that Bills C-18, C-19 and C-22 are part and parcel of the free trade issue.

Hon. Finlay MacDonald: Honourable senators—

The Hon. the Acting Speaker: I must remind honourable senators that if the honourable Senator MacDonald speaks now, his speech will have the effect of closing the debate on second reading.

Senator MacDonald: Honourable senators, I wish to congratulate Senator Turner on his exposition of a very important bill. I can tell Senator Turner that I wish that we had been given the opportunity to spend some time on this bill, to have pre-studied it over the last several months, to raise a number of these issues, and without dealing with it at this late hour.

I do not think that the honourable senator raised any serious objections in his comments about the market entry criteria. I believe he referred to the reverse onus theory, but I did not note that he had come to any particular conclusions. It is pretty obvious that the idea is to increase competition within the national safety standards. For example, if a trucker is licensed in the province of Ontario through the Ontario Highway Safety Act, or whatever they call it, he is presumed to be able to go before the Public Utilities Board in Nova Scotia and, generally speaking, receive a licence to operate in that province, because he has met the standards of Ontario with regard to fitness and safety. However, as the honourable senator pointed out, there is opportunity for a complainant to object on a number of grounds as to why this person should not be given a licence in Nova Scotia. He might object on competitive grounds, if the applicant has no intention, for whatever reason, of taking on certain routes. The honourable senator said that that opportunity would exist for three years. I believe it is three years, and that the bill extends the period to five years, but I am not sure. In any event, after that period, the opportunity for objection on other grounds would be eliminated.

• (1520)

The references made to safety require special attention. Canada has had, of course, an enviable safety record. The purpose of Bill C-19 is to ensure that the elements of the new safety code are going to be in place by the time designated, even though they are already in place in several provinces.

I do not want to repeat what I said when I moved second reading as to what the National Safety Code requires, but I do not know whether that is particularly germane to this bill. It has been said by some—and I do not necessarily want to be included among them—that safety is a matter of provincial

responsibility. They are making the provinces a bit of a scapegoat; it is an excuse by the trucking firms who are opposed to the regulatory reform suggested here. They say that the full enforcement of the safety code is a matter for the provinces. Matters such as training, licensing and road inspections are under their jurisdiction. Ottawa cannot do it unilaterally. However, in the final analysis, Senator Turner, there is no link between economic regulatory reform and safety.

There are many trucks on the road now, and a new safety code is important, with or without Bill C-19. Bill C-19 will not cause more accidents. Indeed, Bill C-19 will help the prevention of accidents, because we will be able to pass regulations for national safety standards. The references you made to driver fatigue and matters of hours behind the wheel—things which a province cannot, for obvious reasons, enforce—are, of course, to come under a special section of the regulations to be promulgated to ensure that such things will be minimized or eliminated entirely.

You referred to the United States competition. As I understand it, it is quite easy to get a licence to operate in one of the American states through the inter-federal agency. We have not had too much difficulty there.

Hon. Philippe Deane Gigantès: Ask the Yukon.

Senator MacDonald: There is, of course, a clear section, Senator Gigantès, in Bill C-19 which was an amendment made in the other place. It gives Canada an opportunity to reciprocate against American truckers in this country, if there is a reason for doing so, but we hope that this countervail is never going to be required.

Senator Gigantès: Will the senator entertain a question?

Senator MacDonald: Yes, by all means.

Senator Gigantès: Honourable senators, it is much easier for a large partner in a dispute, with whom the smaller has 80 per cent of its trade, to be bullying than it is for the smaller partner to be bullying. It will be a lot harder for us to get any redress from the colossus to the south, especially if they are not accepting arbitration instead of the current arbitrariness, which was the point of a question I asked during Question Period.

Senator MacDonald: Senator, I will be delighted to pass those words of caution on to the minister.

I will not draw this out, but there is, of course, Senator Turner, reference to the amounts of money which are going to be made available to the provinces to assist them with respect to assimiliation of a new safety code, and they all agreed to that some eight months ago.

I do not have too much to add to the excellent remarks that you have made. We are not here to reinvent the wheel, if not the railway. We are no longer in the business of building railways.

Senator Turner: Who says so?

Senator MacDonald: We are in the business of extracting resources and processing and manufacturing and selling goods. That is what modern transportation is all about.

[Senator MacDonald.]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would like to ask Senator MacDonald a question. At the beginning of his remarks, in congratulating Senator Turner on his intervention on Bill C-19, Senator MacDonald said that it was too bad that we would not have an opportunity to study this bill and look into some of these questions, as we would have had if we had done a pre-study. Do I understand that it is his position—and I assume if he speaks he speaks for the government—that if we do not take our chance at a pre-study, then, sorry, folks, you are not going to get a chance to study the bill? I did not understand the relevance of saying it is too bad that we cannot study the bill and how interesting it would have been to study the bill, but we cannot do that now, because we did not have a pre-study.

Is he going to move that the bill go to the committee after second reading?

Senator MacDonald: I am not going to do any such thing.

Senator Frith: Oh, you are not?

Senator MacDonald: I said it was unfortunate that we did not have an opportunity to pre-study Bills C-18 and C-19. We received these bills for pre-study two weeks ago.

Senator Frith: For pre-study?

Senator MacDonald: For pre-study, yes.

Senator Frith: We do not receive bills for pre-study.

Senator MacDonald: They were referred to us for pre-study some time within the last two weeks. Does that answer your question?

Senator Frith: Yes. You mean that we referred them to the committee for pre-study.

Senator MacDonald: That is correct, some two weeks ago. I said it was regrettable that our committee did not have an opportunity to pre- study these bills several months ago.

Senator Frith: Therefore, unless the Senate pre-studies a bill, it does not get a chance to send it to a committee?

Senator MacDonald: I said that it would have been extraordinarily helpful if the Transport Committee, some months ago, could have heard and taken into consideration the excellent remarks made by Senator Turner instead of hearing them today for the first time.

Senator Frith: What is to prevent the committee hearing them now when you send it to them?

Senator MacDonald: You can speak to Bill C-19 right now, Senator Frith. I would be delighted to hear your comments.

Senator Frith: No, that is not what I am doing. Perhaps Senator MacDonald still does not understand the implication of what he said. The two things we have put together now is: It is too bad we did not have the chance to hear these comments on a pre-study of this bill. Then, when I asked him if he is going to move that the bill be referred to the committee for study, as is usual after second reading, he said, no, that he is not going to.

I take it his position is that because we did not pre-study the bill, it should not go to the committee now for study.

Senator MacDonald: My position, Senator Frith, is quite clear. I consider that this bill has received an enormous amount of attention by the Transport Committee in the other house.

Senator Frith: So, we should not bother with it now.

Senator MacDonald: They have travelled the country extensively. All the provinces have been involved. Amendments have been considered. Hundreds of witnesses have been heard.

I have acquainted myself as best I can with the bill, and I am quite confident that it is a good bill. I have no intention of referring it to committee. However, be my guest.

Senator Frith: So now we have a third branch of the MacDonald formula, namely, pre-study the bill, and if you do not then there is no reason to send it to a committee of the Senate, especially if the House of Commons has done what he thinks is a good job. What are we here for? Are we here to pre-study bills or are we here to have our committee study bills, even if some senators might think that the House of Commons did a good job? Is that the formula now?

Senator MacDonald: Perish the thought that I should suggest, Senator Frith, that we should rubber stamp a bill from the other place. Perish the thought that I should ever make that kind of a suggestion.

Senator Frith: That is not what I am asking. I am asking: Why is he not moving that it go to the committee as it usually does?

Senator MacDonald: I would like Senator Frith, in the absence of his leader, to explain the strange, new policy which has caused committees to be idle when they could be pre-studying legislation. We have had examples of it, and you know what they are. You can explain whether there is something new going on that would deny us the opportunity for pre-study. You might explain.

• (1530)

Senator Frith: I will be glad to explain it!

Senator MacDonald: Well, do it now!

Senator Frith: Yes. Senator MacDonald is talking about a so-called new policy in which we do not always pre-study a bill simply because there is a request for such a pre-study.

Senator MacDonald: Right!

Senator Frith: What is new is to suggest that it is normal for us to pre-study a bill. The normal legislative process is for a bill starting in the House of Commons to be studied in the House of Commons, according to their rules, to come here, to be given first reading, to be given second reading, on the basis of principle, and then to be referred to a committee for study. That is the usual process; that is not new. So there is nothing new about saying that committees should not automatically pre-study. But there is certainly something brand new in the suggestion that if they did not then the mover of the bill will not send it to the committee, and the committees will be told, "Sorry, you had your chance to pre-study." Well, pre-study is an exceptional and special procedure.

An Hon. Senator: Hear, hear!

Senator Frith: It is not an ordinary procedure. There is nothing new for me to explain. What is going on here is that I am trying to get Senator MacDonald to explain his new concept, namely, that "Sorry, folks, you did not pre-study it, so, of course, I will not refer it." I take it that Senator Macquarrie will do the same thing with Bill C-18; he will not move reference to the committee.

Senator MacDonald: Senator Frith, if you wish to refer this to a committee for study, I—

Senator Frith: That is not the point.

Senator MacDonald: —would never object in the world! I think it would be a splendid idea.

Senator Frith: You do?

Senator MacDonald: By all means; you refer it to the committee, and I will be there.

Senator Frith: Senator MacDonald still does not understand. He has been here quite a while.

Senator Flynn: You do not understand his answer, either.

Senator Frith: No, I understand his answer perfectly.

Senator Flynn: He said, "move it!"

Senator Frith: I hear it. I understand his answer perfectly, Senator Flynn. You have been here long enough to know that the normal thing is not for the opposition to move that.

Senator Flynn: But the point is that he said, "If you want to move it, move it!"

Senator Frith: I heard that. Thank you very much, I am perfectly capable of hearing that.

Senator Flynn: I do not want to argue with you or anyone else.

Senator Frith: Senator MacDonald, do you need Senator Flynn to act for you?

Senator MacDonald: No.

Senator Flynn: Can I talk—

Senator Frith: Sorry, but can I see Senator MacDonald behind you there? Thank you. There he is now; I see him again. His frontman has got out of the way, and I can now see the real Senator MacDonald back there.

Let us get something clear: The normal rule is for the sponsor of a bill to move reference to a committee for study after second reading. It is not normal for the mover to stand up and say, "Oh, please, I would be happy if you do."

Senator Flynn: It has been done over and over again.

Senator Frith: I am asking Senator MacDonald if this is what he calls regular or irregular. I say that it is irregular for the sponsor of a bill, after it gets second reading, not to refer it to committee, if requested. It is the sponsor who moves it, not the opposition.

Senator Flynn: Why not?

Senator Frith: I take it, in this case, that the government is saying, "We will not send this bill."

Senator MacDonald: No, no, I say request it.

Senator Frith: We are saying that you will not follow the usual process and move that it be referred after second reading.

Senator Flynn: You are caught now!

Senator Frith: Is that right?

Senator Flynn: You are caught!

Senator Frith: Caught?

Senator MacDonald: Repeat the question.

Senator Frith: Now Senator Doody will answer.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, perhaps I may, with some trepidation, enter myself into this altercation.

The history of Bills C-18 and C-19 is well known to everyone here. This is not an ordinary situation—and Senator Frith, I think, knows it as well as most of the rest of us do.

This bill first saw the light of day in the other place a year or more ago as Bill C-5. It had a stormy passage in the House of Commons at that time and was subsequently re-entered as Bills C-18 and C-19.

Prior to last Christmas, I first approached the other side with a suggestion that we take these bills for pre-study. I said that—and once again I was not saying something new or startling—this was a complicated measure which would create a lot of attention and would need a lot of attention by the Senate. The honourable senators opposite were not of a mind to take the bills for pre-study.

Several times during the past months, subsequent to that initial try back in December, I approached with the same message: "Please, let us get these bills into pre-study." At that particular time, as I remember, the Standing Senate Committee on Transport and Communications was not all that busy—other committees were a great deal busier—and I suggested that it might be helpful, as we got closer to the end of the sitting year, that these bills be pre-studied. There is nothing unusual about that; that has been done many times with other bills when honourable gentlemen and ladies opposite were on this side and we were over there. These bills—

Senator Frith: I have never asked the opposition to move a reference to a committee.

Senator Doody: —were taken.

Senator Frith: Never, never!

Senator Doody: Since the opposition was reluctant to—

Senator Frith: You look it up.

Senator Flynn: I have done it myself.

[Senator Frith.]

Senator Doody: —cooperate in that particular request for pre-study, it seems that they were accepting the fact that the bill was being studied elsewhere, the work was being done elsewhere and there was no need to do it. Now we come to the eleventh hour—the candle is growing short—and honourable senators feel that the bill should go to committee.

Well, as Senator MacDonald says, "If the bill has to go to committee, so be it." I would have liked to see it there six or eight months ago, but it was not to be. If honourable senators now wish to send it to committee then we on this side will certainly cooperate with the committee in any way that we can and help with the study.

As Senator MacDonald has said, it has been studied. The House of Commons committee has travelled from coast to coast. There have been numerous hearings and volumes of information has been gathered. The result of all of this is in this bill that is before us. The situation is as I have said. If the Senate wishes this bill—or both of these bills—to go to committee then the Senate has every right to send them to committee, but I do not think that it would be fair to the government or to the sponsors of this bill for us to send it to committee again at this time.

Senator Frith: Well, honourable senators, this is not the first time that this explanation has been given. Senator MacEachen has made it clear that the normal legislative process is not pre-study. I think that it is unreasonable to set up the situation that we are in now on the basis of a study having been made in the other place and on the basis of pre-study having been requested.

I do not know what Senator Doody means by saying that "the Transport Committee was not all that busy." The fact is that it was sitting regularly on other matters; it was not sitting twiddling its thumbs.

The principle that we are talking about here, then—taking the actual case before us of Bill C-19—is that Bill C-19 was passed by the House of Commons on June 25. I am underlining the precedent that we must avoid creating here as being undesirable. That is, when a bill is passed in the other place on June 25—which is less than a week ago—and then comes here, and the reason for not referring it to our committee as a matter of course by the sponsor of the bill is (a) because the other place studied it; and (b) because the government asked for a pre-study of the bill—it should be made clear that those are not reasons to not follow the normal course.

For one thing, if there was such an all-fired, extensive study in the other place, it is reasonable that our committee would like to, at least, get a chance to look at those proceedings and understand what study was made in the other place as well as to read the reports. But the implication is that the role of the Senate is to pass a bill at second reading and not refer it to a committee—even though the bill was passed only a week earlier and hung around the other place all that time—and the Senate will not be expected to study a bill in its committee if: (a) there has been extensive study on the other side; and (b) there has been a request for pre-study. I think that that is

unreasonable, and I do not see that as the role of the Senate at all.

Senator Doody: It is not an implication, honourable senators, it is a fact. If this bill had suddenly appeared out of nowhere last week and passed all stages in the House of Commons, and then came up here—

Senator Frith: For us it appeared suddenly last week.

Senator Doody: —and we were expecting it to be passed quickly, then that is one thing. But this is a different situation. This bill has been on the Order Paper in the other place for—

Senator Frith: So what?

Senator Doody: —months and months and months.

Senator Frith: So what? It was not on our order paper.

Senator Doody: —and the studies, the *Hansard* of the other place and the reports have been available. Honourable senators were aware of how big the bill is.

Senator Frith: Are we supposed to read all the debates of the other place as well as doing our own work?

Senator Doody: The honourable senators who were asked to pre-study the bill were made aware of the fact that there was going to be a problem. Now we have a problem and I am asking honourable senators to resolve it.

● (1540)

Senator Frith: What is the problem?

Senator MacDonald: We have another interesting situation where we have a bill, which will likely be passed this evening, Bill C-21, which deals with the exemption from the Competition Act.

Senator Frith: Our committee has studied that.

Senator MacDonald: We will present the report tomorrow morning. There have already been nine weeks of productive work by our committee. It will be interesting to see whether you want that to be referred to committee again.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, to prevent the "MacDonald formula" from becoming a precedent around here, I will move—although he should be putting the motion—that this bill be referred to the Standing Senate Committee on Transport and Communications. I do that so that we do not, in this case—or in the next case, which I will also speak to—show that kind of contempt for our committees.

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

Some Hon. Senators: Yes.

An Hon. Senator: On division.

Motion agreed to, on division, and bill referred to Standing Senate Committee on Transport and Communications.

NATIONAL TRANSPORTATION BILL, 1987

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Macquarrie, seconded by the Honourable Senator MacDonald (*Halifax*), for the second reading of the Bill C-18, An Act respecting national transportation.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have little to add about Bill C-18's 184 pages and 369 clauses.

I cannot believe that in this case the government will suggest that we take this bill, passed in the House of Commons just on June 17, and again show such contempt for our committees as to say that our committee has missed its opportunity to study this bill. I hope the government does not take the attitude that since we had an opportunity to pre-study the bill, and decided not to do so because we were busy with other things, or for some other good reason, we will not be given an opportunity to do so now. Incidentally, there was no warning that if we did not pre-study the bill that when the bill was passed by the House of Commons, no matter how long it took the House of Commons to pass it or how many amendments might be proposed, we would be asked to forgo our opportunity to study the bill at all.

Honourable senators, my comments may be unnecessary, because it may be that Senator Macquarrie is going to move that the bill be referred to committee.

I have nothing further to add, if Senator Macquarrie wishes to close the debate.

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Macquarrie speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Hon. Heath Macquarrie: Honourable senators, I am always stirred by the ominous formula of that warning. Of course, I have listened with intense care to the exchanges that came out of the discussion of Bill C-19. I am always amused at some of the routines of this place. It seems strange that we deal with Bill C-19 and then we are asked to deal with Bill C-18. It seems to me that pure mathematics would dictate that it should be the other way around. Had that been the case, I might have been the target for some of the sharp remarks that were passed to Senator MacDonald.

I congratulate Senator Turner on his excellent, thorough participation the other day. I regret that I was unable to hear him. I had to be in the cradle of Confederation because of a long-standing commitment, otherwise, I would have been here. He obviously knows the field very well and cares deeply. He has produced a comprehensive comment on a very important matter, and I thank him for it.

Honourable senators, I have nothing more to say but to thank all senators for their kind attention to this important piece of legislation, which I commend to all my colleagues.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Royce Frith (Deputy Leader of the Opposition): Senator Macquarrie, again, is not, I take it, going to make this motion, and apparently supports the philosophy behind the proposal respecting Bill C-19, which is, as I understand it, that legislation is not normally to be dealt with consecutively but that we should be paying attention to what goes on in the other place so that, in effect, we are operating simultaneously. The philosophy seems also to be that in every case where a Senate committee does not pre-study a bill, this house will be told that it cannot expect it to be studied in due course. That is the corollary to what we are finding here today. Imagine asking the Senate to pass a bill this large on the basis of what was done in the other place. What do we need a Senate for if we are going to operate on the basis of what was done in the other place?

We are supposed to attend to our own business and, as Senator Doody says, read the *Hansard* of the other place and decide if they have done our jobs for us or not.

Again, it is up to the opposition, it seems, to have the Senate do what it is supposed to do and have the committee deal with this bill which was passed only on June 17 in the other place. The government is asking us to pass this bill without sending it to committee. In order that the committee can do the work it ought to do and that the Senate can do the work it ought to do, and not rely on the House of Commons, I move that this bill be referred to the Standing Senate Committee on Transport and Communications.

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

Some Hon. Senators: Yes.

An Hon. Senator: On division.

Motion agreed to, on division, and bill referred to Standing Senate Committee on Transport and Communications.

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Bielish, for the second reading of the Bill C-15, An Act to amend the Criminal Code and the Canada Evidence Act.—(*Honourable Senator Neiman*).

[Senator Macquarrie.]

Hon. Joan Neiman: Honourable senators, I yield to Senator Fairbairn.

Hon. Joyce Fairbairn: Honourable senators, it is with a mixed sense of relief and great concern that I support second reading of Bill C-15, which contains amendments to the Criminal Code and the Canada Evidence Act on the question of sexual abuse of children. I am relieved because, for the first time in our history, young witnesses may have a fair chance under our system of justice to tell their story in court. I am concerned because the startling increase in reported cases of child sexual abuse in Canada makes the implementation of this bill especially urgent.

Last week, in moving second reading of Bill C-15, Senator Nurgitz noted statistics which tell us that 50 per cent of all the women and 33 per cent of all the men in Canada have, at one point in their lives, been victims of unwanted sexual interference.

In 80 per cent of those cases the interference or abuse took place when they were children.

The Minister of Justice, Ray Hnatyshyn, told our committee that in the last two or three years there has been an increase of somewhere between 25 and 50 per cent in the number of reported cases of child sexual abuse in Canada. Part of the reason is because the subject is no longer completely taboo in our more open society of the 1980s, and part of it is because of efforts at education and communication by which we encourage young people themselves to resist the understandable tendency to remain silent and to come forward with their evidence. If our children, honourable senators, are to have the courage to speak out, we must make it possible for them to be treated with fairness and understanding in a system which is basically constructed for the needs of adults. Bill C-15 makes a substantial effort to do this, and I urge its passage in this house.

● (1550)

Our committee has been studying this bill since last November. It has been a troubling and agonizing educational experience for all of us because of the outstanding number of witnesses who took the time to present their points of view before the committee. We have heard strong representations from experts and advocates on behalf of children. We have also heard compelling evidence for placing a greater focus on treating the offender rather than backing off because of the nature of the crime. Legal experts have expressed concern about the erosion of the traditional rights of the accused, such as the curtailment of the need for corroboration in these cases.

As so often happens in our justice system, when you probe behind the cold, dry words of the law, you find a social issue of immense importance, in addition to the criminal offence.

Bill C-15 has led us, in Parliament, to the very darkest side of our society. This bill is in response to demands for change following the report of the Badgely committee on sexual offences against children and youth and that of the Fraser committee of a few years ago on pornography and prostitution.

As a result of these pressures, we have been confronted with the reality of the deepest, darkest secret a child can endure, and one of the most heinous indignities an adult can perpetrate against a child. It is a chilling fact that a vast majority of those who abuse children sexually are not strangers on the street or shadows in a park—they are people the child knows, people who are in a position of authority, trust, respect, and even love. They are natural parents, step-parents, common-law spouses, guardians, brothers, sisters, relatives, babysitters, doctors, school teachers, close family friends, sports and recreation counsellors, church leaders—indeed, the whole routine of contacts in a child's life.

Dr. Laura Mills from the Winnipeg Children's Hospital Child Protection Centre told us that their statistics and those of other similar centres indicate that 85 per cent of the offenders fall into this category of authority or trust.

They are outwardly normal individuals who, for a variety of physical and psychological reasons, have an inner sexual drive towards children that they cannot control themselves. Indeed, it controls them, and because they are close to the victim, they entrap the child in a secret world of fear and guilt which is far more destructive than an attack by a stranger on the street.

Even when this kind of offender is convicted, the child carries those feelings of guilt and despair far beyond the courtroom. For those children it is truly a life-time sentence.

Some of the most important testimony we heard came from a courageous group of young people from the National Youth-in-Care-Network, which represents young people between the ages of 14 and 24 who are or have been raised in the care of child welfare authorities. All of our witnesses had been sexually abused. They are living away from their families now, some before the courts, others in counselling. And then there were those who could not face the ordeal of the courts and are now left to come to terms with the fact that the offender is free to repeat this abuse with some other child.

I would like to convey to you an idea of the reality which lies behind this bill through the words of one of those young girls:

> There are things going on in the world that not all of us can understand— what goes on in a parent's mind while they are sexually abusing their child, or find out that their child has been abused by a person close to the family. The parent or family friend is a sick person, but think of the children, the abused children who trust their abuser, and then the trust is broken and the child's insides are destroyed. Bringing out the secret was the hardest thing I ever had to do . . .

she told us.

Honourable senators, what this bill tries to do is to establish greater equality under the law for these children. By just being children they are, as one witness put it, at the bottom of the heap in terms of power or strength or credibility in an adult world. Throughout their ordeal they have to fight every step of the way to break down the myth that they are not to be believed.

This legislation tells children that they can communicate their story in court without the necessity of corroborating evidence. Judges shall now be able to screen the child, or exclude the child from the courtroom, if necessary, in order to obtain a full and accurate account, rather than the child being intimidated and often silenced by the presence of the accused. This must be done in such a way that the accused, the judge and the jury can watch this testimony by other means, such as closed circuit television, and the accused can communicate with his or her lawyer during this procedure.

Videotaped testimony taken at a reasonable time after the abuse may now be used for the first time in Canada, not just as an investigative tool but also as evidence in court if the child accepts the contents of the videotape while testifying.

As senators will have noted from our committee report on this bill, which was introduced last Friday by the chairman, Senator Neiman, we have recommendations concerning the way these videotapes are made.

We are breaking new ground here, and it is essential that standards be developed for the videotape process if it is to be of use to the child or to the court.

Important decisions must be made on who is best qualified to interview the child, both in terms of understanding how to talk to young children as well as producing a result which will stand up in court as evidence. The techniques of getting the full story from a child while, at the same time, not leading the young witness will require special training for the person or group of people designated for the task. The technical process of the videotaping must also be clearly set out, in terms of the location and use of cameras, so as to produce a true representation of the child telling the story and not a dramatic production or a biased presentation.

As we all know, television is a tremendously powerful medium of communication. In some ways it is more powerful, in terms of the effect on the viewer, than is an actual live appearance. Its value in child abuse cases is twofold: First, in alleviating the pressure on the child to repeat his or her story over and over again throughout the investigative process; and now, with this bill, by assisting child witnesses who may be completely intimidated by the court itself.

• (1600)

We are told that this practice has received mixed reviews in the United States, and, indeed, many prosecutors show a vast preference for having the child give his or her evidence in court without this additional assistance. I believe that the videotape provision could be extremely helpful; but the degree to which it is so will depend on the regulations set down by the provinces, and with any help that is possible from the Department of Justice.

Another assist to the child in this bill is the ability of the judge or the prosecutor to move to restrict publication in any way of information which could disclose the identity of the child. This provision would apply also to the identity of young witnesses under the age of 18.

There was considerable discussion about extending this restriction to the identity of the accused, partly in terms of fairness and also because, in smaller locations particularly, the revelation of the accused could be tantamount to revealing the identity of the child. This concern still exists within our committee, and I believe that this is one aspect which should be carefully considered when the act comes up for review in four years' time.

In addition to these changes in terms of presenting evidence, the bill also goes beyond the sexual assault provisions of the Criminal Code and creates new offences to protect children under 14 from sexual contact, and others between 14 and 18 from exploitation by those in authority or trust. These new offences are, first, sexual interference in terms of touching children under 14 on any part of their body with sexual intent, which could bring a maximum sentence of ten years in prison.

Second, the invitation to sexual touching in which a child under 14 is invited or incited to touch the body of any person, including the person who is inviting the act, and this would also bring a maximum sentence of ten years in prison. Third, sexual exploitation, in terms of touching or invitation to touch, involving a young person between the ages of 14 and 18, by a person in a position of trust or authority or a relationship of dependency. The maximum penalty for this offence would be five years.

Other provisions included in the bill would protect young people from those who would exploit them as prostitutes, either in terms of using their sexual services or by profiting financially from those services. There are sections which deal with sexual exposure to children under 14 years of age, and also provisions dealing with bestiality and anal intercourse involving minors.

I remain concerned about the re-enactment of the offence of vagrancy in this bill, which places a blanket prohibition on a person who has been convicted of a child sexual abuse offence from ever loitering near schoolyards, playgrounds, public parks and bathing areas. I understand that the clause is designed to protect children from a person with intent to offend; but it would be open to abuse by overzealous authorities, and, indeed, it may be unconstitutional. It must be reviewed again over the next four years.

Summing up, in the words of the Minister of Justice who appeared before our committee, the purpose of Bill C-15 is to produce laws that are as effective as possible in protecting the rights of young victims, to ensure that the rights of the accused are protected appropriately, and, when there is a conflict, to ensure that an equitable balance is struck.

The committee heard from witnesses who believed that the bill would diminish the rights of the accused, particularly in terms of false charges levelled in the heat of custody battles when one parent uses the child to allege sexual abuse against another parent. This was clearly troubling members of the committee, members of the bar associations and psychiatric experts who work in the area of assessment and treatment of those accused of sexually abusing children.

It was interesting to re-read the responses to this argument from the young people in care who appeared before the committee. They maintained that falsehoods or exaggerations about sexual abuse from child witnesses would easily be exposed in court. As one of them said: "It is one of the worst things that you can imagine as a child happening to you, and it is not something that any kid would want to make up." However, there is a very real concern for the incalculable damage done to a person falsely accused of child sexual abuse.

Indeed, the whole question of these offences is so unattractive and causes such pain and anger that there is a tendency to respond to offenders by saying, "Throw them in jail, lock them up, forget about them." That kind of response, whether it comes from an individual or the general public, is short-sighted and dangerous, because we cannot just "forget about them." It is also unfair, in my view, in our democratic society to reject out of hand that which is bad and ugly without serious effort to improve and rehabilitate.

We were reminded by Dr. John Bradford, the Director of Forensic Psychiatry at the Royal Ottawa Hospital, that people do not choose to have the dysfunction that leads them to sexually abuse children. It is something innate that develops in them, a compulsion for this type of behaviour. It is not just a criminal problem, as contained in this bill. It is much more complicated than that; and no matter how distasteful, our society must force itself to look beyond the alleged deterrence of long prison terms toward meaningful efforts at treatment and control of the psychological and biological impulses which cause offenders to commit these dreadful acts.

Throwing sexual offenders in jail for long periods of time and then putting them back on to the street without a concentrated effort to rehabilitate them before their release and during their parole is worse than wrong, because it virtually guarantees that those people will offend again and again. Long sentences in themselves will not do the job, and this is an area which needs great consideration.

There was disagreement among some of our witnesses as to the degree to which child sexual offenders can effectively be treated. However, there is clear evidence that some positive results can be achieved through behavioural and pharmacological treatment, including hormone reduction.

Obviously there are wide differences among child sexual offenders, and some respond more readily to treatment than others. For instance, Dr. Bradford and other witnesses indicated that the greatest success, in terms of rehabilitation, can be achieved with those who commit incest, even to the point of re-integrating them with their families, while the most difficult to prevent from re-offending were homosexual paedophiles who molest young boys.

Dr. William Marshall of the Kingston Sexual Offenders Clinic noted that the ideal situation is to give offenders treatment in jail and then release them under supervision to a treatment centre or a halfway house in order to ease them back into the community. Many of our witnesses, whose prime concern was the safety of children, nonetheless emphasized the

need for far greater opportunities for treatment of offenders, because that in itself is a protection for children.

• (1610)

One thing which became very clear, both through Canadian and American witnesses, is that many of the treatment programs for child sexual offenders are relatively new, because little research is being done on the problem in either country. Because of the repugnant nature of the offence, those in the field find little enthusiasm from governments or other sources of funding to commit much to research in this area. Dr. Bradford runs one of the few sexual behaviour clinics in the country, and he would urge the federal government to set up an institute of sex research in Canada so this issue can be directly addressed by the many qualified Canadians with international reputations for excellence in this field.

If one goes back to the statistics at the beginning of my speech—50 per cent of Canadian women and 33 per cent of Canadian men who at some point in their lives have been subjected to unwanted sexual interference—surely the need is evident for innovative, preventive and rehabilitative work in this field. There are other important areas which cannot properly be part of the legal thrust of this particular legislation but are, nonetheless, linked to it because of their impact on the issue of child sexual abuse. I have just spoken of the lack of research, and we were made aware by a number of witnesses, most particularly the Social Services Minister of Nova Scotia, Edmund Morris, of the appalling lack of statistical data in this country on every aspect of child sexual abuse—the type of activity, the age and sex of offenders, regional differences, economic and social backgrounds—the whole picture of the problem which would aid in determining the most effective response by governments and other agencies and professions.

Never was this more starkly evident than in the testimony of Donna Weaselchild of the Native Women's Association of Alberta, who has been active in the field of family violence. She and her association have undertaken a study of the impact on native women of separation from family and incidents of child abuse in their younger years. There are no statistics whatever in place in my province on child sexual abuse for native women. Ms. Weaselchild initially found a reluctance on reserves to respond to her survey. Because of the treasured position of children in the native culture, there was particular reluctance to admit the existence and the extent of child sexual abuse, she told us. So we must have a lot more facts on the issue in this country, and we must find a way of collecting and disseminating this knowledge to the greatest effect.

The Parliamentary Spouses Association, which made a truly excellent presentation in its first ever appearance before a parliamentary committee, strongly urged the implementation of a recommendation from the Badgley and Fraser reports for a secretariat within the federal government which would act as a national clearing house for information on child sexual abuse. It was their view that it should be established in the Department of National Health and Welfare, with a strong educational component and a mandate to coordinate activities of various departments of government. In this context, I want to urge governments and communities to heed the appeal from the young people from the Youth-in-Care network for post-assault treatment. We must understand that for a child the issue does not just end with a court case or, indeed, when an investigation is dropped. It has a pervasive and prolonged effect on the victim, and they have literally to learn how to live their lives around that incident of abuse.

We heard one young girl state that she had been in the care of social services for five years and has yet to receive specific counselling to get her through her unresolved feelings as a result of being abused by her father. In this case the matter did not go to court. She has been through a series of foster homes. The father is still living with her family. He has had help, and she has not. She wonders who is being treated like the guilty party.

I also would like to transmit another major appeal we heard from the majority of our witnesses. Can we please make our court surroundings for these cases more humane for children? Through their very physical structure and trappings our courts are set out as the centre of power and authority for our laws and the people who interpret our laws. For an adult they are intimidating. One has only to visit the magnificent art deco structure which houses the Supreme Court of Canada to experience an almost overwhelming sensation of the ultimate hierarchy of the law. These are not places meant for children. From the moment they enter the court they are drained of the confidence and the will to challenge the dominance of the adult world. In the words of Donna Weaselchild, reflecting on experiences with native child victims:

> For a child who is under three feet in height, can you imagine him or her standing there, looking up at the judge who must look like a giant? Simply having to climb the stairs; having to stand in the witness box because he or she is too short to even sit in the chair?

One of our teenage witnesses described how she testified standing up, with the trauma of her father in the courtroom, because the judge refused to give her a chair. We heard testimony of efforts being made by judges in some jurisdictions in the United States to reduce this overwhelming atmosphere by arranging to have hearings around a table, by judges removing their robes, coming down as ordinary people to the level of the child in order to lessen the fear. We learned of children being permitted to have a supportive adult beside them while testifying, and being given aids such as anatomical dolls to help them describe their story when they do not have the right words to use. Honourable senators, with sensitivity and goodwill, there must be some way to ease the atmosphere in the courtroom now that we are giving the child the right to communicate his or her story.

Finally—and I want to thank honourable senators for their patience, because I have taken a long time to discuss this issue today—I urge, with the greatest conviction, that our Justice Minister and provincial attorneys general get together to work out a mechanism to ensure that child sexual abuse cases will be processed through the courts with all reasonable speed. The very nature of this offence guarantees that a child will be

further traumatized by reliving it again and again over months, and sometimes even years, as the process is delayed step by step. We heard of the example of the little boy in Nova Scotia who, because of delays, had spent half of his young life in a world of doctors, police and lawyers, waiting for his case to reach the courts. These delays may happen because of defence manoeuvres on the part of the accused, but I suspect very often they result from an overcrowded court schedule. Surely it is not beyond the scope of our legal system to devise a way to proceed expeditiously with child sexual abuse cases, even if it means the appointment of more judges, particularly judges with, it is to be hoped, a background in family law.

● (1620)

Honourable senators, this bill is not the end of the process. It must be part of a broader evolution in our system to deal fairly with sexually abused children and their abusers, and provide each with the support and treatment that will diminish the tragedy. I say "diminish," honourable senators, because the tragic circumstances will always be with us, no matter what laws we pass. There will always be dark secrets.

I will conclude with the wise words to our committee by the Northwest Territories Justice Minister Michael A. Ballantyne.

> We as members of society must be willing to take off our rose-coloured glasses, open the closet and expose this horrendous problem in order that we may find effective solutions and discourage potential offenders. In order to combat the serious problem, we all need to take responsibility—the individual, the extended family, the communities and, indeed, the neighbourhoods within communities. It is only through such concerted efforts that solutions will be found to this terrible problem.

Senator Frith: Honourable senators, I move the adjournment of the debate.

Hon. Henry D. Hicks: I would like to intervene briefly before you adjourn the debate.

Honourable senators, first of all, I would like to congratulate Senator Fairbairn on her reasonable and balanced treatment of this bill and her reasonable and balanced references to the pre-study of the committee, which is recorded in today's *Minutes of Proceedings*, beginning on page 957.

There were two aspects of this bill that I wanted to comment upon before I listened to Senator Fairbairn. Now I need only comment on one of them, because she pointed out that the report dealt with the reservations which some members of the committee had about the use of videotapes, and that this would have to be done in a carefully controlled manner and reviewed from time to time, particularly in view of the unsatisfactory response to the use of videotapes in some jurisdictions in the United States of America.

Senator Fairbairn did not mention the other point that I want to comment on. I am a Common Law lawyer, and I believe strongly in the Common Law principle that a person is innocent until proven guilty. I am concerned when I hear Senator Fairbairn say that we have to strike a balance between the protection of the rights of the accused and the avoidance of creating a traumatic situation for the person allegedly offended. Perhaps we do have to strike a balance, but I still cannot help but say that the necessity to prove the guilt of the accused beyond a reasonable doubt is, to me, a strong and important principle in our law.

I note that the committee draws attention to this, and I will satisfy myself merely by reading from three paragraphs in the committee's report.

The committee says that it fully supports the repeal of corroboration requirements in section 246.4. If I were put on the spot now, I would say that I do not think I fully support them.

> The Committee fully supports the repeal of corroboration requirements in section 246.4. We agree that there should be no absolute rule that children's evidence must be corrobrated before it can support a conviction. We are concerned, however, about the re-enactment in that section of words first added to the *Criminal Code* in 1983, to the effect that a judge, in certain sexual offence prosecutions "... shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration".
>
> Some witnesses who appeared before the Committee took the position that this provision is precluding judges from making any comment at all on the absence of corroborative evidence. Departmental officials, on the other hand, assured us that the section was intended to, and in practice does no more than prevent a presiding judge from making an instruction as to the "unsafe" nature of uncorroborated convictions. As yet, however, there have been no appellate decisions upholding this interpretation.

Finally, the committee says, and I underline this and record it as a very important part of their submission:

> We are of the opinion that a trial judge should be free to comment on the absence of corroboration, so long as he or she refrains from making an instruction of the kind noted above. We recommend that the Department closely monitor decisions under s. 246.4, and take immediate action if those decisions place restrictions on the traditional role of the judiciary in providing assistance to the trier of fact in the assessment of evidence.

Notwithstanding the importance of protecting children from sexual abuse, which is important, I would say to any normal, right-thinking man or woman, we all know that, nevertheless, children do sometimes have fantastic and exaggerated imaginations. When instructed by too-avid social workers or teachers, their imaginings may go a little too far, and there may be some instances where it is proper for the judge to caution the jury that lack of corroborative evidence is a significant factor. Nevertheless, I am glad that this legislation has come before us. I certainly support it, but I point out the reservations in the committee's own report, which I have just read to you.

As the legislation is reviewed from time to time, I hope further attention will be given to the application of these provisions, particularly section 246.4.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I was going to move the adjournment of the debate, but I will not because Senator Hicks has made the points that I wanted to make. That is, how much I support the second paragraph of the committee's report on page 959 about the importance of monitoring the interpretation of section 246.4 on the question of corroboration because of the fact that the principles of such a good bill can sometimes mean that in our zeal to support it we sacrifice other important principles. Therefore, I support the committee's report, and particularly that paragraph about keeping an eye on the interpretation. For the reasons Senator Hicks advanced, the judge should be free to comment, if he thinks it worthwhile to comment, on the lack of corroboration.

On motion of Senator Neiman, debate adjourned.

VETERANS APPEAL BOARD BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jack Marshall moved the second reading of Bill C-66, to establish the Veterans Appeal Board and to amend other acts in relation thereto.

He said: Honourable senators, I am pleased to rise to introduce Bill C-66, which has the effect of merging, in the Department of Veterans Affairs, the Pension Review Board and the War Veteran's Allowance Board, two independent quasi-judicial bodies, into one newly designated Veterans Appeal Board, and by doing so will make better use of existing resources without diminishing existing appeal rights for veterans in any way whatsoever.

The merger will allow the Pension Review Board, which is the last level of appeal, to better deal with the ever increasing strain on its annual caseload, which has increased by almost 100 per cent from 1,335 applications to 2,654 applications in just three years.

It is an obvious fact, honourable senators, that as veterans grow older, their disabilities tend to become more serious. That is why more and more pension claims are coming forward each year.

• (1630)

I might also say that part of the reason that more claims are coming in is because of the great expectations that veterans now have because of the new manner in which the Department of Veterans Affairs, under its minister, is dealing with veterans and its consideration of veterans as special citizens as well as the minister's move to ensure that Canada's commitment to veterans is real.

By way of contrast to the Pension Review Board, the War Veterans Allowance Board carries a lighter workload as veterans grow older.

War veterans allowance is an income-tested program. Once veterans reach age 65, they become eligible for old age security benefits and are then less dependent on DVA for income support. The result, then, naturally means that the number of appeals coming before the War Veterans Allowance Board has dropped by 73 per cent in the last three years.

Yet, honourable senators, at present the War Veterans Allowance Board has more person year resources than the Pension Review Board. By combining both boards it will permit a concentration of resources in the area where they are needed—pension appeals.

I understand that no public service layoffs will result from the amalgamation. The overall estimated savings will be $400,000 this fiscal year. At the present time the War Veterans Allowance Board has 35 person years, and PRB has 25 person years.

It is worthwhile mentioning also that substantial progress has been made in reducing delays in the disabilitiy pension process. In the last two-and-one-half years the time required to process applications has been cut by well over half.

But at the same time, a far greater percentage of the decisions are going in favour of the veteran today than was the case previously, as a result of previous legislation. As I indicated, these results have been achieved despite the fact that the workload has doubled.

It is obvious, honourable senators, that the merging of the two boards is unusually realistic and sensible, and will result in directing the resources of the department, where better suited, to fulfil a vital need for veterans as they grow older, and to provide a means of speedier adjudication of pension claims. I have no hesitation in requesting speedy passage of all phases of Bill C-66. I am sure that all senators will agree, as all parties agreed in the other place.

In short, then, I ask honourable senators to approve Bill C-66, a measure that will streamline our pension process and enable us to take another step in fulfilling our commitment to Canada's veterans.

Hon. Charles McElman: Honourable senators, it had been my intention to speak to second reading today, but in discussion with the sponsor—and in order to expedite other activities today—I will wait until tomorrow. However, I assure you that I will be commending second reading of the bill, that it not go to committee, and that we also give it third reading tomorrow.

Hon. Henry D. Hicks: Honourable senators, before we adjourn the debate, may I ask a question of the mover of second reading?

In the figures that you gave, Senator Marshall, concerning the numbers of cases dealt with by the Pension Review Board, you mentioned two figures. I would like you to repeat them again and tell me whether those numbers referred to the number of cases per year.

Senator Marshall: No. They have increased from 1,335 to 2,654 applications in just three years.

Senator Hicks: But was that the number in three years, or the number per year that increased over the three-year period?

Senator Marshall: I would presume that it is three years, but I can check that out to be certain.

Senator Hicks: I would be interested in knowing that.

Senator Marshall: Thank you.

Senator McElman: If I could be permitted to assist you, Senator Marshall, in the release of the minister he says that "over the last three years the 11-member board"—that is, the Pension Review Board—"has seen its workload increase by 99 per cent from 1,335 to 2,654 appeals per year."

Senator Hicks: That answers my question. Thank you.

On motion of Senator McElman, debate adjourned.

CONSTITUTION ACT, 1867

BILL TO AMEND (ATTENDANCE OF SENATORS)—SECOND READING—ORDER STANDS

On the Order:

> Second reading of the Bill S-13, An Act to amend the Constitution Act, 1867 (Attendance of Senators).—(*Honourable Senator Godfrey*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, since Order No. 5 stands in Senator Godfrey's name and he has retired, could we have it stand in another name? I think that Senator Hébert would be prepared to have it stand in his name.

Hon. Jacques Hébert: Yes, honourable senators, I would.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands in name of Senator Hébert.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—DEBATE CONTINUED

On the order:

> Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, Bill S-7 was read for the first time on April 2, 1987. The debate on second reading was initiated by Senator Bélisle on April 7, 1987, five days later.

The debate was adjourned several times by Senator Le Moyne. On May 26, my colleague yielded to our colleague, Senator Hébert, while reserving the right to adjourn the debate again. Senator Le Moyne took the floor on June 2 and I subsequently adjourned the debate until June 17, when I gave the first half of a two-part speech.

Those are the facts. Although some people would like to give that impression, I did not hold up the debate since April 2. Other senators have adjourned debate for a longer period, and I agree they had that right.

There are some people who claimed, and here I quote Senator Bélisle:

> . . . we have heard . . . mainly, not to say exclusively, one side of the story.

This is at page 1440 of the *Debates of the Senate*, June 26, 1987.

Well, is anyone to blame for this situation? Three senators expressed their objections to Bill S-7. Only one senator tried to defend the bill. Why were there not more? Personally, I said that the bill would be referred to committee. I certainly do not intend to keep the bill in this chamber indefinitely.

Honourable senators, I am prepared to let Senator Bélisle take the floor immediately, if he feels we should hear the other side of the story.

It may be he feels guilty about his all too short speech on second reading and the lack of relevant material. I am quite willing to listen to Senator Bélisle right away, provided it does not have the effect of closing the debate on second reading. However, I would give him that privilege after pronouncing the second part of my speech and after any speeches by other senators who may wish to speak to this bill.

His right as the sponsor of the bill will then be guaranteed, and he could also help expedite the legislation by advancing the date of referral of the bill to committee. He might even save me some precious time I need to do the research for the last part of my speech. However, if Senator Bélisle can't take advantage of this opportunity right away, I have no choice but to move adjournment of the debate, assuming that the moment of truth promised by Senator Bélisle can wait and that there is really no urgent need to consider the bill in committee.

However, that being said, there is a better reason to give him the floor right away, with the unanimous consent. Friday, when I was momentarily absent from the Senate, he rose and said among other things:

> All that I told you in my speech introducing . . . the bill holds true, but . . .

And in the words of Senator Bélisle:

> . . . so many false accusations have been made against the Prelature Opus Dei and its members that justice warrants a fair hearing.

I challenge Senator Bélisle to rise and tell us what these false accusations are and who made them. Name the originators of these false accusations! Say who they are, refute their arguments, or else apologize for having gone too far and for having used unparliamentary language, because the expression . . .

[*English*]

It is unparliamentary language to use the expression "false statement". I would refer to page 107 of *Beauchesne's Parliamentary Rules and Forms*, Fifth Edition.

[*Translation*]

Dear colleague, you ought not to be allowed to cast doubt on the integrity of your colleagues, collectively or severally, be they named Hébert, Le Moyne or Corbin.

Be strong, be virile, be a man, as described in Balaguer's *El Camino*. We are listening to you, you who seem to have a monopoly on the truth about Opus Dei. We are giving you the opportunity to withdraw your unparliamentary remarks.

Honourable senators, I reserve the right to adjourn this part of the debate. With the unanimous consent of the chamber, I am only giving Senator Bélisle the chance to withdraw the offending and unparliamentary comments he made about three of his colleagues in this place. Unless he does so, I will move that the debate be adjourned to a later date.

[*English*]

Hon. Rhéal Bélisle: Honourable senators, I have never been faced with such a request. Is it possible that an honourable senator may speak twice on second reading?

[*Translation*]

Hon. Jacques Flynn: Sometimes even three times!

Hon. Royce Frith (Deputy Leader of the Opposition): A hundred times!

Senator Flynn: Yes, with leave of the Senate, a hundred times.

[*English*]

The sponsor may speak twice.

Senator Bélisle: If honourable senators are willing to give me another opportunity to respond to what may be said later, then I will speak today.

Senator Frith: Honourable senators, I do not think there is any doubt that if you are speaking on second reading then, with unanimous consent, you can speak as often as you wish without closing the debate. The provision in the rule is that an honourable senator be given the right to reply and not close the debate. As Senator Flynn has said, you have a right of reply at the end.

Senator Corbin: Honourable senators, so that there may be no misunderstanding, what I seek is that Senator Bélisle correct or withdraw the terms he has used.

[*Translation*]

Senator Flynn: This is not what you said the last time.

Senator Corbin: Let me finish, you will see that my remarks are consistent.

[*English*]

The last part of my intervention was to ask Senator Bélisle to withdraw offending remarks with respect to, I presume, the only three persons who rose in this house, besides himself, to speak to Bill S-7. He has accused one, two or all three of his colleagues of making false statements. I have cited the rule under *Beauchesne's Parliamentary Rules and Forms* where such unparliamentary language is unacceptable.

[*Translation*]

First things first, honourable senators. In answer to the very relevant remark made a moment ago by Senator Flynn, I would ask Senator Bélisle to withdraw his offending words about his colleagues, and then we will settle the rest.

Senator Flynn: Honourable senators, if I understand correctly, Senator Corbin has agreed that Senator Bélisle be given the opportunity to speak, that the debate would then be adjourned again in your name, and that other senators might seek the floor. That was the gist of your first proposition.

Now, do you grant leave on the condition that he withdraw his words?

Senator Corbin: No, there is no condition.

Senator Flynn: If there is no condition, we quite agree that Senator Bélisle might seek the floor now. Should he see fit to correct whatever he may have said, he will be free to do so. As to your point of order, however, I would point out that merely saying that there were false accusations or false statements does not necessarily imply that the person who made then did so intentionally. A point of order may be raised indeed when someone suggests that you knowingly made a false statement or knowingly reported something which is not correct, because very often someone may make a false statement when quoting somebody else or the authorities. Surely I have the right to say that what you are reporting, dear colleague, is false. Surely I have the right to say that. But if I claim that you are deliberately making a false statement, then you have the right to object. That is altogether different.

As to the permission given Senator Bélisle, I did understand what you said and I agree.

Senator Corbin: Honourable senators, I admit that Senator Flynn did understand me correctly. Senator Flynn, you will agree that questions of procedure concerning parliamentary language must be corrected at the earliest opportunity. In my case, the earliest opportunity arose when I became aware of this a moment ago.

Senator Flynn: Honourable senators, I think that there is a misunderstanding on the part of Senator Corbin. Senator Bélisle may have said that false or unfounded statements were made, but that does not give anyone the right to rise on a point of order to ask for a retraction, unless there was an accusation of having voluntarily made a false statement. For instance, in this case, if Senator Bélisle believes the statements made by Senators Hébert, Le Moyne et Corbin to be false, he can say: "In my opinion, what you have reported is false."

You cannot demand retraction of such a statement because no one is accusing the senator concerned of having voluntarily made a false statement or of voluntarily misleading the Senate.

Senator Corbin: Honourable senators, we have to put the comments of Senator Bélisle in context and consider what was happening at the time. What was he doing? For all practical

purposes, he was suggesting that I had told him I would not speak before he himself had retired.

Senator Flynn: That is something completely different!

Senator Corbin: No, it is all related.

Senator Flynn: You are mixing everything up.

Senator Corbin: Honourable senators, as I said at the beginning of the sitting, my comments have been misinterpreted. It is not my fault if Senator Bélisle has no sense of humour. I am not to blame, especially as I said in my comments the previous week that, as far as I was concerned, the bill could be referred to committee even though I do not much like it. When it goes to committee, we can call witnesses.

In the last paragraph of his point of order, he speaks of "so many false accusations". This is related to his question of privilege about myself. I had the feeling that he was not thinking only of me. Who apart, from Senators Hébert, Le Moyne and myself, has spoken on this matter?

Perhaps he did not want to go as far as he did. If such is the case, let him say so and I shall accept his word as an honourable senator. The matter will be settled.

However, I find the accusation serious. It could certainly speed up this debate if we allowed Senator Bélisle to tell the honourable senators why he believes that Senators Le Moyne, Hébert and Corbin have completely misunderstood the Opus Dei or have had a tendency to make false accusations. I do not see to whom he could have been referring if not to us. I attach no condition to letting him speak now, even if we have to adjourn the debate in my name after his intervention and let him close the debate eventually. You did understand that part correctly.

The Hon. the Speaker: Do the honourable senators agree to let Senator Bélisle speak now?

Hon. Senators: Agreed.

The Hon. the Speaker: Is the decision unanimous?

Hon. Senators: Agreed.

● (1650)

[*English*]

Senator Bélisle: Honourable senators, I first wish to say that what I said on Friday is factual. The honourable senator asked, "When are you going to take your retirement?" That stands.

I wish to inform honourable senators that there is no conflict of interest for me in sponsoring Bill S-7. I have never been and I am not now a member of Opus Dei, but I am very pleased and honoured to have been asked to sponsor this bill in this honourable assembly. I am very thankful to the Opus Dei for making that request of me.

[*Translation*]

I want to thank my friends and colleagues Senators Hébert, Le Moyne and Corbin, for the interest they have shown in the incorporation of the regional vicar of Opus Dei. They explained their position with their usual passionate eloquence. I listened to them with interest and also very patiently. I would now ask you to listen to another point of view.

The honourable senators who rose to speak against Bill S-7 made it clear in no uncertain terms that they did not like the Prelature of Opus Dei. However, is this a matter of likes and dislikes or is it a petition for a private bill to incorporate a function, that of regional vicar of the Prelature of Opus Dei? Even if one senator rose to suggest a fundamental change in the general statutes on incorporation, no one spoke out against the legitimacy and legality of the bill.

I do not intend to respond to every single malicious insinuation, unfounded claim and wrongful assumption. However, I shall try to put the debate into its true perspective. There may be some reluctance to grant this kind of incorporation because one does not share the views of the group in question. Most of us do not belong to the Mormon religion nor do we particularly favour that religion, but we adopted a similar bill not so long ago. It did not cause any more controversy than the case of many Catholic and Anglican bishops in this country who enjoy the same status. And now, some people are upset that the regional vicar of an institution, enjoying the same recognition as the Catholic bishops and belonging to the same jurisdictional structure of the Catholic church, is making a similar request.

Our honourable colleagues talked about truth and freedom. I shall be glad to take them literally. I daresay my remarks will be worthy of the concepts our colleagues use so generously. "Truth has its rights", according to Senator Hébert. And to defend those rights, he systematically resorted to reproducing every bit of gossip that was unfavourable to Opus Dei although it had been refuted by the facts many times over. He told us he had read thousands of pages about Opus Dei. Is it possible to read so many pages without finding anything positive about this institution of the Catholic Church? Can one at the same time seek the truth and be selective in one's reading?

Honourable senators, if we are really looking for the truth, we should at least listen to both sides. This is a principle of natural justice. If we really want to know the truth about an organization, we cannot hear testimony only from its detractors and opponents. We should at least listen to those who have first-hand information about the institution in question. Members of Opus Dei have, of course, been criticized for constantly repeating the same speeches, and denying malicious insinuations that have never been proved but often repeated. Is it not typical of the truth that it never contradicts itself? In fact, when we are talking about rumours, hearsay and gossip, it is not hard to find the contradictions. I will take a few examples from the speeches made by my colleagues:

[*English*]

How can members of Opus Dei be an influential, elite group yet brainwashed zombies at one and the same time? How can its founder teach sado-masochism, on the one hand, and purity and chastity, on the other? How can it be, on the one hand, that Opus Dei is said to be a controlling force in political and economic life and, on the other hand, that professional activities are said to be the sole responsibility of the individual members? How can a book like *The Way* be criticized for being mediocre and, at the same time, for being so demanding? How can members of the Opus Dei be accused at the

same time of being secretive and of flooding people with documentation about the prelature? How can they be both extremely mortified and be leading a bourgeois life?

How could the 69 cardinals and the 1300 bishops, over one third of the world episcopate—and I repeat, how could the 69 cardinals and the 1300 bishops, over one third of the world episcopate—who asked that the canonization process of Monseigneur Escriva be opened, have been so duped? I am truly saddened that such a plea for the recognition of a person's sanctity, without precedent in the history of the Catholic church, could be so one-sidedly ridiculed in this house.

In addition, how could five popes, including the present one, who consistently approved of Opus Dei since its inception, have been so mesmerized? Since as far back as 1950, Monseigneur Escriva had obtained permission from the Holy See to admit people who are non-Catholic and non-Christian as cooperators. How could these thousands of non-Catholics, and even non-Christians, who have cooperated with the apostolates of the Opus Dei, have been so wrong about this so-called "totalitarian" organization? What can this astonishing thing be which some people are so anxious to oppose that in doing so they do not mind contradicting themselves?

[*Translation*]

At this point, I feel I must draw a parallel with a most interesting speech by Senator Marshall on June 2 about the film "The Kid Who Couldn't Miss", which warned me about the danger of confusing fact with fiction and of the disastrous consequences this could have for a person's reputation.

While listening to that speech, I was reminded of what Senators Hébert and Le Moyne had to say about the same film, and I wondered why the honourable senators were so insistent on having us believe that a certain television program on Opus Dei by "The Fifth Estate" was fact and not fiction. Especially since after the broadcast, newspapers like the *Globe and Mail* and *The Gazette* published some balanced articles on Opus Dei, and Cardinal Carter stated, as reported in the *Toronto Star* of May 9, 1985,

[*English*]

I quote:

● (1700)

> "It was said in some of the public media that I was carrying out an investigation of Opus Dei.", Carter said Tuesday as he officially opened an Opus Dei centre on Palmerston Boulevard.

That is in Toronto:

> "I take this opportunity simply to deny that openly and clearly. There was never an investigation of Opus Dei." At Tuesday's ceremony, Carter said Opus Dei authorities have been "very open and up front" with him. "I've had nothing to hide, they've had nothing to hide and therefore there was nothing to investigate.", Carter said.

A few days after the broadcast of this program, Cardinal Carter stated that it was highly slanted and that it has misrepresented Opus Dei.

Much has been said by Senator Hébert about the so-called constitutions that were allegedly translated in a book he read. The honourable senator will be happy to learn that the Prelature happens to be governed by statutes that the Holy See sanctioned on November 28, 1982. These statutes are in the possession of the bishop of each diocese where the Prelature has at least one canonically erected centre, and they contain 185 articles only.

I wonder, therefore, about the reliability of the source my colleagues were quoting when they referred to articles 193, 197 and 202. In Canada those statutes are in the possession of the Archbishops of Quebec, Montreal, Toronto, Ottawa and the Bishop of Valleyfield.

[*Translation*]

For example, in article 89 one can read how Opus Dei members must reveal their membership in the Prelature. Here is the relevant part of paragraph 2:

> 89.2 So as to achieve its ends more efficiently . . . the congregation of the Prelature . . . must not hide their membership in the Prelature because the spirituality of Opus Dei is to absolutely avoid secret and clandestinity. (. . .) For these reasons, in each circumscription the names of the vicars of the Prelate and of the members of his council are known to everyone; upon request of the bishops, they are told not only the names of the priests of the Prelature who exercise their ministry in their diocese, but also the names of the directors of centres established in the diocese.

Article 88 deals with obedience in the field of spiritual activities, as well as freedom in all other fields. Paragraph 3 reads as follows:

[*English*]

I quote:

> Regarding professional activity and social, political doctrine, etc., each faithful of the Prelature enjoys the same full freedom—within the limits of the Catholic faith and morals—which the rest of the Catholic citizens enjoy. For the authorities of the Prelature must abstain from giving advice of any sort whatsoever in these matters. Moreover, this full freedom can only be diminished by norms that might possibly be given for all Catholics in any diocese or circumscription, by the bishop or conference of bishops. Therefore, the Prelature does not in any way make its own the professional, social, political or economic works, etc., of any of its faithful.

[*Translation*]

Still concerning the truth, allow me to quote a letter from Cardinal John Heenan, then Archbishop of Westminster, extracts of which were published in London's *Clergy Review* of February 1986:

[*English*]

I quote:

> One of the proofs of God's favour is to be a sign of contradiction. Almost all founders of societies in the

> church have suffered. Monsignor Escriva de Balaguer is no exception. Opus Dei has been attacked and its motives misunderstood. In this country and elsewhere an inquiry has always vindicated Opus Dei.

This, honourable senators, is the perspective from which our colleagues' allegations have to be studied. If, indeed, as they claim, their sources are beyond scrutiny; if, indeed, their information is beyond suspicion; and if, indeed, their claims are beyond any doubt, why then is it that no one has ever brought Opus Dei and its members to court? Why is it that no one has ever brought these powerful proofs in front of any tribunal anywhere?

I will concede that Opus Dei has been condemned from time to time by some of the high courts of the media. However, in these high courts, in contrast to the courts of our country, one is presumed guilty until proven innocent; and the last thing these courts want is to be confused with the facts! Nevertheless, the media have, on occasion, been themselves brought to court. In Germany, for example, after facts were studied and weighed, they were condemned and forced to retract and correct the calumnious allegations they had made against Opus Dei. On other occasions the media have recognized that they had been manipulated. *Le Devoir* in Montreal, for example, corrected, in an editorial of May 11, the attacks it had levelled against Opus Dei a few days before.

Senator Corbin: What year?

Senator Bélisle: Nineteen eighty-seven, my Lord.

Senator Corbin: "My Lord"?

Senator Bélisle: In every serious inquiry regarding Opus Dei carried out by the Church or by state bodies, the aforementioned statement of Cardinal Heenan has always held true. Let us again look at two examples.

Within the Catholic Church a thorough study was made from 1979 to 1982 in response to the petition of Opus Dei to be granted a juridical status befitting its characteristics. At the end of this complete study of the spirit, practices and the proposed statutes of Opus Dei, the Pope erected Opus Dei as a personal Prelature with the Apostolic Constitution *Ut Sit*, dated November 28, 1982. As it is mentioned in the preamble to Bill S-7, this document reads as follows:

> John Paul, Bishop, Servant of the Servants of God, for a permanent record of the matter: with very great hope, the Church directs its attention and maternal care to Opus Dei which, by divine inspiration, the Servant of God Josemaria Escriva de Balaguer founded in Madrid on October 2, 1928, so that it may always be an apt and effective instrument of the salvific mission which the Church carries out for the life of the world.

● (1710)

And the Pope continues:

> From its beginning, this institution has in fact striven, not only to illuminate with new lights the mission of the laity in the church and in society, but also to put it into practice; it has also endeavoured to put into practice the teaching of the universal call to sanctity, and to promote to all levels of society the sanctification of ordinary work, and by means of ordinary work.

As you can see, my presentation of this bill was not based on naive misunderstanding but on the judgment of the present Pope and on the law of the Catholic Church. The quotation is worth continuing, because I think it is important to hear what the supreme authority of the Roman Catholic Church has to say about one of its institutions:

> Since Opus Dei has grown, with the help of divine grace, to the extent that it has spread and works in a large number of dioceses throughout the world, as an apostolic organism made of priests and laity, both men and women, which is at the same time organic and undivided—that is to say, of an institution endowed with a unity of spirit, of aims, of government, and of formation—it has become necessary to give it a juridical configuration which is suited to its specific characteristics.

After referring to the development of a study that began in 1962, with the approval of Paul VI, and which was followed by another one started in 1979, John Paul II continues:

> In carrying out the task entrusted to it, the Sacred Congregation for bishops carefully examined the matter, taking into account the historical, and also the juridical and pastoral aspects. Thus, having completely eliminated all doubts about the basis, and the possibility, and the specific manner of granting the petition, it became abundantly clear that the desired transformation of Opus Dei into a personal Prelature was opportune and useful.

The result of this in-depth investigation is eloquent, and it is in conformity with both this new juridical configuration and the laws of our country that the Regional Vicar of Canada of this prelature wishes to be incorporated.

[*Translation*]

Not only the Church but the state as well scrutinized the Prelature of Opus Dei. Indeed, honourable senators, as a result of questions raised by parliamentarians the Italian Minister of the Interior tabled a very well documented report in the Italian Parliament in November 1986.

As a second example of serious and exhaustive study, let us see the conclusion of this report after an official response from the Holy See, after consulting and extensively quoting the statutes of the Prelature. I quote:

> 1. Opus Dei is not secret, either in law or in fact;
>
> 2. The obligation of obedience exclusively concerns the spiritual realm;
>
> 3. There are no rights nor obligations other than those specified in the Code of Individual Rights, and these too are of a strictly spiritual nature;
>
> 4. Unless provided for under the new regime, no right nor obligation of the former regime has survived the institution of the Prelature.
>
> Consequently neither the government nor the Minister of the Interior in particular can legitimately do anything

> about Opus Dei, nor make investigations into or impose controls over it. Indeed, on the basis of the precepts of the Constitution and the basic rights of freedom it guarantees; . . . on the basis of the Acts which govern the Prelature, finally on the basis of the statements of the Holy See which, as we said, express the official position and commits the Prelature itself, such investigations and controls, unwarranted by any factual element likely to include even simple clues, would lead to an unacceptable breach of the right of freedom of the citizen, and to as unacceptable an interference of the state in the "internal order of the Church".

Honourable senators, where is the truth about Opus Dei? In thoroughly researched investigations or in scurrilous pamphlets? Is one really seeking the truth when one casually rejects the serious documents our honourable colleague had in his possession?

Let us now move from one great theme to the next. For his part, Senator Le Moyne poses as the defender of freedom. But what freedom are we talking about? The one we all look for, the one which is protected by our Charter of Rights and Freedoms, or is it another one, his own perhaps?

[*English*]

The honourable senator provided the clear answer to the question and the clue to his whole attitude vis-à-vis not only Opus Dei but the whole Catholic Church when he says:

> —the dominant characteristic of our age is criticism. For us moderns, anybody, anything stands to be criticized . . . We can speak here without undue exaggeration of a real mutation of human understanding, and conclude that as the essence of modernity, criticism constitutes the very legitimacy of the age.

If these words hold true then I fear for the future, not only of religious freedom in this country but for that of any other freedom. For what Senator Le Moyne is saying here is that in making a judgment about the desirability or the undesirability of incorporating the Regional Vicar of Opus Dei, we should be guided not by the Charter of Rights, which recognizes the freedom of religion, nor by what Opus Dei says of itself, nor by what the Roman Catholic Church says it is, nor by what thousands of honest and attached observers know it is but, rather, by what men, for whom "anybody and anything stands to be criticized," interpret it to be. What the senator is saying is that our judgment regarding the incorporation of the Regional Vicar of Opus Dei should be predicated on a criticism of its experiences and beliefs. The amazing thing is that our distinguished colleague has fallen into the very same trap which he claimed to be denouncing. Without providing any serious evidence he says that Opus Dei represents a form of religious intolerance and, yet, in the name of modernity, he says he opposes the very principle of the bill. Is not this kind of modernity another form of dogmatism?

Senator Le Moyne has made it very clear that he cannot tolerate Opus Dei. So he has opted for intolerance. People whose concept of modernity does not fit with his own are declared to be heretics; hence, the Regional Vicar of Opus Dei cannot have the incorporation he seeks, and which has always been granted to others in similar functions. What Senator Le Moyne has amply demonstrated in that criticism, or what he calls modernity, is but another religion, a secular religion, and one that is quite intolerant of traditional religions.

[*Translation*]

I had not intended to speak about the founder of the Opus Dei, Monsignor Escriva, but so many unfair comments have been made about him that I now find it necessary to correct them.

A large number of important people in the Catholic Church consider Monsignor Escriva to be one of the forerunners of the Second Council of the Vatican in one of its most important teachings, namely the role of the laity in the Church.

In a homily to members of the Opus Dei, John Paul II said the following:

Senator Corbin: When was this?

Senator Bélisle: I do not know the date, but I shall find out. John Paul II told the Opus Dei:

> Yours is truly a great ideal, as from the very start, you have anticipated the lay apostolate which became one of the main features of the Church in the years of the council and later on.

Cardinal Koenig, then Archbishop of Vienna, wrote the following in 1975 about the founder of the Opus Dei:

> As early as 1928 when he founded the organization, in 1928, he had looked ahead to what has now become the common ideal of the Church with the Second Council of the Vatican.

I could go on, honourable senators, by quoting the comments of two former apostolic delegates to Canada, Cardinals Baggio and Pignedoli, of Cardinals Sin of Manilla, Otunga of Nairobi, Hoeffner of Cologne, Casariego of Guatemala, and at least 30 others who have published very favourable articles about him, but this is neither the proper place nor time.

I simply wish to underline that those who consider the founder of the Opus Dei as a pioneer of lay apostolate are impressive both by their number and their expertise, in contrast with the well-intentioned, but unfortunately not very enlightened statements made by our colleagues.

Nevertheless, Senator Le Moyne had no compunction about criticizing mercilessly the book *The Way* written by the founder of the Opus Dei. This work has been extremely successful, with three and a half million copies being printed in 36 different languages. Our colleague admitted that he was not aware of this book as recently as a few weeks ago. Now, he has become an exegete expert.

Others, with deeper knowledge and more experience than our colleague, hold strikingly contrasting views about *The Way*. For instance, on December 8, 1983, Cardinal Vachon, archibishop of Quebec, wrote an introductory note to the first Canadian edition of *The Way*, in which we find the following:

> The writings of Monsignor Escriva have been nourishing the spiritual life of a great many people, even non-Catholics and non-Christians for quite a while ... The clear and specific message of *The Way* has its roots in the gospel itself. His direct style invites the reader to reflect and brings him to a true interior conversion. Only the classical works of spiritual literature are worthy of such praise and *The Way* is in my opinion one of the most expressive of these to be published in our time.

In his speech, our colleague gave us a whole series of interpretations of some of the passages contained in *The Way*, including the last point, number 999, which gave rise to a long tirade on the multiplicatory magic of cabalistic symbolism. I would like to share with you the simpler explanation given by Monsignor Escriva. In a posthumous work entitled *The Furrow*, his last thought concerns number 999 and reads as follows:

> I write this point so that we may smile, you and I, at the end of this book, and to reassure the good readers who, through ingenuity or malice, had thought of finding the Cabala in the 999 points of *The Way*.

Senator Le Moyne presented item 394 as a way to use the totalitarian plug. Since he quoted only part of it, I will read all of item 394:

> 394. Compromising is a sure sign of not having the truth. When a man compromises on points of ideal, honour or faith, that man is a ... man without ideal, honour or faith.

As we can see, honourable senators, any author can be alleged to have said all kinds of things by quoting selectively, out of context.

Senator Le Moyne also rose against the fact that *The Way* was compared to the great classics of spiritual literature, claiming such a comparison was made by Opus Dei members. Let us come back to the comments of another cardinal. This time, we will call upon Albino Luciani who wrote an article on Opus Dei one month before he was elected Pope under the name John Paul I. I am quoting from the translation reproduced in *Le Devoir* on October 19, 1978:

> Escriva de Balaguer constantly said, based on the Gospel: Christ expects from us not only a little kindness, but a lot of kindness.... There, on the street, at the office, at the plant, one becomes a saint provided one does one's duty with competence, for love of God and with joy.

To quote again:

> ... Similar things were taught by Saint Francis of Sales, 300 years before.... Escriva de Balaguer however in many respects goes further than Francis of Sales. The latter also preaches sainthood for all, but he seems to be teaching only "spirituality for layman", while Escriva wants "lay spirituality".

You will agree that such a parallel between Saint Francis of Sales and Monsignor Escriva drawn by the smiling Pope is somewhat at variance, both in substance and spirit, with the bellicose comments of our colleague. You will allow me, honourable senators, to quote the end of the same article.

> Opus Dei is content with helping its members make free, responsible choices—also in politics. It may happen that one of its members is appointed to important functions. In that case, that is his business, not that of Opus Dei. When in 1957 an elevated personality congratulated Escriva on the occasion of one of his spiritual sons having been appointed Minister in Spain, he got that rather curt answer: "What does it matter if he is Minister or floor sweeper! What matters is that he sanctifies himself in his work". In that answer lies all Escriva and all the spirit of Opus Dei. Let each one sanctify himself through his work, minister's work, if it so happens that he was appointed to that function. Let him really sanctify himself. Anything else is beyond the point.

[Senator Bélisle.]

● (1730)

[*English*]

Moreover, there are but a few members of Opus Dei who are in positions of national importance in the world of arts, industry, finance, politics, and so on. The vast majority are ordinary people, not what the media thrives on; they are men and women who desire the peace and freedom to do their own work quietly. I would hardly call this elitism.

As far as the claim that Opus Dei is anti-feminist, suffice it to say that at least half of the members of Opus Dei are women—many of whom have doctorates not only in their own professions but also in philosophy, theology and canon law. How about that for modernity? They direct the activities of their centres and are quite happy with the way things are. If you have any doubt, just ask them if Opus Dei is anti-feminist!

One of our colleagues finds it aggressive that in Opus Dei certain activities of a catechetical nature are usually given to homogeneous groups. Well, I would leave them free to do this if they like. I will also remind you that there are both spiritual and practical reasons that would advise that the celibate men and women, who cherish this gift of celibacy and chastity—for which, by the way, they take no vows—keep a certain prudent distance. This might sound medieval to our colleagues, but it does not take a great deal of intelligence to understand this; although it does, indeed, require a bit of goodwill and common sense.

That Opus Dei should be accused of secrecy is almost a laughable matter. What is wrong with wanting to keep one's personal dedication to God a private matter? I am afraid that our colleagues confuse privacy with secrecy—or have they forgotten that the state has no business in the bedroom of the country and in the conscience of its citizens. In fact, members do not hide their relationship to Opus Dei whenever there is a good reason to make it known.

What, then, are these deep, dark secrets? Would it not be foolish to claim that they have secrets without even being able to ask a question about them?

[*Translation*]

Honourable senators, I have given you the facts. I hardly need recall that the bill we are considering is called An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei. The purpose of the bill is to incorporate a function presently occupied by Father Haddock and that will be occupied by his successors. We are not talking about incorporating an entire group through a single person. This is sheer fantasy and has no basis in law.

Senator Corbin doesn't like Opus Dei. I would like to mention a fairly common experience. Nausea can be caused by the air we breathe and the food we eat, but it is sometimes caused by a malfunction in our own bodies. I hope that the cramps suffered by our colleagues will clear up very shortly, for their own benefit as well as that of their neighbours.

Senator Corbin raised a number of questions. Although I feel this is the kind of information that should be obtained in committee, by directing these questions to the regional vicar of Opus Dei and to other witnesses with first-hand knowledge of the Prelature who have the requisite legal competence, I think it would nevertheless be appropriate to give a summary reply.

I obviously agree with the fact that if a general statute allowed the regional vicar of Opus Dei to become a moral person or a corporation, I would never have agreed to introduce this bill. However, the Canada Corporations Act allows a person to be incorporated for business purposes, while the same act does not provide a procedure for persons who want to be incorporated on a non-profit basis. I may add that in any case, there would be the physical person, John Doe, and a moral person distinct from the other one.

Our colleague claims that the Prelature of Opus Dei or its regional vicar had something to hide, and that it wanted to escape controls and inspections. However, Clause 7 of the bill obliges the regional vicar to appoint an auditor who is, by definition, an independent accountant. Furthermore, the general statute, in other words, Part III of the Canada Corporations Act, Section 158, makes companies incorporated by special legislation subject to the same control requirements as any other corporation. So the wording of the bill and the existing legislation completely contradict the comments of Senator Corbin.

Furthermore, the senator pointed out that the bill allows us to control the truth of what is being requested. Could anyone imagine a person occupying a position within the Catholic Church asking to be incorporated as a corporation sole, if that person had anything to hide? Can anybody imagine the regional vicar of Opus Dei submitting to the democratic process if he were not prepared to answer all questions? I think the suggestion is rather far-fetched. In any case, the regional vicar has confirmed he would be delighted to answer all these questions.

[*English*]

I remind you, honourable senators, that every inquiry has always vindicated Opus Dei. I have quoted some of the conclusions reached by serious inquiries made by the Vatican and the Italian Parliament, and I am sure that any questions raised in the committee will receive a satisfactory reply. Of course, someone might not like the way others put their Catholic beliefs into practice. But what we are looking at is a bill which should be judged according to the laws of our country and not along ideological lines.

The reason for this petition is that the Statutes of the Prelature—that is, its internal law as sanctioned by the Holy See—require that in each country where it operates the Regional Vicar has to obtain a civil personality, always in conformity with the laws of the country. Let me quote from Article 129 of those statutes:

[*Translation*]

> 129.1 The Prelature and each of its constituencies must acquire legal status—
>
> 129.3 The Prelature or the constituencies referred to in paragraph 1 are accountable for the commitments met by each one and shall also follow faithfully the legitimate laws of the respective regions or countries, acting within the standards set by these laws.

● (1740)

[*English*]

How has this taken place in other countries? To answer some of the questions put by Senator Corbin, I have asked for and obtained complementary information. What the senator and I received was already quite complete. In all the countries where there is an international convention or concordat between the country and the Holy See, the canonical personality of the prelature is recognized in civil law. This is the case, for instance, in Italy, Spain, Portugal and several Latin American countries.

In countries where no such convention exists, it very much depends on the laws of the respective countries, but it is worth noting that in no case has the request of the Regional Vicar, of the Regional Vicarate or of the prelature ever been rejected. The fact that here in Canada the corporation sole exists and serves a number of different possible functions, mainly—though not exclusively—ecclesiastical or religious, does not necessarily mean that we will be establishing a precedent for other countries. Laws are one of the most specific manifestations of a society, and I do not see how what is decided in other countries has much to do with the specific petition we have in front of us.

If I understand parliamentary procedures correctly, I have the impression that we are doing the job of the committee. I am convinced that the legal counsel of the Senate, as well as the legal adviser of the Library of Parliament, could shed some light on this point in front of the committee. The Regional Vicar, as well as his legal advisers, could also address many of these questions.

As I mentioned to honourable senators when I introduced the bill for second reading, the Senate has already incorporated a number of officials and a rather large number of religious bodies of various denominations. These were all granted corporate status even before the Charter of Rights was

in effect, and in none of these cases has there been any scrutinising of the religious beliefs and practices of the institutions involved. Not to grant the Regional Vicar of the Opus Dei Prelature corporate status, therefore, would be to set an unwarranted precedent for discriminating against those of any religious persuasion, whether they be Moslem, Jew or Christian. Never before in these chambers has a bona fide religious institution come under such vicious and ferocious attack, and never before in these chambers have we allowed straightforward personal bias to override our collective sense of responsibility.

The question we are left with, honourable senators, is whether we are going to act in accordance with the principle of religious tolerance and liberty enshrined in our Constitution and Charter of Rights, and with the justice, fairness and integrity that has always characterized this house when dealing with such questions in the past.

[*Translation*]

I trust, and I have no doubt about it, that when the rest of the speeches here have been made, this assembly will allow the interested party, the Vicar General of the Prelature of the Opus Dei, to express his views before the committee. I am aware that I was granted the privilege of replying to the previous comments, and I now leave the floor to others who may wish to speak.

Senator Corbin: Honourable senators, as agreed before Senator Bélisle made his intervention this afternoon, I now propose adjournment of the debate.

On motion of Senator Corbin, debate adjourned.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

VISIT OF DELEGATION TO FEDERAL REPUBLIC OF GERMANY—DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Leblanc (*Saurel*) calling the attention of the Senate to the visit of the Canada-Europe Parliamentary Association delegation to the Federal Republic of Germany, from January 15 to 27, 1987.—(*Honourable Senator Leblanc* (*Saurel*)).

Hon. Fernand-E. Leblanc: Honourable senators, I have discussed the possibility of continuing the debate with Senator Grafstein, who is here now. I believe that we should adjourn the debate in his name.

On motion of Senator Leblanc, for Senator Grafstein, debate adjourned.

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—ORDER STANDS

On the Order:

[Senator Bélisle.]

Resuming the debate on the motion, as modified, of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and

That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should just like to say a word about the reservations raised by some honourable senators about the presence of rather bulky hardware on the floor of the chamber.

It is my information that this equipment will have to be set up at the beginning of a Senate sitting and be in place during our regular sittings, be in place during the Committee of the Whole, and remain until the sitting is over.

In response to the concern about the general bulkiness of the hardware on the floor, I have asked for general exploration of a way to solve the problem, in other words, to have cameras located in the gallery or anywhere else. If that cannot be done, then both aisles will be blocked during the entire sitting that day. As yet, I have not been furnished with that information, and I think it is quite reasonable for honourable senators to ask for it. Until I have that information, I would ask that the order stand.

Order stands.

DOME PETROLEUM LIMITED

PROPOSED SALE—REPORT OF ENERGY AND NATURAL RESOURCES COMMITTEE ON EXTENSION OF REPORTING DATE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Energy and Natural Resources (extension of reporting date re examination of Dome Petroleum Limited), presented in the Senate on June 23, 1987.

Hon. Earl A. Hastings: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

POST-SECONDARY EDUCATION

REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

Resuming the debate on the consideration of the Seventh Report of the Standing Senate Committee on National Finance (post-secondary education) tabled in the Senate on 25th March, 1987.—(*Honourable Senator Frith.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have been asking that this order stand in my name to give someone else an opportunity to speak to it. I have consulted with the chairman and he does not wish to speak to this matter further. No one else has expressed a wish to speak to it, and therefore I suggest that we consider it to be debated.

Motion agreed to and report adopted.

The Senate adjourned until tomorrow at 10 a.m.

APPENDIX

(*See p. 1473*)

CUSTOMS TARIFF AND DUTIES RELIEF ACT

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER OF BILL C-69

MONDAY, June 29, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-69, An Act to amend the Customs Tariff and the Duties Relief Act, in advance of the said Bill coming before the Senate or any matter relating thereto, has, in obedience to the Order of Reference of Tuesday, 16th June, 1987, examined the subject-matter of the Bill and now reports as follows:

The Committee heard evidence from Mr. Bill McCloskey, Assistant Director, Tariff Division and Ms. Carol Nelder-Corvari, Tariffs Officer, Tariff Division, Department of Finance.

Bill C-69 will implement the amendments to the *Customs Tariff* that were tabled by the Minister of Finance with his budget on 18th February, 1987. The amendments can be grouped into four categories.

1) Tariff changes sought by private industry.

2) Changes stemming from the commitment, made by Canada in the Tokyo round of trade negotiations, to examine "made/not made" tariff items. Tariff rates on items falling within this group are set by administrative decision and can change whenever a product begins or ceases to be produced in Canada. The amendments provided in the Bill stem from recommendations made by the Tariff Board, following an extensive study and across-the-country hearings on this issue.

3) Amendments to give statutory effect to the tariff increases imposed by the Government on 6th June, 1986, in response to the imposition by the United States of a 35% tariff on Canadian exports of cedar shakes and shingles. Items affected included Christmas trees, tea in tea bags, asphaltum oil, and diesel motor rail cars. In the budget of last February, the Minister announced that, effective 19th February, 1987, the tariffs on these items would revert to the rates in effect prior to 6th June, 1986.

4) Technical amendments to ensure consistency between the English and French versions of the *Customs Tariff*.

Officials testified that they had received only one intervention in opposition to the measures proposed in the Bill. Skega Canada Ltd., of North Bay, Ontario, a producer of rubber wear products, objects to the amendment to tariff item 61800-1 contained in Schedule I of the Bill, which would increase the rate of duty on compound rubber from zero to 10.3%. The purpose of the amendment is to restore the level of tariff protection that was in existence prior to an administrative re-classification ruling by the Tariff Board.

According to information provided by the officials, the Minister of Finance has concluded that the continued duty-free entry of compounded rubber would have a severe adverse impact on the operations of several domestic rubber producers. The parties which are supportive of the amendment include:

The Rubber Association of Canada, Mississsauga, Ontario
American Biltrite (Canada) Ltd., Sherbrooke, Quebec
CVL Products Ltd., Thorold, Ontario
Epton Industries Incorporated, Kitchener, Ontario
Rochevert Incorporated, Valleyfield, Quebec
Viceroy Rubber & Plastics Limited, Toronto, Ontario

Your Committee recommends that the Bill, when examined by the Senate, be favourably considered.

Respectfully submitted,

IAN SINCLAIR
Chairman

THE SENATE

Tuesday, June 30, 1987

The Senate met at 10 a.m., the Speaker in the Chair.

Prayers.

THE SENATE

MR. HAROLD A. KING—POSTMASTER—FELICITATIONS ON RETIREMENT

The Hon. the Speaker: Honourable senators, I should like to pay a special tribute to a long-time employee of the Senate, Mr. Harold A. King, who is retiring today.

Harold King is a native of Ottawa. He joined the Senate, as a page, on his birthday, January 23, 1940. Except for a brief period from 1943 to 1946 when he volunteered for active military service with the Canadian Armed Forces, he has spent a total of 47 years with the Senate.

Mr. King has held a number of positions since joining the Senate, such as messenger, constable with the Protective Service, clerk in Black Rod's office, postal clerk, Assistant Postmaster and, since 1968, Senate Postmaster.

In 1944 he married Adella Mracek of Saskatchewan and subsequently they had six children.

From 1952 to 1964 he was bugle major with the Governor General's Foot Guards.

I think that all senators would join me in wishing him a happy and healthy retirement.

Hon. Senators: Hear, hear!

[*Translation*]

SHIPPING CONFERENCES EXEMPTION BILL, 1987

FIRST READING

The Hon. the Speaker informed the Senate that a message has been received from the House of Commons with Bill C-21, to exempt shipping conference practices from the provisions of the Competition Act, to repeal the Shipping Conferences Exemption Act, 1979 and to amend other Acts in consequence thereof.

Bill read the first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

FINANCIAL INSTITUTIONS AND DEPOSIT INSURANCE SYSTEM AMENDMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, respecting financial institutions and the deposit insurance system.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO PRESENT REPORT LATER THIS DAY

Hon. Arthur Tremblay: Honourable senators, it was the intention of the Standing Committee on Social Affairs, Science and Technology to table at the beginning of the sitting its report on child benefits. We did not expect the Senate to be sitting at ten o'clock this morning, so the required number of copies for distribution in this House is being printed.

I will therefore ask for leave to revert to that item later in the day.

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

Hon. Senators: Agreed.

[*English*]

SHIPPING CONFERENCES EXEMPTION

REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ON SUBJECT MATTER OF BILL C-21 TABLED

Hon. Léopold Langlois, Chairman of the Standing Senate Committee on Transport and Communications, tabled the following report:

Tuesday, June 30, 1987

The Standing Senate Committee on Transport and Communications has the honour to present its

SIXTH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-21, Shipping Conferences Exemption

Act, 1986, has, in obedience to the Order of Reference of Thursday, November 27, 1986, examined the said subject-matter and now reports that it recommends that the said Bill, when examined by the Senate, be favourably considered.

Respectfully submitted,

LÉOPOLD LANGLOIS
Chairman

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is in cabinet. He will be with us later today. If any senator wishes to ask any questions, I will take them as notice.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think it would be better to revert to Question Period later, if we do have questions, so that we can put them to Senator Murray when he arrives.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): I thank honourable senators. In the meantime, I should like to supply the Senate with these delayed answers. I will read an answer if specifically requested to do so; otherwise, I would ask that these answers be taken as read.

NATIONAL STATISTICS COUNCIL

MEMBERSHIP—REGIONAL REPRESENTATION—REQUEST FOR ANSWER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on March 12, 1987, by the Honourable Charles McElman, regarding National Statistics Council—Membership—Regional Representation—Request for Answer.

(*The answer follows:*)

The Minister responsible for Statistics Canada has undertaken to improve regional representation on the National Statistics Council. The Minister will appoint at least two additional members from Atlantic Canada prior to the next meeting of the Council.

[Senator Langlois.]

FIJI

CURRENT POLITICAL SITUATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on May 26, 1987, by the Honourable John B. Stewart, regarding Fiji—Current Political Situation.

(*The answer follows:*)

The Secretary of State for External Affairs issued a statement on May 21st following the coup in Fiji. The statement deplored attempts to undermine Fiji's constitution and its parliamentary democracy through force of arms and expressed the hope that all groups in Fiji would seek to shape their nation's future through public discussion and the parliamentary process.

On June 11th, the Governor General of Fiji, who is now directly exercising his executive authority, announced a plan to return Fiji to parliamentary democracy, through a bi-paritisan process of public discussion and consensus building on constitutional reform and on the conditions under which new elections will be held.

On June 24th, the Secretary of State for External Affairs met with the Fiji High Commissioner to Canada and received further details of the Governor General's plan.

Despite the continuation of the state of emergency in Fiji, visitors have not been subject to harassment and there is no evidence to suggest that Canadian or other foreign visitors to Fiji face any unusual threat to their personal safety.

POST-SECONDARY EDUCATION

REQUEST FOR PROGRESS REPORT ON PROSPECTIVE NATIONAL FORUM

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on May 27, 1987, by the Honourable John B. Stewart, regarding Post-Secondary Education—Request for Progress Report on Prospective National Forum.

(*The answer follows:*)

The National Forum on Post-secondary Education is scheduled to take place in Saskatoon, Saskatchewan from October 25th through October 28th.

The objective of the National Forum is to explore the challenges and opportunities facing Canada's universities and colleges in preparation for the 21st century.

The National Forum Committee, the "arm's length" body created to plan, organize and run the event, has been hard at work since it was established on March 30th.

Under the chairmanship of Dr. Brian Segal, the Committee has chosen a format that will have a strong emphasis on workshops in order to permit the expression of views by the participants.

It is expected that the Forum will have between 500 and 600 participants chosen by the National Forum Committee. Participants will be attending the National Forum as individuals and not as representatives of organizations.

The National Forum on Post-secondary Education is being co-sponsored by the provinces and the federal government.

ANSWER TO ORDER PAPER QUESTION

REQUEST FOR CLARIFICATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on June 16, 1987 by the Honourable B. Alasdair Graham, seeking an update of figures provided in Order Paper question No. 7.

(*The answer follows:*)

An update of these figures has been requested and a complete response is expected by the end of the week. In the event that the Senate rises for the summer prior to the completion of the update, the figures will be provided to Senator Graham and tabled upon the return of the Senate.

EMPLOYMENT EQUITY

STATUS OF AMENDMENTS TO CANADIAN HUMAN RIGHTS ACT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 18, 1987, by the Honourable Lorna Marsden, regarding Employment Equity—Status of Amendments to Canadian Human Rights Act.

(*The answer follows:*)

The Employment Equity Act is in full operation. In fact, by taking into account suggestions by the Canadian Human Rights Commission and others, the Employment Equity Act was amended to provide for the development of employment equity plans, and for the forwarding of employment equity reports to the Canadian Human Rights Commission. The Commission reaffirmed in their recent Annual Report that they will be using the data generated by the Employment Equity Act to increase the representation of women, natives, visible minorities and the disabled in the work force. The pursuit of employment equity was bolstered last week when the Supreme Court of Canada made a very important ruling which confirmed that the Canadian Human Rights tribunals may impose affirmative action programs.

While the Government, of course, appreciates suggestions for improvement, it is important to stress that this Government, which was the first to provide for employment equity, has an effective program for the implementation of employment equity in Canada. The Minister of Justice has given his undertaking to look very carefully at the recommendations and suggestions announced last week by the Chief Commissioner of the Canadian Human Rights Commission.

With respect to the overall review of the Canadian Human Rights Act, it is not possible to say specifically when any amendments will be introduced, but the Government is moving as quickly as possible to complete the review.

ENERGY

DOME PETROLEUM-AMOCO CANADA TRANSACTION—AVAILABILITY OF DOCUMENTS TO GOVERNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on June 18, 1987 by the Honourable John B. Stewart, regarding Energy—Dome Petroleum-Amoco Canada Transaction—Availability of Documents to Government.

Hon. John B. Stewart: Would the Deputy Leader of the Government read out the answer to my question concerning Dome Petroleum?

Senator Doody: Yes, senator. The answer reads as follows:

The Government has not received a copy of the bidding rules set by Dome, nor a copy of each of the three bids made to Dome. It has, however, received a copy of the Arrangement Agreement between Amoco and Dome, which is in the public domain.

The Minister responsible for Investment Canada is not empowered to compare bids in determining the net benefit of a proposed acquisition on Canada. In accordance with the Investment Canada Act, acquisition proposals must be judged on their own merits.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask a question brought on by the answer? The expression "government" was used, namely, that the government had not received bids. Can I take it that the word "government" applies also to officials of the government rather than members of the government?

Senator Doody: Honourable senators, I would assume so; but I will ask for confirmation of that.

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—ADVISORY GROUP—FEMALE REPRESENTATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 22, 1987, by the Honourable Lorna Marsden, regarding Canada-United States Relations—Free Trade Negotiations—Advisory Group—Female Representation.

(*The answer follows:*)

Below is a list of members serving on that Committee, with their gender identified:

INTERNATIONAL TRADE ADVISORY COMMITTEE

Mr. W.F. Light
Chairman
International Trade Advisory Committee
Mr. M. F. Belanger
Chairman and Chief Executive Officer
National Bank of Canada
Mr. Laurent Beaudoin
Chairman of the Board and Chief Executive Officer
Mr. Roger Charbonneau
Chairman of the Board
Ecole des Hautes Etudes Commerciales
Mr. Raymond A. Chevrier
Consultant
Celanese Canada Inc.
Mr. David Culver
Chief Executive Officer
Alcan Aluminium Ltd.
Mrs. M. S. Dobrin
Chairman and Chief Executive Officer
DBRN Holding Inc.
Dr. Regis Duffy
President
Diagnostic Chemicals Ltd.
Mr. J.D. Fleck
Chairman and Chief Executive Officer
Fleck Manufacturing Inc.
Mr. L. Yves Fortier, O.C., Q.C.
Ogilvy, Renault
Mr. Jean-Paul Gourdeau
Chairman and Chief Executive Officer
The SNC Group
Mrs. Sally Hall
National President
Consumers' Association of Canada
Mr. Walter Kroeker
Past President
Canadian Horticultural Council
Mr. Arthur Lundrigan
Chairman
The Lundrigan Group Ltd.
Dr. John MacNamara
Chairman and Chief Executive Officer
The Algoma Steel Corporation Ltd.
Mr. Gerald J. Maier
President and Chief Executive Officer
TransCanada Pipelines Ltd.
Mr. R. S. Malinowski
Executive Vice President
Leon-Ram Enterprises Inc.
Mr. James A. McCambly
President
Canadian Federation of Labour
Mrs. W. B. McDonald
President
B.C. Bearing Engineers Ltd.
Mr. William O. Morrow
Chairman of the Board
National Sea Products Ltd.
Mr. Ted Newall
Chairman, President and Chief Executive Officer
Dupont Canada Inc.
Mr. Ron Osborne
President and Chief Operating Officer
MacLean Hunter Limited
Mr. A. Pelliccione
President
Primo Foods Limited
Ms. Maureen P. Prendiville
President
Prendiville Industries Ltd.
Mr. David H. Race
President and Chief Executive Officer
CAE Industries Ltd.
Mr. G. T. Richardson
President
James Richardson and Sons Ltd.
Dr. Alan Rugman
Director
Centre for International Business Studies
Mr. Thomas S. Simms
Chairman and Chief Executive Officer
T.S. Simms and Co Ltd.
Mr. J.H. Smith
President and Chief Executive Officer
Domtar Inc.
Mr. R. D. Southern
Chairman and Chief Executive Officer
ATCO Ltd.
Mr. E. K. Turner
Chairman and President
Saskatchewan Wheat Pool
Dr. Norman E. Wagner
President

[Senator Doody.]

University of Calgary
Mrs. Lise Watier
President
Lise Watier Cosmetique Inc.
Mr. L.R. Wilson
President and Chief Executive Officer
Redpath Industries Ltd.
Mr. Earl H. Orser
President and Chief Executive Officer
London Life
Mr. Roy T. Cottier
Office of the Chairman
International Trade Advisory Committee
Mr. Philippe de Gaspé Beaubien
Chairman of the Board and Chief Executive Officer
Telemedia Corporation

CANADA POST CORPORATION

POSTAL STRIKE—RECOMMENDATION OF CONCILIATOR—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 25, 1987, by the Honourable Hazen Argue, regarding Canada Post Corporation—Postal Strike—Recommendation of Conciliator—Government Action.

(*The answer follows:*)

The conciliation commissioner made passing reference to the financial constraints on Canada Post, but at no time recommended an extension of the 1988 break-even deadline.

OFFICIAL LANGUAGES

PROPOSED ADVISORY COUNCIL—COMPOSITION, ROLE AND TERMS OF REFERENCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 25, 1987, by the Honourable Dalia Wood, regarding Official Languages—Proposed Advisory Council—Composition, Role and Terms of Reference—Request for Answers.

(*The answer follows:*)

As the Minister of Justice indicated in his remarks last Thursday, the Official Languages Bill, a strengthened and up-dated version of the 1969 legislation, will restore conformity with constitutional language rights, and will ensure greater linguistic equality of opportunity to all Canadians, regardless of mother tongue or ethnic origin. It also embodies a clear policy thrust of the federal government to advance the status and the use of the official languages in Canadian society and to enhance the vitality of minority language communities throughout Canada.

The Official Languages Bill provides a specific mandate for the Secretary of State to take such measures as he considers appropriate to advance the equality of status and use of English and French in Canadian society and to ensure public consultation in the development of policies and review of programs relating to that advancement.

The Secretary of State has announced that he will be establishing, pursuant to these provisions, a Canadian Council on Official Languages to advise the Government on the promotion of the official languages in Canadian society. The Council will have a broad representation from all segments of Canadian society and is to provide a forum for discussion of major official languages matters. For instance, the Government could seek the advice of the Council on how best to consult and to cooperate with the private and voluntary sectors to ensure that Canadians can participate in both English and French in the many areas of Canadian society touched by these sectors, and receive services from them in both official languages. The Secretary of State has indicated that he will be consulting the minority communities and other interested parties, including the Commissioner of Official Languages, on the Council's mandate and composition.

AVAILABILITY OF DELAYED ANSWERS

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, since these delayed answers will not appear in *Debates of the Senate* until tomorrow, or whenever the Senate returns, perhaps the Deputy Leader of the Government could have copies made and distributed to those senators involved, because they may want to ask follow-up questions when Senator Murray arrives later today.

Hon. C. William Doody (Deputy Leader of the Government): Yes.

REQUEST FOR ANSWERS

Hon. H.A. Olson: Honourable senators, I am rather disappointed, to say the least, in the number of delayed answers provided by the Deputy Leader of the Government this morning, inasmuch as this may be the last day of sitting before the summer recess.

Hon. C. William Doody (Deputy Leader of the Government): There will be some more coming this afternoon. Perhaps yours will be in the next batch.

Senator Olson: That would be helpful; but I draw to the attention of the Deputy Leader of the Government particularly the questions that I have been asking about acreage payments for the 1987 crop year; the undertaking to obtain information on transportation charges with respect to a ruling made by the Federal Regulation Agency in the United States respecting natural gas; and the question which I asked yesterday as to

whether or not a number of CN executive positions will be transferred out of Edmonton.

Perhaps the deputy leader will try to provide answers later today, since this may be our last opportunity before the summer recess to question him on these matters.

Senator Doody: I will certainly try again, although I think the premise is rather optimistic in terms of this being our last day.

Senator Argue: He did not come down on either side. He said this "may be" the last day; and you said it may not be.

Senator Doody: I was as cautious as the honourable senator.

ANSWER TO ORDER PAPER QUESTION

NATIVE ECONOMIC PROGRAM

Question No. 16 on the Order Paper—**By Honourable Willie Adams**

14th April, 1987—Concerning the Native economic program which was established in 1971 and which received a two-year extension as of March 31, 1987 (i) how much money has been allocated to each of the concerned provinces during the past year and could a list of the companies having received funds be provided; and (ii) how does a company qualify for Native economic programs under the Department of Regional Industrial Expansion?

Reply by the Minister of State—Small Businesses and Tourism:

The Native Economic Program which was initiated in 1971 and which received a two-year extension as of March 31, 1987, is a series of special agreements under the Agricultural and Rural Development Act (Special ARDA). In reply to the above question related to Special ARDA and to the other Native economic programs administered by the Department of Regional Industrial Expansion (DRIE), the following information is provided.

(i) Federal funding for the Special ARDA program is not allocated on a provincial or territorial basis, but rather is available for eligible projects regardless of province or territory of origin. Offers of Special ARDA federal funding accepted in each province or territory during fiscal year 1986/87 are as follows ($ million):

British Columbia	8.0
Manitoba	5.7
Northwest Territories	3.9
Saskatchewan	5.0
Yukon	0.8

A list, by province or territory, of establishments which received assistance from the Department of Regional Industrial Expansion, under the Special ARDA program during 1986/87 is attached in Annex A.

(ii) The Department of Regional Industrial Expansion has three program initiatives targeted to Native economic development: the Canada-wide Native Economic Development Program (NEDP), and two series of federal-provincial agreements, Special ARDA available in five jurisdictions, and Northern Development Agreements between Canada and Manitoba, Saskatchewan and Alberta. Each program initiative has its own set of eligibility criteria which a company must meet in order to qualify for financial assistance. Principal eligibility criteria for each program are attached as Annex B.

[Senator Olson.]

ANNEX A

LIST OF ESTABLISHMENT WHICH RECEIVED DRIE SPECIAL ARDA ASSISTANCE DURING FISCAL YEAR 1986-87 BY PROVINCE OR TERRITORY

SPECIAL ARDA—BRITISH COLUMBIA ESTABLISHMENTS WHICH RECEIVED DRIE ASSISTANCE DURING FISCAL YEAR 1986-1987

SPECIAL ARDA—BRITISH COLUMBIA APRIL 1, 1986 TO MARCH 31, 1987

ANTOINE ALBERT
DIANA AUGUST
UNITED NATIVE NATIONS
WESTERN INDIAN AGRICULTURAL CORPORATION
COLUMBIA LAKE INDIAN BAND
WILLIAMS, RACHEL
LAVOIE, MARIE AND DICK, TONY
DAVIDSON, CLAUDE
BAPTISTE, PETER
BAPTISTE EDWARD
ALEC AND MONICA PAUL
CHU CHUA AGRICULTURAL CORPORATION
TOOSEY INDIAN BAND
HEILSUK TRIBAL COUNCIL
MARCHAND, ROBERT
ORIGINAL INDUSTRIES INC.
SAM, HOWARD
MRS. BERTHA CARDINAL
MORRIS FRANK
SOLOMON, HENRY
HOLMES, HOWARD
WILLIAMS LAKE INDIAN BAND

WILLIAMS, EUGENE AND RAPHAEL
MARTIN, EVA
VICKERS, ROY
CAHOOSE, TIMOTHY
HINK, LESLIE & HAINES QUILT JOANNA
CALLIOU, EDWARD F.
ISKUT INDIAN BAND
FORT WARE INDIAN BAND
BEAULIEU, LAWRENCE & ROBERTSON, ROBERT
WILLIAMS, RANDOLPH R.
SEYMOUR, DANIEL
VERN MARION
KLAHOOSE INDIAN BAND
SAM, KENNY
NANOOSE INDIAN BAND
JOHNNY, FRANCIS
JOHNNY, DOUGLAS
NUXALK COMMUNICATION SOCIETY
YAROSHUK, MARLA
SULIN DAVID
ALEXANDRIA INDIAN BAND
JOE, FRANCIS
NANOOSE INDIAN BAND
HARTLEY BAY BAND COUNCIL
YORKE DON
HANSEN, HILDA
STEWART, JEANETTE MATILDA
PHELAN, ROBERT
M. GEORGE, HUBERT M.
CANIN LAKE AGRICULTURAL CO-OPERATIVE
ALEXIS CREEK BAND
KITASOO BAND COUNCIL
STONEY CREEK ELDERS
HALFWAY RIVER BAND
MACK, DAYTON
SKALOAW DEVELOPMENT SOCIETY
CANYON CITY BAND COUNCIL
ROBINSON RUSSELL
HILL JERRY
LEON LENNY
CANADIAN EXECUTIVE SERVICES OVERSEAS
GEOFF & GLORIA SAM
ELIZA & LESLIE HUNLIN
TOBACCO PLAINS BAND
DOIG RIVER BAND
GITWANGAK BAND COUNCIL
TAKU RIVER TLINGITS
GOTTFRIEDSON, JOHN
MR. & MRS. NELSON WILLIAMS
EUSTACHE, FRED
ADAMS, JERRY
WALTER HARRIS
NIMPKISH OYSTER COMPANY
DAVE & RAY WILLIAMS
HESQUIAHT INDIAN BAND
TIMOTHY TOMMY
NUCHATLAHT BAND COUNCIL
AHOUSAHT INDIAN BAND
LEBOURDAIS, RICHARD
NELSON GEORGINA & LISA
ALEXANDRIA TRAPPERS
OPPENHEIM PHILLIP
ARCHIE CHARLES
VINCENT STEWART
LOWER POST NICOLA BAND
JOHNSON HOWARD R.
GUICHON, SAM
LULUA, MARTIN
LAWRENCE, WILLIAM
ALEXANDER DAVE & MCRAE WALTER
CHARLIE MARVIN
ALKALI LAKE INDIAN BAND
ALKALI LAKE INDIAN BAND
LOUIS, CLARENCE M.
NORTH THOMPSON FEED LOTS LTD.
ARROWHEAD CONSTRUCTION
MULDOE, GEORGE
UCLUELET INDIAN BAND
SAM, JOHN
GABRIEL, EMORY
MANUEL, DON
HARVEY, HAROLD
DENEAULT, BERT
ANDERSON LAKE BAND
SKEETCHESTYN INDIAN BAND
JOHNNY, JOANNA
BONNEAU, REYNOLDS
G. ALLARY ENTERPRISES LIMITED
JACK, JOHN B.
TSAWATAINEUK INDIAN BAND
WARD, MARJORIE
DICK, RALPH JR & LYNNE DICK
BELLA COOLA INDIAN BAND

CHIEF DAN GEORGE MEMORIAL SOCIETY
QUINN, DAVID
JACOBS, WILFRED
SETON LAKE INDIAN BAND
GEORGE, ROGER
JOSEPH, MARTHA
BOYER ELZEAR
HOY MELVIN W.
SAM, ANTHONY
SAULTEAU INDIAN BAND
BROTCHIE, KEN
ASSU, BRIAN
STOLO TRIBAL COUNCIL
MORICETOWN INDIAN BAND
B.C. ABORIGINAL PEOPLES' FISHERIES COMM.
BRUCE CREYKE
DICK, RALPH
TOM, JEROME
MOODY, DAVID
DENEAULT, FRANCIS
HOPE, EVERT JOHN
PETERS, ROBERTA
SKULSH, MARLAINE
SCOW, PAULINE
CROCKER, LOIS
BROTCHIE, NORMAN
GOOD HOPE LAKE UNITED NATIVE NATIONS
LEIGHTON, HAROLD JR.
ETIENNE JOSEPH
CLAPPIS, CHESTER GEORGE & ZELDA MARIE
SAM, RENA
RUNDQUIST, WINONA
GRAND SLAM BATTING RANGE
BROWN ALLAN A.
CHEHALIS INDIAN BAND
PAUQUACHIN BAND COUNCIL
CANOE CREEK INDIAN BAND
NEMIAH VALLEY INDIAN BAND
BAMFIELD SPORTS FISHING AND RESORT LTD.
JOHNSON, GORDON AND BRETT
STUART TREMBLEUR BAND YOUTH ORG.
WILSON, BARBARA J.
JACK, ARCHIE
NATIVE PRIDE AQUACULTURE CORPORATION
BROWN, JIM
ELLIOTT, ROBERT EDMUND
GRAVELLE, MARIAN
MORICETOWN SAWMILL NO. 2 INC.
TAYLOR, PATRICK JR.
CROSBY, WILLIS ARTHUR
OLNEY, CAREY
PIUS, LAZARE
MORRISON, MICHAEL R.
PLANES, JOHN
BOB, LARRY JOSEPH
ALFRED DAVID JAMES
PLANES, JACK E.
MILLER, WALLACE H.
SOOWAHLIE INDIAN BAND
OLSEN, SYLVIA
JACK, JIMMY AND MARY
STEWART, ROBERT
TOM, THEODORE & LORRAINE
EATON, ROBERT JOHN
SADDLEMAN, ALBERT
CARRIER-SEKANI TRIBAL COUNCIL
QUIST, DAVID KENNETH
CANIM LAKE TRAPPERS ASSOCIATION
MOSES, ROBERT
PETERS, SIMON THOMAS
CHICKITE, KEN
LACEESE, ROSY
SOLOMON, ARNOLD
ISNARDY, WILLIAM
COLDWELL, BETTY-ANN & O'REILLY, KEN
JULES, RICHARD & JOSEPH
KITIMAAT INDIAN BAND
TAHLTAN TRIBAL COUNCIL

SPECIAL ARDA—MANITOBA ESTABLISHMENTS WHICH RECEIVED DRIE ASSISTANCE DURING FISCAL YEAR 1986-1987

SPECIAL ARDA—MANITOBA
APRIL 1, 1986 TO MARCH 31, 1987

GRAND RAPIDS FISHERMEN'S CO-OP
LITTLE SASKATCHEWAN BAND PROJECT
WA-WAS-TAIK BUILDING SUPPLIES LTD.
EASTERVILLE FISHERMEN'S ASSOC. INC.
CROSS LAKE LOCAL FUR COUNCIL
GARDEN HILL LOCAL FUR COUNCIL
RED DEER LAKE FISHERMEN'S ASSOCIATION
SOUTH INDIAN LAKE FISHERMEN'S ASSOCIATION
WATERHEN FISHERMEN'S ASSOCIATIONA

THICKET PORTAGE LOCAL FUR COUNCIL
WASSAGAMACH FISHERMEN'S ASSOCIATION
BIG BLACK RIVER COOP
FFMC CATFISH CREEK FISH STATION
FRESH WATER FISH MARKETING CORP. (FFMC)
MOSSE LAKE FISHERMEN'S ASSOCIATION
LAKE WINNIPEG AREA 12 FISHERMEN'S ASSOCIATION
WANIPIGOW PRODUCER COOP LTD.
CAMPERDUCK LOCAL FUR COUNCIL
INDIAN BIRCH LOCAL FUR COUNCIL
GODS RIVER LOCAL FUR COUNCIL
EASTERVILLE FISHERMEN'S ASSOCIATION
SELKIRK FISH STATION
FAIRFORD FISHERMEN'S ASSOCIATION
SASKATCHEWAN RIVER FISHERMEN'S ASSOCIATION
GODS COUNTRY LODGE LTD.
PEQUIS AUTO WRECKING & PARTS
KISSISSING LAKE LODGE
TEMPLE'S TRADING POST
THOMPSON BUS LINES
LAPLANTE'S GROCERY STORE
LIBAU INN
GUNASAO RIVER ENTERPRISES
HAROLD COCHRANE
RAMBLING FEVER BAND
BRANDON INN
TACAN TRANSPORT
BEAR CLAW ENTERPRISES LTD.
INDIAN BIRCH FISHERMEN'S ASSOCIATION
ESAU SINCLAIR
YOUNG'S POINT TAXI
WATERHEN INDIAN BAND
ROBERT MCLEAN AND ARCHIE WOODHOUSE
NORTHLAND DIESEL & INDUSTRIAL LTD.
GOURMET RESTAURANT
CORMORANT FISHERMEN'S ASSOCIATION
CRANBERRY PORTAGE FISHERMEN'S ASSOCIATION
GOOD HARBOUR CO-OP FISHERIES LTD.
FISHER RIVER BAND OF INDIANS
MATHESON ISLAND FISH MARKETING CO-OP
NELSON HOUSE FISHERMEN'S ASSOCIATION
PIKWITONEI FISHERMEN'S ASSOCIATION
WABOWDEN FISHERMEN'S ASSOCIATION
PUKATAWAGAN FISHERMEN'S ASSOCIATION
SNOW LAKE FISHERMEN'S ASSOCIATION
THICKET PORTAGE FISHERMEN'S ASSOCIATION
FOREST GROVE GROCETERIA & TRAILER PARK
JAY'S BEATY SALON
LAKE MANITOBA NARROWS LODGE LTD.
LAKESHORE LAND IMPROVEMENT CO-OP
ROY'S DRIVE INN & LAUNDROMAT
LAKE MANITOBA BAND VEGETABLE GARDEN
72902 MANITOBA LTD.
TRAVERSE BAY FISH CO-OP LTD.
E.E. QUAY INC. (O/A DELORAINE MOTOR INN)
JENNY'S HARDWARE STORE
MCKAY GUEST RANCH
CHARLIE CAMERON
PEGUIS DEVELOPMENT CORPORATION LTD.
MR. FRED SPENCE
MOOSE LAKE INDIAN BAND VEGETABLE GARDEN PROJECT
OAK LAKE SIOUX INDIAN BAND
CARDEAGER FORD MERCURY SALES LTD. II
BEAULIEU HOLDINGS LIMITED
BICKEL'S GENERAL STORE
MEADOW PORTAGE DEVELOPMENT CORPORATION
NORTH KNIFE LAKE LODGE
DU LAC AUTO SALES
BROCHET LCOAL FUR COUNCIL
THE NARROWS FISHERIES CO-OP LTD.
PUKATAWAGAN FISHERMEN'S ASSOCIATION
SPLIT LAKE LOCAL FUR COUNCIL
O. MERCREDI-POOL HALL & AMUSEMENT ARCADE
ROXY'S DRIVE INN
SHAMATTAWA LOCAL FUR COUNCIL
DU LAC AUTO SALES
FLEECE LINE VENTURES LTD.
GUNISAO LAKE LODGE
JIM RASTEL VIDEO RENTALS
EDGAR SWAMPY
LOUIS WATT STORE
WILF'S REPAIR SHOP
AXEL EASTER SERVICE STATION
PEOPLE'S STORE/GAS BAR
CLIFFORD SHORTING

HARRY WOOD
GORDON K. KIRKNESS
JOE'S RECREATION CENTRE
G & E CONSTRUCTION LTD.
ANDREW KIRKNESS
TAYLOR TRUCKING
DAVID KIRKNESS
K.S.M. FUTURES LTD.
TRAPPER DON'S LODGE II
KELLY BRAUN
HALL LOGGERS
RICHARD A. HALL
ABEL HALL
BRIAN SHLACHETKA
ALLEN SHUTTLEWORTH TRUCKING
WALTER SINCLAIR
GEORGE SANDERSON
OLIVER SANDERSON
SWAMPER'S GARAGE
BARBARA POMPANA
PETERS AIRCRAFT PAINTING
RAY DOR RESOURCES LTD.
GARY D. BASS
GRANVILLE LAKE LOCAL FUR COUNCIL
PUKATAWAGAN LOCAL FUR COUNCIL
JOE'S TAXI
KRYSTAL FASHIONS
KEEWATIN TAXI COMPANY
KENNETH RAY MYERS
STORE OF ECONOMY "85"
JACK RIVER WOOD SUPPLY & SERVICES LTD.
ROGER'S LANDSCAPING
STAJAN CORPORATION LTD.
KOZY'S KITCHEN/GONDOLA PIZZA
TOTEM DRILLING
GLADY'S COFFEE SHOP
GILBERT MUNROE HARDWARE
FISHING LAKE & LITTLE GRAND RAPIDS LODGE
GAREAU BACKHOE SERVICE
DAVE'S AUTO BODY
LOUIS PAYETTE TRUCKING AND LANDSCAPING
NOR WEST HOLDINGS LTD.
EASTMAN CONVENIENCE STORE
FLIN FLON/CRANBERRY PORTAGE LFC
MOOSE LAKE LOCAL FUR COUNCIL
SHERRIDON LOCAL FUR COUNCIL
CORMORANT LOCAL FUR COUNCIL
HERB LAKE/SNOW LAKE LOCAL FUR COUNCIL
PASHE TRANSPORT INC. (TBI)
MATHIAS COLOMB CHILD CARE
FORT ISLAND ENTERPRISES INC.
59512 MANITOBA LTD.
LANGRUTH GAS BAR
ARNOLD'S ESSO SERVICE STATION
SHIRLEY'S RESTAURANT
ALVIN THOMPSON
MCRAE'S NORTHERN ENTERPRISES LTD. (TBI)
SAND DUNE RESTAURANT INC.
MOOSE LAKE FISHERMEN'S ASSOCIATION
ILFORD LFC COMMUNICATION & TRAPPER CABIN
JOSEPH JAMES PAUPANEKIS
NANUK GOOSE CAMP
COOK'S CAMPS
J & I WELDING LTD.
LANDERVILLE LOGGING (TBI)
MARC'S TEXACO
PAINT LAKE MARINA
MUSKEGO AIR LIMITED
WILLIAM MURDOCK
FISHER AMBULANCE SERVICE LTD.
LITTLE SASKATCHEWAN IB VEGETABLE GARDEN ASSOCIATION
WAYWAYSEECAPPO IB VEGETABLE GARDEN PROJECT
EBB & FLOW IB VEGETABLE GARDEN ASSOCIATION
ROLLING RIVER IB VEGETABLE GARDEN ASSOCIATION
KEESEEKOOWENIN IB VEGETABLE GARDEN ASSOCIATION
KINGO-ANS SPORTING GOODS
INTERLAKE PACKERS LTD.
COMMERCIAL FISHERMEN'S FISH SILAGE PROD.
SWAN AUTO SUPPLY LTD.
NORTH COUNTRY ARCHERY INC.
LAWRENCE MYRAN
MOWAT SALES LTD.
ALLEN W. SHUTTLEWORTH
LAKE OF THE PRATRIES MARINA
BIRDTAIL SIOUX GROCERY STORE/GAS BAR

[Senator Adams.]

W.F. HOLT ENTERPRISES LTD.
JACK'S WELDING & REPAIR
THOMPSON'S GENERAL STORE
LARRY COOKE GRAVEL & STRUCKING
PILOT MOUND ESSO
JAMES NEPINAK
PLOURDE'S WOODCRAFT
B.W. ENTERPRISES
DRAFT ENTERPRISES LTD.
LA PEQUETTE HOTEL
SAGKEENG SENIOR CITIZENS HOSTEL CENTRE
PAUL ENTERPRISES (ROBLIN) LTD.
GOODMAN'S LANDING FISH STATION
SPLIT LAKE FISHERMEN'S ASSOCIATION IV
WINNIPEGOSIS CO-OP FISHERIES LTD.
HOLLOW WATER INDIAN BAND GARDEN PROJECT
SWAN LAKE INDIAN BAND GARDEN PROJECT
SIOUX VALLEY INDIAN BAND VEGETABLE GARDEN PROJECT
ILFORD FISHERMEN'S ASSOCIATION
MATHESON ISLAND COOP FA
CAMPBELL MANNINGWAY
PINE CREEK INDIAN BAND GARDEN PROJECTS
ROSEAU RIVER BAND GARDEN PROJECT
BERENS RIVER FISH STATION
BIG BLACK RIVER COOP LTD. FISH STATION
LAKE WINNIPEGOSIS COOP GOOD HARBOUR STATION
KOOSTATAK FISHERIES LTD.
PETER R. COURCHENE
HEAD & SONS BUS SERVICE
PAUINGASSI LOCAL FUR COUNCIL
LITTLE GRAND RAPIDS LOCAL FUR COUNCIL
H & R SPORTS
OAK POINT—ST LAURENT SEPTIC SERVICES
PRATRIE TANNERS
INDIAN COUNTRY PRESS CANADA
EMIL'S HAIRSTYLING
NORWAY HOUSE FISHERMEN'S COOP LTD.
HENRY MANINGWAY
BRUCE B OULETTE
R & N IGA
LEPERRE'S WATERHEN TOURIST CAMP
MANIGOTAGAN FISHERMEN'S ASSOCIATION
FORT ALEXANDER LOCAL FUR COUNCIL
KOSSACK'S ALLIED HARDWARE LTD.
CAMPBELL TAXI
HARVEY SEVERITE
FISHER RIVER PERSONAL CARE HOME
JOE HERIE
LITTLE BLACK/BLOODVEIN/POPLAR RIVER
POPLAR RIVER LOCAL FUR COUNCIL
OXFORD HOUSE LOCAL FUR COUNCIL
BIG BLACK RIVER LOCAL FUR COUNCIL
MATHESON ISLAND LOCAL FUR COUNCIL
WASSAGAMACH LOCAL FUR COUNCIL
DAUPHIN LEATHER & CANVAS TRG CENTRE
CANADIAN PICKLES CORPORATION
NORDEVCO LTD.
DAKOTA VENTURES LTD. (TBI)
BOOTH ENTERPRISES
WASSAGAMACH BAND STORE
GRAND RAPIDS LOCAL FUR COUNCIL
LAKE MANITOBA RESTAURANT AND SNACK BAR
LA SALLE MOTOR HOTEL
H.R.N.D. MINING & MILLING CO. LTD.
TRIPLE B DINER
DWYER'S STORE
WAPUN SECURITY SERVICES
PROCUPINE/BIRCH RIVER LOCAL FUR COUNCIL
SHOAL RIVER/DAWSON BAY LOCAL FUR COUNCIL
RED DEER LAKE/BARROWS LOCAL FUR COUNCIL
ST. THERESA POINT LOCAL FUR COUNCIL
GODS LAKE NARROWS LOCAL FUR COUNCIL
RED SUCKER LAKE ARCADE
ROSE BRUCE
RUSSEL SEPTIC SERVICE
MIDWAY SERVICE
TERRY & JEAN ENTERPRISES
ELLEN AND JOSEPH D. HOLT
AARON WILLIAM MCKAY
DAUPHIN RIVER LOCAL FUR COUNCIL
CRANE RIVER LOCAL FUR COUNCIL
JACKHEAD LOCAL FUR COUNCIL
LITTLE SASKATCHEWAN LOCAL FUR COUNCIL
LAKE ST. MARTIN LOCAL FUR COUNCIL
HARRIET KEMP

BLACK TOWER PIZZA RESTAURANT
NOR-SLED & SUPPLIES LTD.
NOTIGI HIGHWAY SERVICE CENTRE
HUNTINGHAWK ENTERPRISES
THE YARN BARN
NATIVE COMMUNICATIONS INC.
PAUL LAMOUREUX
EASTERVILLE LOCAL FUR COUNCIL
MANIGOTAGAN LOCAL FUR COUNCIL
ST. LAURENT DEVELOPMENT CORPORATION
CLEE'S TAXI
PARKLAND SLEDS & WHEELS
RAYMOND STADFELD
BIRDTAIL SIOUX BAND VEGETABLE GARDEN ASSOCIATION
BROKENHEAD BAND VEGETABLE GARDEN ASSOCIATION
LITTLE BLACK RIVER BAND VEGETABLE GARDEN ASSOCIATION
MANIGOTAGAN COMMUNITY VEGETABLE GARDEN ASSOCIATION
SHILO RIDING STABLES
SHORECREST REST HOME
OXFORD HOUSE BAND VEGETABLE GARDEN ASSOCIATION
ST. THERESA POINT BAND VEGETABLE GARDEN ASSOCIATION
TURTLE MOUNTAIN COMMUNITY VEGETABLE GARDEN
VALLEY RIVER BAND VEGETABLE GARDEN ASSOCIATION
WATERHEN BAND VEGETABLE GARDEN ASSOCIATION
MALCOLM PULP & MILL SUPPLIES & SERVICES
ED'S TRUCKING
CROSS LAKE FISHERMEN'S ASSOCIATION
LAFRENIERE LOGGING
ALONSA TRANSFER
YVETTE M. DUMONT
TOM MYERION
BAR "A" TRAINING CENTRE
CHALET INN
THE FLOWING ART OF COBINESS
RON'S AUTOBODY LTD.
KEN BRAUN-MONIAS
DAN-WAY TRANSPORTATION LTD.
KENNETH LEONARD CHABOYER
THOMAS OKEMOW
DAKOTA MANUFACTURING LTD.

SPECIAL ARDA—NORTHWEST TERRITORIES ESTABLISHMENTS WHICH RECEIVED DRIE ASSISTANCE DURING FISCAL YEAR 1986-1987

SPECIAL ARDA—NORTHWEST TERRITORIES APRIL 1, 1986 TO MARCH 31, 1987

M. EVALUARDJUK/I. UNGALAQ
JOSUA KANGO
TIMBERLINE PAINTING
RAE BAND
FORT SIMPSON DENE BAND COUNCIL
CHRISTINA FELIX
FRONTIER VILLAGE CONFECTIONERY
YELLOWKNIFE DENE B BAND
FORT WRIGLEY DENE BAND
KUGLUKTUK HTA
KIKERTALUK FISH CAMP
ALEX RICHARDSON
PELLY BAY HTA
FORT SMITH DENE BAND
CLYDE RIVER HTA
YELLOWKNIFE HTA
PANGNIRTUNG ESKIMO CO-OPERATIVE
ULU FOODS
SIMON PEWATUALUK
SNOWDRIFT DENE BAND
FORT NORMAN METIS LOCAL #60
OKHOOKTOOK HTA
ISLAND EQUIPMENT LTD.
PAUL BROTHERS WELDING LTD.
KEEWATIN NORTHERN LIGHTS OUTFITTING
DON MORIN
SIGYAMIUT LTD.
JOHN LENNIE
JOHN NAULT
JOHN B. ZOE
ARCTIC FISHING LODGES AND OUTFITTERS
LOU'S SMALL ENGINES AND SPORTS LTD.
TUKTOYAKTUK HTA
BROUGHTON ISLAND HTA
HALL BEACH HTA
IGLOOLIK HTA
LAKE HARBOUR HTA
RESOLUTE BAY HTA
SANIKILUAQ HTA

MINGUUQ SEWING GROUP
CHESTERFIELD INLET FISHERMEN'S ASSOCIATION
HAMLET COUNCIL OF CORAL HARBOUR
AARQUISSIJIT HTA
OLUKHATOMIUT HTA
CRESSWELL BAY OUTPOST CAMP
AARQUISSIJIT HTA
AARQUISSIJIT HTA
RAE LAKES BAND COUNCIL
FORT NORMAN HTA
SNOWDRIFT DENE BAND COUNCIL
WEST BAFFIN ESKIMO COOPERATIVE LTD.
RAE EDZO DENE BAND DEVELOPMENT CORP.
GEORGE MANDEVILLE
INUVIK HTA
BROWN'S MOVING & STORAGE LTD.
KIMIK COOPERATIVE ASSOCIATION LIMITED
TOM KUDLOO
NUNASI CORPORATION
IKALUKTUTIAK CO-OPERATIVE LTD.
HOLMAN ESKIMO CO-OPERATIVE
QUYTA LAKE HOLDINGS
AKLAVIK DENE METIS COUNCIL
SPENCE BAY HTA
GJOA HAVEN HTA
ARCTIC RED RIVER HTA
SARAH CLEARY
851853 NWT LTD.
RONALD STORR
MANTON BUILDING SUPPLIES (1986) LTD.
TOOMA & LEONARD NETSER
JOHN LOUISON
FORT NORMAN METIS ENTERPRISES LTD.
129888 CANADA INC.
LEON SANDERSON
ANDRE TAUTU
BILL NORN
BILL & AGATHA CRAWFORD
DRUM LAKE LODGE LTD.
861969 LTD.
DEH CHO AIR LTD.
QUYTA HOLDINGS LTD.
BELUGA TRANSPORTATION EQUIPMENT PURCHASE
FORT FRANKLIN HUNTERS & TRAPPERS ASSOCIATION
821423 NWT HOLDINGS LTD.
LEONARD PUTILIK
MACKENZIE DELTA REGIONAL DEVELOPMENT CORPORATION LTD.
MONKMAN PLUMBING & HEATING LTD.
BAKER LAKE HAMLET COUNCIL
DENINOO COMMUNITY COUNCIL
MRS. ROSE DAVIES
NAHANNI BUTTE DENE BAND
FORT NORMAN BAND
ENOKHOK DEVELOPMENT CORPORATION
LOON AIR LTD.
TALOYOAK CRAFTS LIMITED
RAYMOND NINGEOCHEAK & GUY ENUAPIK
FORT FRANKLIN DENE DEVELOPMENT CORPORATION
WHALE COVE H.T.A.
DENENDEH DEVELOPMENT CORPORATION
TURJORMIVIK HOTEL
PAULATUK HTA
FORT PROVIDENCE HTA
ROCHER RIVER HTA
IKAJUTIT HTA
FORT RESOLUTION HTA
HAY RIVER DENE BAND
BROWNS TRANSPORT LTD.
SACHS HARBOUR HUNTERS & TRAPPERS ASSOCIATION
FORT SMITH HTA
AMAROK HTA
PITSUILAK CO-OP ASSOCIATION LTD.
PANGNIRTUNG H.T.A.
MCDONALD BROTHERS ELECTRIC LTD.
SANAVIK CO-OPERATIVE
IKAHUK CO-OPERATIVE LTD.
KAPAMI CO-OPERATIVE ASSOCIATION LTD.
GEORGE BLOOMSTRAND
POND INLET HTA
TUGALIK LTD.
D. MICKIYUK/L. KAVIK
DANIEL SONFRERE
GILBERT THRASHER
MICHAELS CONTRACTING LTD.
BRAD & ERNIE BOURQUE
FORT MCPHERSON METIS DEVELOPMENT CORPORATION

KINGOAK HTA
SAHTU HTA
SNARE LAKE DENE BAND
YELLOWKNIFE DENE BAND
AARQUISSUIJIT HTA
ESKIMO POINT LUMBER/APORT SERVICES LTD.
LOUIS BRUCE & PATTERK NETSER
Y & C ENTERPRISES LTD.
TARGET NORTH SERVIVES LTD.
MABEL R. BOURNE AND JEAN DESNOYERS
REMI AGGARK
NORTH COUNTRY FOODS
RAMPARTS HOTEL LTD.
LEONIE DUFFY
LUTSEL'KE DENE BAND
KAKISA LAKE DENE BAND
FORT MCPHERSON HUNTERS & TRAPPERS ASSOCIATION
CHESTERFIELD HTA ASSOCIATION
BAKER LAKE HUNTERS & TRAPPERS ASSOCIATION
NORMAN WELLS RESOURCE EQUIPMENT
AKLAVIK HTA RESOURCE HARVESTING EQUIPMENT
FORT LIARD DENE BAND
FORT GOOD HOPE HTA
COPPERMINE HTA
FROBISHER BAY HTA
HUNTERS BROTHERS STORES
VANDALL & SONS
MARODA ENTERPRISES
DAVID PTOOLIK TAXI
KOZY KOURT DRIVE IN
NORTH OF 60
NUNI(YE) DEVELOPMENT CORPORATION
MRS. FRANCIS CUMMING
JIM THOMAS
STELLA BAYHA
QUILLIK INVESTMENT CORPORATION
GORF HOLDINGS LTD.
TUNDRA STEAMING
TUNUNIQ PROPERTIES LTD.
EDWIN MORIN SR.
FREIDA LOUTIT
OLUKHATOMUI T HTA
WEASELS HTA
JEAN MARIE RIVER DENE BAND
YELLOWKNIFE HTA
AMAROK HTA
MITIQ COOPERATIVE
PINE POINT HTA
EKALUTUTIAK HTA
IRENE ROTH/TIM LEE
P&A SECURITY LTD.

SPECIAL ARDA—SASKATCHEWAN ESTABLISHMENTS WHICH RECEIVED DRIE ASSISTANCE DURING FISCAL YEAR 1986-1987

SPECIAL ARDA—SASKATCHEWAN APRIL 1, 1986 TO MARCH 31, 1987

SAKATCHEWAN TRAPPERS ASSOCIATION
CARRIER, ANDREW BLAIR
AHENAKEW, JOHN
MCCLELLAN, VICTOR
TOOTOOSIS, GLEN
WHITE BEAR GOLF COURSE ESTATES INC.
ANGUS, LESLIE
DELORME, DENNIS
FLEMING, MARY/MAURER, LES
JACOBSON, GRACE
KOENING, LARRY JOSEPH
LAVALLEE, JOAN
NOLIN, DON
SWINDLER, ROBERT
SANGREY, WILFRED/PATTINSON, GARRY
STONY RAPIDS INDIAN BAND
AHENAKEW, CHARLES
BONNEAU, JOSEPH
BAKER, GILBERT
BOYER, ROBERT
CLARKE, BRUCE
DANIELS, HENRY H.
FERN, NORBERT
KLEIN, MARGARET AND EUGENE
MORIN, WILLIAM
MCAULEY, WALTER B.
MORIN, PHILIP
VALLENTGOED, D & J AND WATIER, W.
VAN HOOK, LOUISE
PRINCE ALBERT DEVELOPMENT CORPORATION
RONDEAU, ALBERT & JOAN
KEEWATIN WILD RICE
NICOLAS, OMER

QU'APPELLE CRAFTS LIMITED
CAPLETTE, MARCEL AND PIROT, DENNIS
GREYEYES, BRIAN
LINKLATER, GILBERT
V & L DOKE HOLDINGS LTD.
BEAUDRY, JANE AND GORDON
SALTER, JEAN
MONTREAL LAKE BAND ENTERPRISES LTD.
MARTIN, LAURENT
BOGNER, TERRY
BIRD, ROY H.
SANDERSON, SOL
BADGER, LOUIS
NETMAKER, JACOB
FINEDAY, RONNIE
ARCAND, FREDA
ROY, ELIE
CHARTRAND, ARTHUR
PEETEETUCE CONSTRUCTION LTD.
DESJARLAIS, ALEX
LAC LA RONGE BAND
SHKOPICH, ALLAN AND EVELYN
MORIN, SHAWN
YOUNG, JOHN
LAVALLEE, JOANNE
LAVALLEE, BEATRICE
EVERETT'S TRUCK STOP LTD.
SMILEY'S REPAIR SHOP LTD.
MOCCASIN, ARCHIE
TANNER, ALEX
LAROCQUE, LLOYD
JOHN, LEONARD
FIDDLER, THOMAS
FAVEL, BILL/EUGENE/FLOYD
KAY, WARREN
GENAILLE, HARVEY AND ROGER
AIME'S RE-BAR PLACING LIMITED
LERAT, GORDON
DELISLE, PHILIP
MARCELAND, RAPHAEL
GAREAU, ROLAND
SEARCY, DIANNE AND KEVIN
KLASSEN, BONNIE AND KEN
TWO NATION SOCIETY INC. BILLETTE, EDNA
WASKEWITCH, ANGELLINA
DEBBIE'S CONFECTIONARY LTD.
DELMAR RUNNS
PICHE, PETER
BRADY'S HOUSE OF FLOWERS, 1983 LTD.
CHITEK LAKE INDIAN DEVELOPMENT COMPANY
SANDY LAKE BAND
ONION LAKE BAND
FDB HOLDING CORPORATION
TOOTOOSIS, RON
JAMES SMITH BAND
CARRIERE, JOHN
MERRIMAN TRANSPORT CO. LTD.
NOLTCHO, ELYSA
WATSON, CAMERON
AMNSIS—CENTRAL
THOMAS, LEONARD
ALLARY, ROSS
ALEX BISHOP CHILD CARE CENTRE INC.
CYR, MONTY
BITTERNOSE, ED
NATIVE COURTWORKER SERVICES
KAPACHEE TRAINING CENTRE
GARDINER, SYDNEY
ILE-A-LA-CROSSE AREA #2 LCA
LARSON, MAXINE M.
MUSQUA HOLDINGS LTD.
DUROCHER, CLARENCE & ELIZABETH
PIAPOT INDIAN BAND
NORTHWEST ALCOHOL & DRUG ABUSE
L & R AUTO COMPANY LTD.
SAULTEAUX BAND
FEDERATION OF SASKATCHEWAN INDIANS
MCLEAN'S AMBULANCE & TRANSPORTATION SERVICES LTD.
NIGHT, JOE
OCHAPOWACE SKI RESORT INC.
FINEDAY, MIKE
FIDDLER BRUCE & WADE & TRANN, ROBERT
LONESOME PRAIRIE INDUSTRIES LTD.
JAMES SMITH INDUSTRIAL DEVELOPMENT CORPORATION
HINSON, RICHARD
KENNEDY, JAMES
SASAKAMOOSE, FRED
NIOULTCHO, ANNETTE
POLAR OILS LTD.
CARDINAL, WILFRED
IRONQUIL, BARRY

BAPTISTE, DAVID
THOMAS, ANDREW
BILL, DONALD
THOMPSON, LAWRENCE
OFF-KEY INCORPORATED
BILL, JACOB
ROY, VITAL
KSI HOLDING CO. LTD.
ELDON BIGKNIFE
GUIBOCHE, LAWRENCE
IVERSON, CURTIS
MICHEL, ERNEST
KITSAKI SMOKED FISH
LAPRISE, RAYMOND
TIPEWAN, LAURA
BIGKNIFE, LAWRENCE
ISLAND LAKE BAKERY LTD.
RATT, TED
DUROCHER, LEONARD
LAMBERT, ARMAND
IRON, THOMAS
PEDERSON, JOSEPHINE
RAEL ENTERPRISES LTD.
ROBILLARD, BONIFACE
COTE BAND COUNCIL
SANDY BAY FISHERMAN'S ASSOCIATION
DESNOMIE, JACK
BELLEGARDE, JOSEPH
ACOOSE, LYLE
BELLEGARDE, ELDON
NORTHWAY CONFECTIONERY LTD.
LACHANCE, ISIDORE
LERAT, CECIL
ANGUS, J. ALBERT
FIDDLER, ADRIAN AND LILLIAN
SASKATCHEWAN WILD RICE COUNCIL INC.
NORTHWEST METIS MANAGEMENT COMPANY INC.
TAWPISIM, WALLACE
CHURCHILL, JIM AND KATHLEEN
HUDY, ROSE
MRYGLOD, KAREN
R.J. CRAFT BOUTIQUE INC.
GARDIPY, CLARENCE
GAMBLE, ARTHUR
HAMILTON, RANDY
BIRD, TOM
PINACIE, WILLIAM
DREAVER, EVELYN
BELLEGARDE, ALLAN
PILON, RHONDA
BURNS, LAWRENCE
SANDERSON, MELVIN
LAHE ENTERPRISES LTD.
MOOSE WOODS BAND & SDC DEVELOPMENT CORPORATION
STONEY HARRY METAWAYSIN
FDB HOLDING CORPORATION
KINISTINO BAND
PAUL, BERTHA
FRANK, BURTON AND BERNICE
BOWERMAN, HARVEY AND MATCHEE, JUDY

[Senator Adams.]

SPECIAL ARDA—YUKON ESTABLISHMENTS WHICH RECEIVED DRIE ASSISTANCE DURING FISCAL YEAR 1986-1987

SPECIAL ARDA—YUKON
APRIL 1, 1986 TO MARCH 31, 1987

DAWSON INDIAN BAND
CARCROSS INDIAN BAND
YUKON TRAPPERS ASSOCIATION
MORRIS AUTO SERVICES LTD.
DENA KU COMPANY LTD.
CHAMPAGNE AISHIHIK INDIAN BAND
MAYO INDIAN BAND
OLD CROW ARTS & CRAFTS
CHIEF ISAAC INCORPORATED
YTG SPECIAL ARDA COORDINATOR
CYI BUSINESS SERVICES OFFICER #3
LIARD LOGGING CORP. LTD.
HUEBSCWERLEN, MARION
CLIFFORD & OLIVE DESJARLAIS
FRNAK R. JOE
CARMACKS/LITTLE SALMON INDIAN BAND
SELKIRK INDIAN BAND
EUGENE & MARG JOHNSON
DAWSON BROTHERS SERVICES LTD.
CRAIG UNTERSCHUTE
OLD CROW INDIAN BAND
ARTS & CRAFTS CO-OP
LARRY PROFEIT
ROBERT FARR
CARCROSS VALLEY SERVICES LTD.
PHILLIP SMITH

CHAMPAGNE AISHIHIK ENTERPRISES LTD.
GILBERT T. QUOCK
HOWARD ATLIN
RAYMOND AMATO
TENA MARKETING LTD.
CODY CONSTRUCTION SERVICES LTD.
JOHNNIE'S CONTRACTING
A.R. FROMME & ASSOCIATION LTD.
EMMA DONNESSY
TOM TAYLOR AND JOHN MITCHELL
KEN ROBERTS
BRYAN DUPONT
LARRY BARRET
LORRAINE JOE
ROBERT JOE

ANNEX B

PRINCIPAL ELIGIBILITY CRITERIA FOR DRIE PROGRAMS TARGETTED TO NATIVE ECONOMIC DEVELOPMENT

SPECIAL ARDA PRINCIPAL ELIGIBILITY CRITERIA

The following represent general eligibility criteria for common elements of the federal-provincial Special ARDA Agreements in effect in British Columbia, Saskatchewan, Manitoba, Yukon and the Northwest Territories. There are specific modifications to the criteria in the different jurisdictions.

Eligibility

Eligibility criteria require that the project must:

(i) be located outside metropolitan city limits (except in the Territories where all locations are eligible)

(ii) provide identifiable earning and employment opportunities for residents of rural areas or the Territories, the majority of which must be available to people of Native ancestry

(iii) not have started prior to applying for assistance

Eligible Projects

Sectoral criteria require that the project must be for the purposes of:

(i) establishing, expanding, acquiring or modernizing a commercial business, including related infrastructure

(ii) developing supplementary or alternative primary producing activities (with some exclusions in Manitoba and Saskatchewan) or improving existing activities

(iii) social adjustment measures, including special training-related activities

(iv) in remote rural communities in B.C. only, providing services and facilities that will lead to better economic opportunities through means such as electrification, lessening isolation—geographical (e.g. by improving roads or water transport), or cultural (e.g. provision of TV, FM repeater stations). The establishment or improvement of community recreation facilities may also be eligible.

Financial Criteria

Financial criteria, primarily for commercial undertakings, specify that:

(i) viability must be demonstrated showing positive return on investment or adequate cash flow

(ii) maximum assistance on capital assets cannot exceed 50 per cent

(iii) the applicant is required to contribute at least 10 per cent equity on capital costs

NORTHERN DEVELOPMENT AGREEMENTS PRINCIPAL ELIGIBILITY CRITERIA

General eligibility criteria or general requirements of business applicants under the Northern Development Agreements (NDA) are outlined below. There are some modifications to the criteria in the different jurisdictions in which an Agreement is in effect.

Eligibility Criteria

a) For Applicants:

—Any individuals, partnerships, private or public corporations, services, organizations and societies, local or regional groups, resource producers, associations, Métis Settlements (in Alberta), Indian Bands or community-based local organizations located within the boundaries designated under the NDA.

—NDA is a gap-filling or supplementary funding program which does not replace other existing sources of funding. Projects are assessed on the basis of need, and in Manitoba, there is no set percentage required for equity. In Alberta and Saskatchewan, applicants must provide a minimum of 20 per cent equity (10 per cent in remote communities) to the project.

b) For Projects:

—Projects which have a reasonable chance of leading to or enhancing economic activity; provide cost savings to northern development; increase the participation of northern residents in the local economy or improve their access to existing professional and technical employment opportunities; improve regional and economic planning and development capacity; contribute to development, processing and marketing of northern renewable resources; develop local business skills; increase opportunities for stable or permanent employment; or strengthen northern Native community economic networks.

—Projects must be incremental, have distinct start and finish dates, and demonstrate financial viability and sound management.

—Excluded are projects initiated prior to the date a signed application is received, or projects primarily of a recreational or social nature.

NATIVE ECONOMIC DEVELOPMENT PROGRAM PRINCIPAL ELIGIBILITY CRITERIA

The criteria governing eligibility to apply for assistance under the Native Economic Development Program (NEDP) vary according to Program Element. There are three Program Elements: Element I, Native Financial and Economic Institutions; Element II, Community Based Economic Development; and, Element III, Business Enterprises and Special Projects.

Eligibility criteria fall within three categories as follows:

a) eligible applicants,

b) eligible activities, and

c) eligible costs.

In addition, applicants approved to receive assistance must comply with the terms of the offer of assistance prior to the actual disbursement of program monies. An outline of eligibility criteria by Program Element follows.

NATIVE ECONOMIC DEVELOPMENT PROGRAM

ASSISTANCE ELIGIBILITY CRITERIA

Element	Name	Eligible Applicants	Eligible Activities	Eligible Activity Costs
I	Native Financial and Economic Institutions	Applicants must: a) be incorporated either federally or provincially; b) be in compliance with all relevant federal or provincial legislation; c) have as an objective set out in the Articles of Incorporation, or Letters Patent, to assist and further Native business industry and commercial development; d) be Native owned or controlled; e) be economically viable or be able to demonstrate that the institution will become self-sustaining.	Contributions may be made for: a) establishing or expanding a program to provide financial and business advisory services to Native entrepreneurs; and b) establishing or expanding a program to provide loans, loan guarantees and other similar financial services which foster Native business development.	For both categories (a) and (b) eligible costs are: i) Capitalization ii) Capital iii) Operating (See page 6 for explanation of eligible costs).
II	Community Based Economic Development	"Community-based" means a group of Native persons who are considered to be living in one geographic location and representing a commonality of interest. Applicants must demonstrate that they have both: a) a mandate to carry out community economic and business planning activities for the purpose of establishing new businesses; and b) significant or widespread community support or the potential to obtain widespread community support; Applicants need not be incorporated at the time an application is submitted. However, should assistance be approved, they must be a legal entity before entering into a contribution agreement. A coalition of Native groups in a major urban centre or a group of communities wishing to undertake joint business planning and regional economic planning may also apply. Assistance is not provided for individuals to develop projects. Such applicants are referred to NEDP Element III.	a) For communities which have identified a feasible community based business opportunity assistance will be made available to: • assess the viability of the business and develop a business plan for the enterprise; • develop a long term economic plan for the community centred on the identified business opportunity; • identify and secure appropriate business or economic development training necessary for the successful completion of the enterprise; • arrange business financing; • develop managerial and organizational capability to implement the economic and/or business plans; and • inform and include community members in planning and decision-making for the project. b) For communities facing a critical change in their economic environment such as major new growth opportunities assistance will be made available for:	For both categories (a) and (b) eligible costs are operating costs.

[Senator Adams.]

NATIVE ECONOMIC DEVELOPMENT PROGRAM

ASSISTANCE ELIGIBILITY CRITERIA

Element	Name	Eligible Applicants	Eligible Activities	Eligible Activity Costs
			• economic analysis of the situation; • economic planning including the assessment and priorization of business or economic project opportunities; • inform and involve community members in planning and decision-making for the project; and business plan development.	
III	Business Enterprises and Special Projects	Any individual, association, partnership, cooperative, profit or non-profit corporate body or other legal entity that is presenting an eligible project is eligible for assistance under this element providing that: a) the project would not be eligible for funding under any other NEDP element or any other federal, provincial or territorial government programs, or is otherwise not able to take advantage of such programs; b) the project would not be economically viable without financial assistance from NEDP; c) the project could not be undertaken without financial assistance; and d) the project will benefit many as opposed to a few individuals.	Under Element III assistance may be given under five categories: a) Business enterprises including viable primary resource businesses; b) Product or process innovation; c) Marketing of Native products or services; d) Special studies on Native business issues; and e) Scholarship programs and specialized education and training programs. Under each of these major categories various activities may be funded.	
			Category	
			a) *Business Enterprises* Contributions may be made for establishing, acquiring, expanding or modernizing a Native owned and controlled enterprise including an eligible primary resource business. Native owned and controlled is defined as 51% Native ownership of issued capital and voting shares and a majority (50% + 1) of directors' positions are filled by Native persons. For primary resource projects applicants must contribute as equity a minimum of 10% of the costs of the project. For non-primary resource businesses there is no minimum percentage of equity required; however, applicants are expected to contribute towards the financing of the project costs. The following criteria apply for business acquisitions: i) at the time of the application, commercial production in the facility has ceased or is about to cease; ii) The cessation or imminent cessation of commercial production in the facility is dictated by circumstances beyond the control of the vendor of the assets;	Operating, capital and infrastructure (excluding land)

NATIVE ECONOMIC DEVELOPMENT PROGRAM

ASSISTANCE ELIGIBILITY CRITERIA

Element	Name	Eligible Applicants	Eligible Activities	Eligible Activity Costs
			iii) the purchase of the assets is, in fact, an arm's length transaction and has not been contrived for the purpose of an application under the Native Economic Development Program; and iv) the purchase price of the assets for the purpose of assistance under this section is not in excess of the appraised fair market value of the assets.	
			b) *Product or Process Innovation* Applicants must demonstrate that the new product or process is scientifically and technically feasible and offers good potential for commercial exploitation by Native people.	Operating and capital costs.
			c) *Marketing* Activities aimed at increasing the marketing of Native products or services include: • publication and dissemination of promotional material; • market analysis and market strategy development; • advertising; and • trade shows, conferences, or major meetings that do not recur on a cyclical basis.	Operating costs
			d) *Special Studies* Research or analysis that is unique or special in nature on Native business issues which will result in relatively immediate significant and direct benefits for Native businesses and economic development.	Costs of engaging qualified consultants.
			e) *Scholarship, Education and Specialized Training Programs* Scholarship Program and Education and Specialized Training Program applicants must be recognized Native or non-Native educational institutions or organizations. If the applicant is non-Native there must be a significant degree of Aboriginal control over the program for which assistance is received, and support from the Native community. Also, applicants must demonstrate that the program increases knowledge and skills which make a direct or substantial contribution to Native economic development.	Operating costs

[Senator Adams.]

NATIVE ECONOMIC DEVELOPMENT PROGRAM

ASSISTANCE ELIGIBILITY CRITERIA

Element	Name	Eligible Applicants	Eligible Activities	Eligible Activity Costs
			Fields of knowledge and skills which have a direct or substantial impact on Native economic development include: • business management and administration; • accounting and finance; • economics; • community economic development; • resource mangement, planning and development; and • governance and leadership development.	

Note: a) Capital costs include costs that are the reasonable and proper direct costs of design, acquisition, construction, expansion, modification, conversion, transportation, installation and insurance (during construction of fixed assets) and includes the costs of directly related infrastructure development.

b) "Infrastructure Development" costs include:
i) an activity that provides a framework for the establishment, acquisition, modernization, or expansion of a commercial operation;
ii) a service or other activity of benefit to commercial operations; and
iii) construction of access roads, telephone and power lines, sewers and water, and ancillary or incremental waste treatment facilities that are directly related and necessary to the project or enterprise, but do not include the cost of the land.

c) "Operating costs" are costs directly related to the project and necessary to successfully carry it out such as salaries and benefits, rent, utilities, etc.

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Bielish, for the second reading of Bill C-15, An Act to amend the Criminal Code and the Canada Evidence Act.—(*Honourable Senator Neiman*).

Hon. Joan Neiman: Honourable senators, the Standing Senate Committee on Legal and Constitutional Affairs was not in a position to table its report on the subject matter of Bill C-15 until last Friday, and I hope that honourable senators have now had an opportunity to read it. I wish to add only a few words to what has already been said during the debate on second reading.

During the course of the pre-study of Bill C-15, the purpose of which is to create new criminal law to deal with prosecution of alleged sexual abusers of children, the committee held 15 public and some private meetings with multiple groups and individual witnesses, from the victims themselves and those who try to help them, to the many others who must deal with the offenders through the judicial process, or try to treat them by medical or psychiatric means.

The committee received some 67 other briefs and letters, including some from those in the offender category; therefore, it had an almost overwhelming amount of material to consider, some quite at variance with other submissions, but all deriving from personal and/or professional experience. You know now that after doing our own work and monitoring the progress of the bill through the other place, during which some helpful amendments were made, the committee is prepared to recommend passage of Bill C-15, although it still has some reservations and concerns. Those have been explained very clearly by previous speakers in this debate. You have heard from Senator Nurgitz, Senator Fairbairn, Senator Frith and Senator Hicks on various matters contained in the bill. I shall not repeat what has already been said. I simply wish to make a few personal comments to reflect the underlying concern—one might say philosophy— with which the Legal and Constitutional Affairs Committee approached the pre-study of Bill C-15.

• (1010)

We are engaged here in making new and additional criminal laws. That brought to my mind a report put out by the Law Reform Commission of Canada in 1976 entitled "Our Criminal Law." Its comments are still germane and valid. The report sets out the principle which should govern the making of criminal law, and it starts out by citing an old proverb, "The more laws, the more offenders." The report urges restraint for that reason. Let me quote a short passage:

> —every time we have a law against something, we do so at a cost. That cost is four-fold. Offenders pay through being prosecuted, convicted, punished. Other individuals pay through having their freedom restricted. We all pay through having to foot the bill for law enforcement.

> Finally, society pays, in some cases, by wrongly thinking criminal law has solved the problem and by consequently not getting properly to grips with it.

So in my view, and I believe in the view of many others, it is simply not good enough to say that the purpose of criminal law is to punish. Our responsibility as federal legislators extends beyond the mere creation of offences and offenders. The right hand of the federal government must know what the left hand is doing or failing to do. Beyond that, it must know how the provinces are applying the laws it has created, and whether those laws are achieving the purpose for which they were, or should have been, devised—that is, to deal with and, hopefully, to eradicate a social problem.

It is obvious that we are going to do little to get rid of this social cancer of child sexual abuse until we collect and collate a great deal of information not only on the offenders but on the victims and families of both. What kind of people are they? Where do they come from? What factors predispose them to becoming victims or offenders? That is why the committee has urged very strongly that the data base which we understand the Department of Justice now has be broadened and strengthened.

The committee heard from many professionals—medical, psychiatric and social—who are trying to help either the victims or the offenders. Some had a wealth of experience and excellent facilities to aid them. Others were struggling with minimal information and facilities. They all would be aided immeasurably by a cross-fertilization of ideas and information. For that and other reasons the committee also urged that the federal government encourage positively—and I suggest by cash—the establishment of one or more treatment centres charged with the gathering and dissemination of information to organizations and agencies across Canada which are working in the same or similar fields. These further steps have to be regarded as an integral part of an effective justice system.

In closing I should like to quote one more short passage from the report "Our Criminal Law":

> Coping with crime is a two-sided problem for a just society. Crime uncoped with is unjust: to the victim, to potential victims and to all of us. Crime wrongly coped with is also unjust: criminal law—the state against the individual—is always on the cutting edge of the abuse of power. Between these two extremes justice must keep a balance.

The committee tried to keep that balance in mind and to weigh fairly the rights of the victims against the rights of the alleged offenders.

Honourable senators, in view of the extensive pre-study of the subject matter of Bill C-15, the committee does not think it necessary that this bill be referred back to it at the conclusion of second reading and would therefore urge second and third reading of this bill today.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I would like to add a few words to congratulate the Committee on Legal and Constitutional Affairs to which this bill was referred for pre-study, and especially to say that I share the concerns expressed not only in the report, but also in the comments made in the Senate today and yesterday.

I wish to underline two points in particular, first as concerns clause 246.4 which Senators Hicks and Frith have both mentioned. This clause provides the following rule as concerns the need to obtain corroboration of testimony given by a child:

> —the judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration.

This is a negative prescription and I recall suggesting in the committee that this be changed to say that the judge shall give the necessary instructions in this regard, without making this an official prohibition as is the case now. I believe that this could create all kinds of problems for the judges as concerns the value of evidence.

The second point to which I would like to draw the attention of the Senate is the description of the offence of sexual interference given in section 140: "Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offense and is liable to imprisonment for a term not exceeding ten years—"

I understand that the intention to commit a sexual offence must be proven. However, honourable senators will easily see, as I do myself, the danger of having such a general provision. If you simply think of how you can show affection for your grand-children, you will realize how very easy it would be for someone to file a complaint and say: I was there, I saw him bounce the child on his knee and caress his hair. This could lead to blackmail. This is why the recommendation of the committee that application of this provision be monitored very closely and efficiently is essential.

I am afraid that, in most of the cases covered by this provision, there will be little opportunity or possibility of proving an offence has taken place, but in others, this provision could be used for blackmail or to create problems for some people.

On the whole, Senator Neiman and myself have already pointed out that the legislator should not try to solve every possible problem.

A few years ago, when I was Minister of Justice for a short period, I had asked for a review of the Criminal Code, which is now being done, mostly to remove everything that should not be in it. I am not sure that work has been completed even yet to meet this objective. I fully understand the purposes of Bill C-15 and I agree with them, but I am not at all certain that they will be met by this bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would like to make a suggestion following the comments made by Senators Flynn and Hicks and myself. We could suggest to the committee that it write to the Department of Justice to ask for a copy of each new interpretation in the cases dealing with corroboration and sexual

interference. We could do this regularly as a kind of follow-up on the interpretation of these two points.

• (1020)

[*English*]

Hon. Nathan Nurgitz: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if Senator Nurgitz speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Nurgitz: Honourable senators, I noticed the nodding approval of Senator Neiman as Senator Frith was raising the question of asking the Minister of Justice to keep us informed of all the judicial interpretations on the two matters raised by Senator Flynn. I take it that will be done.

With respect to those matters raised by Senator Flynn, these were matters that, of course, the committee did take up with the minister. We have received assurances that these will be carefully monitored. I cannot specifically recall whether it was Senator Fairbairn or myself who commented yesterday on the review process, but the minister has also assured us that the four years would not have to elapse, and that there would be an ongoing review of a matter so sensitive as this.

Senator Neiman mentioned that society pays when we add new laws. Unfortunately, there is a problem that has to be dealt with that, regrettably, society has some price to pay for. I am not certain that we have a new problem on our hands. However, it became evident from the evidence that it is a problem that has perhaps been with us for a long time, but is now being reported with more frequency. The old taboos about sex, especially out of the mouths of children, are now, at least in part, being put aside so that we are hearing more of these problems.

Lastly, I want to thank Senator Neiman for her comments with respect to the data gathering, which would be important. This did appear in our evidence. I know, for example, that the Child Abuse Centre in the city that I come from, Winnipeg, has been a national leader in trying to gather and assimilate data with respect to what constitutes abuse. They have been trying to get some uniformity in that gathering system. One might even hope that at some point, with its geographic location, that particular abuse centre in Winnipeg might be chosen as a national centre.

In any event, we commenced pre-study of this bill last November, and I agree with the comments made by Senator Neiman and the previous speakers that there is no need for it to go to committee at this time.

Motion agreed to and bill read second time.

Senator Frith: Honourable senators, I take it that there is a plan for Royal Assent later this evening.

Hon. C. William Doody (Deputy Leader of the Government): Yes, arrangements have been made.

Senator Frith: Well, then, it should be read the third time now.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Nathan Nurgitz: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

ENERGY AND NATURAL RESOURCES

SEVENTH REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Leave having been given to revert to Reports of Committees:

Hon. Earl A. Hastings: Honourable senators, the Standing Senate Committee on Energy and Natural Resources has the honour to present its seventh report, respecting the power to incur special expenses pursuant to procedural guidelines for the financial operation of the Senate committees. I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix B, p. 1608.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Hastings: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

VETERANS APPEAL BOARD BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Bielish, for the second reading of the Bill C-66, An Act to establish the Veterans Appeal Board and to amend other acts in relation thereto.—(*Honourable Senator McElman*).

Hon. Charles McElman: Honourable senators, I should first like to commend the Honourable Senator Marshall for his lucid and concise explanation of the purpose and objectives of Bill C-66. The principal purpose of the bill is to merge the

activities and responsibilities of the existing Pension Review Board and the War Veterans Allowance Board under a new entity to be known as the Veterans Appeal Board.

Senator Marshall has explained why this is desirable, including that it will improve administrative efficiency, expedite further the services provided to veterans and their dependents, and that the savings to be realized by such a combined board are estimated to be some $400,000 during the fiscal year.

● (1030)

The Minister of Veterans Affairs, the ever-popular the Honourable George Hees—himself a distinguished veteran of the Canadian Armed Forces—has assured Parliament that no public servants will be laid off as a result of this amalgamation. Any who may be surplus to the requirements of the new board will be transferred to other duties within the department.

The minister has also stated that the new board will be located in Charlottetown, Prince Edward Island, as are the two boards now being replaced. That is a welcome assurance to maritimers.

I should add that the minister has also recently expressed his intention to introduce an omnibus bill in Parliament this fall, the purpose of which will be to bring together the provisions of some 25 or more existing acts that affect veterans and their dependents. That, too, will be welcome legislation.

Honourable senators, both the National Council of Veterans Associations and the Royal Canadian Legion were consulted in the development of Bill C-66 and both organizations have endorsed it. In the other place the spokespersons for all three parties have given enthusiastic support to this bill and collaborated in its speedy passage there.

One must assume that the experienced members of the two boards that will be replaced by this new board will, insofar as possible, be given the opportunity for service with the new board. Yesterday, honourable senators, I asked the sponsor of Bill C-66, Senator Marshall, to make inquiries of the minister or other authority in the department to determine if this is, in fact, the case. He will, I am sure, advise the Senate of that important information when he closes this debate today.

Honourable senators, I support second reading of Bill C-66 and commend it to your favourable consideration. I do not believe that it needs further study in committee, and it is also my opinion that the Senate should approve the third reading of this bill today.

Hon. Senators: Hear, hear!

Hon. Jack Marshall: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Marshall speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Marshall: —may I, in turn, commend Senator McElman for his lucid and appropriate remarks on Bill C-66.

[Senator McElman.]

As usual, in his keenness in scrutinizing a bill for which he is responsible, he comes up with questions that were not considered previously, even by members of the House of Commons. One such question is with regard to what will happen to those members of the two boards who will not be kept on. As explained in the minister's statement yesterday, the new board will consist of around 14 members whereas the Pension Review Board and the War Veterans Allowance Board combined have 21 members.

In inquiring of the minister's office, I have been informed that it is proposed that any members who are not retained on the new board will, on application, receive appropriate severance which will take note of all factors relating to the member's service and personal situation. It will not be known until after the bill is proclaimed what the actual figures will be, but I have the assurance from the minister that those who are not retained on the board—and it does appear that they will not need 21 members—will be treated in that manner. They will be looked after with the same care that the minister has displayed in looking after veterans.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Jack Marshall: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

SHIPPING CONFERENCES EXEMPTION BILL, 1987

SECOND READING

Hon. Heath Macquarrie moved the second reading of Bill C-21, to exempt certain shipping conference practices from the provisions of the Competition Act, to repeal the Shipping Conferences Exemption Act, 1979 and to amend other acts in consequence thereof.

He said: Honourable senators, I regret that I must rise again so soon after another bow as sponsor of a bill. I know that we do not have protection against double jeopardy in this country, which may be a problem for you and for me in that there is sometimes a fulsome sufficiency in this sort of thing.

Honourable senators, we all know that foreign trade is an important source of revenue and employment for Canada. A significant part of this trade is with overseas countries where most of the exported products are carried by sea. Eighty-three per cent of the value of Canadian deep-sea exports, which totalled $25.5 billion by my last figures, were carried by water in 1985. It is in our interest to protect Canadian shippers by encouraging lower shipping costs along with an adequate level

of service. Economic and reliable shipping services are essential in maintaining the competitiveness of our exported goods.

Honourable senators, Bill C-21 is yet another step in the government's efforts to encourage greater competition in the marketplace, preceded, as it was, by the introduction of a new National Transportation Act, Bill C-18. Bill C-21 addresses an important aspect of the Canadian economy, the movement of our overseas trade by sea, and is concerned specifically with what is known in the industry as the "liner trade." Please note my technical know-how.

Generally speaking, liner shipping is the carriage of imports and exports by marine shipping companies which offer regular services between specific ports and which carry cargo in containers or in break-bulk form.

The liner trade makes up by tonnage between 10 per cent and 15 per cent of Canada's deep-sea trade. These figures, however, do not adequately reflect the importance of liner shipping to Canada, as low-valued bulk commodities dominate tonnage statistics.

Commodities in the liner trades, in general, consist of the higher-valued finished and semi-finished products. On the basis of value, the liner trades account for about two-thirds of Canada's total deep-sea trade. Of this amount 40 to 60 per cent is carried by conference operators.

● (1040)

The vast majority of these ocean carriers are foreign owned and operated. About half the total number of liner companies operating in Canadian trades have formed what are known as conferences. These are associations of carriers that not only supply the type of liner services which I have already described but also regulate rates, charges and conditions of carriage, and publish a common tariff. Some 34 conferences were operating in Canadian trades at the end of 1986.

The conference system made its first appearance more than 100 years ago in trade between Britain and India, where cut-throat competition began to cause a great deal of instability and unreliability in the import-export business from the viewpoint of shippers, consignees and carriers. It was agreed among them that service regularity, the safe carriage of goods, and price stability would be beneficial to all parties. This agreement eventually led to the establishment of liner conferences. The advantages of the system at that time soon led to its worldwide use.

The conference system has operated in Canada since the turn of the century. The first investigation into their actions was made in 1913, and subsequent inquiries led to the enactment of the Shipping Conferences Exemption Act in 1971, offering both protection for certain conference practices from the provisions of the Combines Investigation Act and controls over their operation. This act was replaced by the Shipping Conferences Exemption Act (1979), which, among other things, requires the filing of agreements, tariffs, surcharges and the standard form of loyalty contracts. It allows the director of investigation and research to inquire into conference operations on his own initiative or upon direction from the Minister of Consumer and Corporate Affairs. The act regards agreements that have the effect of reducing competition beyond that necessary to ensure rate or service stability to be prejudicial to the public interest.

The white paper entitled "Freedom to Move" advocated a general thrust towards lessening the regulatory burden currently imposed upon the transportation sector of the economy and encouraging greater competition in the marketplace. This included the marine sector and, in particular, shipping conferences.

As was stated in "Freedom to Move", the government accepts that it is neither feasible nor desirable to eliminate the conference system. Our neighbours to the south adopted new legislation in 1984, the U.S. Shipping Act of 1984, which not only accepts the principle of the conference system but also strengthens the immunity of conferences from anti-trust legislation. At the same time, the U.S. act included pro-competitive elements and thus accords with the Canadian policy set out in "Freedom to Move". While anxious to protect the interest of shippers, the government must be mindful of the need for a balanced approach. Radical anti-conference measures could result in unfavourable cargo diversions away from Canadian ports.

Bill C-21 requires a mandatory right of independent action to be written into any conference agreement, giving individual members of the conference the right to provide a service or a rate different from that stated in the tariff published by the conference. A member may take this action after giving notice in writing to other members of the conference. The maximum notice period is to be established by order in council, but conferences are free to establish a shorter notice period. Other members may take the same independent action on or after the effective date of the original action. This will have the effect of keeping rates at competitive levels, but one of its most advantageous points is that the oft complained of lengthy reaction time of conferences to a request for a rate adjustment will become an outdated practice. This will immediately benefit shippers and, in the longer term, the conferences will adjust to the need for faster reaction.

Service contracts, which are confidential contracts where specific quantities of goods are moved at agreed rates over a fixed period of time, will be permitted by the bill between conference members and shippers. These contracts can be between individual conference members and a shipper or between the conference as a whole and a shipper. The conference agreement will establish the terms and conditions respecting the use of service contracts by the conference members. The conference has the discretion to allow independent action with regard to service contracts. Copies of service contracts must be filed with the regulatory agency not later than 30 days after the day on which they become effective. It would perhaps be pertinent at this juncture to point out to all honourable senators that the confidentiality of the contents of the contracts is protected by both limited access to their contents and by constraints on the use of this data.

In addition to allowing for service contracts, the bill retains loyalty or patronage contracts, which have been in use for many years. Loyalty contracts are signed between a shipper and a conference. A shipper may commit a percentage of his goods up to and including 100 per cent to a conference in return for a reduction of up to 15 per cent of the published rate. I bring this to the attention of honourable senators in order to avoid any confusion between service and loyalty contracts. Service contracts are confidential and deal with specific quantities of goods. Loyalty contracts are public, in a standard form, and deal only with percentages of the total goods available for shipment.

Bill C-21 also provides for a new dispute resolution procedure. Complaints made to the regulatory agency may be open to public hearings or decided on the basis of the material filed, but, in either case, the agency must render a decision no later than 120 days after the complaint has been filed, unless the parties involved agree to an extension. This time constraint will ensure speedy resolution of complaints. The director of investigation and research, appointed under the Competition Act, may make complaints, and may also act as an intervenor in cases where complaints are made by other parties. The director is also empowered to carry out an inquiry on his own initiative or on the direction of the Minister of Consumer and Corporate Affairs. There is an alternative mechanism available to complainants. The existing act identifies the procedures of the National Transportation Act for the resolution of complaints against agreements or practices of conferences and uses the effect on the public interest as the test. The proposed act introduces the investigation of complaints procedure that I have just described as an alternative to the National Transportation Act approach. It is clearly an alternative, however, for once an application has been made under the National Transportation Act, there is no entitlement to file under the new investigation procedure.

It is universally recognized that conferences, like any ocean carrier of general cargo, must be able to quote through rates in their tariff, and they have always been allowed to do so in Canada. A multimodal or through rate is a single rate quoted to transport goods from their actual origin, which may be inland, to their final destination overseas, which may also be inland. While the proposed act allows conferences to set and quote a through rate in its tariff, the actual amounts to be paid by the ocean carrier to the inland carriers in Canada must be decided upon on an individual basis; that is, between one conference member and the inland carrier.

The proposed act exempts conference and interconference agreements from the Competition Act if they conform to the requirements set out in the legislation. This exemption, however, does not apply in a number of situations, which I will enumerate.

First, the exemption does not apply unless the conference or interconference agreement provides the right of independent action to each member.

Second, the exemption does not apply if two or more members of the conference agree to use a vessel in a predatory pricing role, if they refuse to transport goods because the shipper has used a non-conference ship, or if they limit the use by a non-conference ship of a port or other facility.

Third, predatory pricing policies as addressed by paragraph 34(1)(*c*) of the Competition Act are not exempted by this act.

Fourth, the exemption does not apply where a conference makes a collective agreement with any carrier in Canada for the amount to be paid for the inland transportation of goods for which the conference is charged a through rate.

In order to allow shippers time to react to rate increases, the new act will require conferences to give 30 days' notice in writing of such increases to the regulatory agency and to any designated shipper group whose members may be affected. Similarly, if conferences wish to increase an existing surcharge or impose a new surcharge—surcharges would include bunker surcharges, port congestion surcharges or currency adjustment factors, for example—they must give 14 days' notice in writing to the agency and the designated shipper group likely to be affected.

● (1050)

In summary, honourable senators, the conditions under which conferences may be exempt from the Competition Act will be more precisely circumscribed than at present.

The existing fine of $500 per day will be raised to $1,000 per day, and the time limitation on proceedings has been increased from one year to three years to ensure compliance with the new act.

The sunset clause, as provided for in the current legislation, is not included in Bill C-21. In fact, the new act will remain in force until changed by Parliament. It should be noted that section 266(1) of the new National Transportation Act provides for a comprehensive review of this proposed legislation in 1992.

Several provisions of the proposed act remain substantially the same as in the existing act. They deal with certification of documents and the time limit for their ultimate disposal; the maintenance of offices in Canada by conferences and their obligation to make material publicly available; meetings with designated shipper groups; deposit of security, if required; and the regulation-making powers of the Governor in Council.

In conclusion, honourable senators, I should like to say that it is my belief that the proposed act will provide a more appropriate environment for conference operations in Canada.

I commend this legislation to honourable senators, noting as I do, and saluting most heartily, the excellent work done by Senator Langlois and the Committee on Transport and Communications. They have made a tremendous contribution to the discharge of this legislation. I note also that Senator Langlois, in his report earlier this morning, reported that his committee recommends that the said bill, when examined by the Senate, be favourably considered. I commend the committee for that judgment, and naturally I rejoice in it.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

FINANCIAL INSTITUTIONS AND DEPOSIT INSURANCE SYSTEM AMENDMENT BILL

SECOND READING

Hon. Jacques Flynn moved the second reading of Bill C-42, an Act respecting financial institutions and the deposit insurance system.

He said: Honourable senators, this is one more bill that was passed yesterday by the House of Commons and that we have received now at the very last minute. The Bill was tabled on March 3, 1987, but in this case, the Senate Committee on Banking, Trade and Commerce was given the bill for prior consideration on March 25 of this year.

The committee examined the bill in accordance with the order of reference and tabled its report on May 12. The report is printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of May 12, 1987.

I would like to explain that in this case, although the bill was delayed, the fact there was this prior consideration and the committee was able to report on the subject of the bill makes our task much easier. It is of course one of the problems with Parliament that the House of Commons waits until the end of a session or rather until the day before the summer recess to pass a series of bills that reach us here at the very last minute. Of course we can decide to sit a little longer, which may happen. However, with the benefit of prior consideration we can dispose of the bill more quickly.

This policy of referring bills to a committee before they reach the Senate, the Hayden formula as it is called, is a very interesting point which the Deputy Leader of the Opposition raised briefly yesterday. Some day I would like to elaborate and clarify a situation which I find rather confusing, if we consider what we heard yesterday.

In any case, I will take the liberty of referring to Bill C-42 on the basis of the committee's report. I do not intend to go into any great detail, for the simple reason that Senator Sinclair, if I am not mistaken, intends to speak to this bill. Since he is Chairman of the Committee on Banking, Trade and Commerce and has spent considerable time and effort on this bill, I believe his explanations will be far more useful than any I would be able to give, aside from the general remarks I would like to make about the subject matter of Bill C-42. This is the first in a series of bills that implement the government's policy respecting financial institutions that was proposed in the white paper titled, New Directions for the Financial Sector, published on December 18, 1986.

In passing, Bill C-56, similar to this one, apparently should be coming from the House of Commons any minute now. The debate might deal with both bills, if Senator Sinclair agrees.

So the first matter dealt with in this bill is the establishment of the Office of the Superintendent of Financial Institutions Act. Currently, the Inspector General of Banks monitors banking operations and the Superintendent of Insurance monitors insurance operations.

The bill establishes one office, that of Superintendent of Financial Institutions. The incumbent will combine the responsibilities of the two officials I just mentioned.

Originally, the committee did not think too much of that idea of charging one person with the responsibility for both industries. It was agreed that there is so much interdependence between all financial institutions operating under federal jurisdiction that there is a definite benefit in having one person responsible for all federal financial institutions.

So much so that the bill will establish a coordinating committee composed of senior officials which, shall I say, will assist the Superintendent of Financial Institutions. That committee would include the Superintendent, the Governor of the Bank of Canada, the Chairman of the Canada Deposit Insurance Corporation and the Deputy Minister of Finance. Those officials form a committee. Of course, up until now there was nothing to prevent them from meeting and consulting. But now that committee is formally established. The bill makes it a responsibility for those people to meet as a committee.

In passing, to help the Superintendent of Financial Institutions act in a very independent way, he is given the status of a separate employer.

There will also be, to assist the superintendent, a private section advisory committee. As to who will sit on that committee, that is a question that will be solved eventually.

The second part of the bill amends the Canada Deposit Insurance Corporation Act by clarifying somewhat its objectives which remain identical to the current ones under the Corporation's Act. It includes certain provisions concerning the funding of the Corporation's operations by allowing the Governor in Council to set the applicable insurance premiums upon the Corporation's recommendation.

As we know, that premium was raised last year, further to the ventures you are aware of. The increase, which was to end on April 30, 1987, has been continued by government decision.

It is expected the Corporation's debt will be written off in a few years.

Another point to emphasize is that the maximum borrowing authority of the Canada Deposit Insurance Corporation is raised from $1.5 billion to $3 billion.

Finally, concerning co-insurance and common reserved funds, the bill does not include the recommendations made earlier by the committee in this respect. The committee was satisfied with the explanations provided, which made it possible for the committee to recommend that the bill be favourably considered when it comes to us.

Of course there are a number of consequential provisions required to amend the Bank Act, the Canadian and British Insurance Companies Act, the Cooperative Credit Associations Act, the Loan Companies Act, and so on. All these acts must be amended to be in accordance with the provisions of Bill C-42.

I share the opinion of the committee and recommend that the Senate give favourable consideration to this bill.

● (1100)

[*English*]

Hon. Ian Sinclair: Honourable senators, I compliment Senator Flynn on covering the principles of this bill so well. As he stated, this bill is the first tranche of three arising from the white paper dealing with financial institutions, issued in December last. Honourable senators must recognize that over the years, and with increasing speed, there has been a melding of the work of what is known as the four pillars of financial institutions. These four pillars once stood separate and apart, but more and more they are coming closer together. The recognition of this fact has been before governments not only in Canada but in other countries, and movements to take care of these changes have been instituted in other jurisdictions.

Honourable senators, I must say that this bill poses great difficulty. It consists of about 170 clauses referring to numerous acts, and there is no consolidation available. So, a person looking at the bill has to have some background or knowledge to understand what they are talking about, simply because one cannot pick the bill up and deal with it. Fortunately, government officials and the minister have cooperated with the committee and have made available to it people who are fully familiar with the statutes involved in the amendment and also with the principles governing the new activities. Basically, this first bill deals with the office of regulation. As honourable senators will recall, we have had some rather unfortunate situations develop in financial institutions in Canada, culminating last year in two regional banks going under and a domino effect forcing some of the other smaller schedule A banks into merging and selling assets to schedule B banks. So there was a need for a change in the regulations, and this was taken care of by Bill C-42, in setting up the new office of Superintendent of Financial Institutions.

The committee heard testimony from the superintendent designate, Mr. Mackenzie, and I think everybody in the financial industry welcomes his appointment. He is a man of considerable experience, and I am sure the committee would want you to know that they were impressed with the work that he has undertaken. We compliment the government on having a man of his calibre take on these onerous duties. I really do not think that I need to say too much more in regard to the superintendent and his duties, except to recognize that these institutions are not all of the same culture. There is a very different culture between a merchant bank and a savings bank and between a life insurance company and a loan company. Therefore, there is now the ability—and I think rightfully—to appoint senior people who are specialists to assist the superintendent in dealing with banks, trust and loan companies or insurance companies. As you can understand, actuarial experience is very necessary in dealing with insurance companies, but is not required in understanding merchant banking or commercial banking. Also, the government has wisely granted the ability to pay people with expertise sufficient salaries to attract the necessary talent so that this organization, under the Superintendent of Financial Institutions, has separate employer status.

● (1110)

Honourable senators, I now turn to deposit insurance, which is the second part of the bill. Here I think the committee did have some problems with some of the aspects. As honourable senators will know, the powers have been extended. This is all to the good, because, through the problems that have developed with regard to trust companies and banks, it has been shown that the ability of the CDIC to take appropriate action was not available under the existing law. That, I think, has now been well taken care of.

However, where we run into some problems is with respect to how the deficit was built up. At the end of last year the deficit was some $1.2 billion. This deficit had accumulated over the years, but grew effectively in the last few years when regional problems with respect to economic matters surfaced and created problems in the trust industry and in the banks. These are deposit-taking institutions.

When the deposit insurance was first set up, it covered only deposits up to $20,000, and the amount of the premium was one-thirtieth of 1 per cent of deposits. Because of the problems that arose, particularly in Ontario, and the impact that these had on depositors, the $20,000 was raised to $60,000 and made retroactive. There was, consequently, a rapid increase in the deficit, and the government then introduced a higher premium rate. The rate went from one-thirtieth of 1 per cent to one-tenth of 1 per cent.

Under this bill the CDIC has the right, through the minister, to increase that premium to one-sixth of 1 per cent. Honourable senators, we are talking about extremely large numbers here. When you make a change such as that, one-thirtieth to one-tenth or one-sixth, the impact on deposit-taking institutions would be very great, indeed. There are hundreds of millions of dollars involved. However, it was stated to the committee, and recorded in our report, that unless there are some unusually troubling factors over the next few years, the deficit of $1.2 billion will be extinguished by the continuation of the one-tenth of 1 per cent premium through the year 1994.

A problem that came to the attention of the Senate, and has been in the minds of others, is the position of the government with regard to taking up part of the deficit. A number of

organizations that came before the committee took the position that as the government had changed the rules, had exceeded the limits, and had taken certain actions, the government should fund part of the deficit. One example was that with regard to the two western banks that became insolvent between the end of April 1985 and the winding-up date, in the Canadian Commerical Bank alone the amount of deposits that were covered rose by some $32.7 million; an increase that the bankers said could be attributed to statements made by the government that these banks were sound. The head of the CDIC did not accept those numbers. He said they were fanciful and hypothetical, and for that reason the government should not, in his opinion, take them up.

With respect to the other point arising out of the Seaway and Crown Trust affairs in Ontario, he said that really the government did the right thing; that the deficit certainly went up due to the increase from $20,000 to $60,000 in the short term. However, he said it was necessary for them to pay off all depositors, because the intention was to have a work-out or to have an agency agreement rather than a liquidation. He told the committee that it was the view of the experts in the CDIC that the effect of the work-out has been more beneficial than if they had adopted the liquidation process.

The committee certainly agrees that under circumstances of financial difficulty, work-outs are generally better than liquidations, particularly in the hands of competent people. However, the committee does feel that the officials handling the work-out could make available to others some of the figures and results, and so on, in order to give some assurance that the action taken was the proper one. The commmittee also impressed upon Mr. McKinley of the CDIC that that was a necessary function if he intended to use work-outs or agency agreements in these circumstances.

Honourable senators, the committee ran into some problems with regard to CDIC on the question of co-insurance or pools. Honourable senators will remember that this issue of co-insurance has been before regulatory bodies and before the government on a number of occasions. Co-insurance, of course, means that the depositor takes the risk up to a certain level or that the government's percentage of coverage declines after a certain level is reached.

The committee itself was not of a single mind in regard to this matter. The reason for that is that it was felt that some sophistication was required even to read the financial statements of financial companies, and that the average person might perhaps be taken in by the outward trappings of those financial institutions—in other words, the Taj Mahals that they build; the fancy marble trimmings around their buildings. I always think of Greymac and how wonderful the building looked and how marvellously polished was the brass outside while they were rapidly going bankrupt. It was felt by some members of the committee that because of that inability or lack of sophistication, there should not be co-insurance, certainly in respect of a deductibility at the lower end. There was certainly no unanimity in regard to a declining coverage in the higher amounts. However, the committee felt it should be noted that where there was a flat premium—and that is what we have here; a flat premium which is now one-tenth of 1 per cent of all deposits—and there is no risk-based premiums, that you have a characteristic that increases risk.

• (1120)

It enables a person or a company to extend offers where the margins do not really support the deposit. This was forcibly pointed out by the chairman of the Economic Council of Canada. In part, the government has recognized this problem of flat premiums increasing risk. Therefore, for the first time, there is provision in this bill that would allow the CDIC, in certain cases, to charge surcharge premiums where they were not happy with the way the organization was carrying out its functions, one of which would be in regard to paying excessive amounts for deposits. That was something that caused problems with the Commercial Bank, the Northland Bank and Pioneer Trust.

However, when the committee was looking at the green paper, and over the months, it has been concerned with risk-related premiums and with risk-related capital requirements. They have been faced with this problem in Britain and have introduced a proposal of having risk-related capital requirements. This has just recently been adopted in the U.K.

When we discussed this with the minister, he acknowledged that this was perhaps the way to go, and that it would improve SROs, self-regulatory organizations, in the banks, the trust companies and the loan companies. He has undertaken to look at these types of risk relations and see if something can be worked out.

For over a year there has been a necessity to appoint outside people to the CDIC board. That has not been done. Unfortunately, we cannot put our finger on the reason. When the minister was before the committee, he said that he expected these appointments to be made within the next few weeks. That is some months ago, and, as far as I know, they have not been appointed yet. It must be very difficult to meet the requirements, but I do not see why they are having so much trouble. Indeed, the government may be in breach of their own statute by not appointing them. That could perhaps cause problems in the future.

Therefore, we can only hope, honourable senators, that the requirements of the statute will met by the government very shortly.

Honourable senators, as Senator Flynn has indicated, this is only one bill of two that have been passed in the other place. This is the only one that is before us at the present time. It does have a companion bill, which is Bill C-56, which may be before us later today; I do not know about that.

In any event, the committee received full cooperation from everyone who was knowledgeable, from the minister, from the officials, from the people of interest. We recommend that this bill receive your favourable consideration.

Senator Flynn: Honourable senators—

The Hon. the Speaker: Honourable senators, if Senator Flynn speaks now, his speech will have the effect of concluding the debate on the motion for second reading.

[*Translation*]

Senator Flynn: Honourable senators, I simply want to thank Senator Sinclair for his contribution. As I indicated earlier, I believe he has to be the most competent among us to discuss these problems.

The only question I would like to ask him is whether he agrees that this bill need not be referred again to his Banking, Trade and Commerce committee after the second reading stage?

[*English*]

Senator Sinclair: I certainly agree with that.

[*Translation*]

Senator Flynn: So I recommend adoption on second reading and, if the Senate agrees, I will move third reading later this day.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Jacques Flynn: With leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*English*]

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

FOURTH REPORT OF COMMITTEE ADOPTED

Leave having been given to proceed to Order No. 7.

On the Order:

> Resuming the debate on the motion for the adoption of the Fourth Report of the Special Committee of the Senate on the subject matter of Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto (hiring of staff), presented in the Senate on 29th June, 1987.—(*Honourable Senator Phillips*).

Hon. Orville H. Phillips: Honourable senators, yesterday, when I asked for the adjournment, it was anticipated that Senator Murray might wish to speak on this order. However, he has a very hectic schedule today, and therefore I will ask a couple of basic questions.

The first question is: What are the duties of the counsel? The second question is: What are the basic qualifications being sought?

With that information we would be prepared to grant the motion in the anticipation that it will speed up the benefits of Bill C-22.

Hon. Sidney L. Buckwold: Honourable senators, in the absence of our chairman, who, unfortunately, is not able to be with us today, I am pleased to respond to the questions raised by Senator Phillips.

The first question asked was: What are the duties of the counsel? I would suggest to you that the duties would be what would normally be expected of a legal adviser to a committee. We are looking at a complicated bill. We are looking at some possible amendments. We are looking at all the legal implications that are involved in such changes that may possibly be made. We require the services of someone who would be experienced in this line and, hopefully, would have the ability to understand the industry.

I am now getting into your second question. We are looking for someone who would be legally qualified to handle whatever the committee requires in the way of writing, in the way of drafting, in the way of advice to a committee. I would guess it would be very similar to the kind of qualifications that we would look for in a legal representative for any committee. My friend, Senator Flynn, is shaking his head again. I do not know why every time I stand up I hear Senator Flynn shaking his head. I said, I hear it. I really did not mean it quite that way.

Senator Flynn: Full of wind.

Senator Buckwold: But in any case—

Senator Frith: This is no time for confession, Jacques!

Senator Buckwold: In any case, Senator Phillips, I hope that that brief explanation is an indication of the fact that we do require a professional, trained in this field.

Senator Flynn: We do require another committee.

Senator Buckwold: That could be, in due course.

• (1130)

Senator Flynn: We will be able to do your job; let someone else do it!

Senator Buckwold: We are glad to listen to Senator Flynn, as we always do, for his advice.

Senator Frith: Speak for yourself!

Senator Flynn: I would not want you to join in with him.

Senator Frith: I know that you would be disappointed if I did.

Senator Flynn: Stay that way.

Senator Petten: He would not want to disappoint you, Senator Flynn.

Senator Buckwold: I enjoy it when Senator Flynn shakes his head; I can almost hear it over here.

Senator Stanbury: You mean it rattles.

Senator Buckwold: It rattles, yes.

Honourable senators, I hope that this request, which requires no additional funding for the committee—the funds are there—will be granted, and we can then get on with the work of this important committee.

Motion agreed to and report adopted.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—ORDER STANDS

On the Order:

The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, can this order stand? I would like to confer with the chairman.

Order stands.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, can we take advantage of the lull at this time to give Senator Balfour an opportunity to present an item that he has on the order paper? He and Senator Grafstein have agreed to speak briefly to this item and get it cleared up this morning rather than this afternoon, when they have other engagements.

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

Hon. Senators: Agreed.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

TWENTY-EIGHTH MEETING HELD AT VANCOUVER, BRITISH COLUMBIA

Leave having been given to proceed to Inquiries:

Hon. James Balfour rose, pursuant to notice of Monday, June 29, 1987:

That he will call the attention of the Senate to the Twenty-eighth Meeting of the Canada-United States Inter-parliamentary Group, held at Vancouver, British Columbia, from June 4 to 8, 1987, and to the Report of the said Meeting.

He said: Honourable senators, I have the honour, as the co-chairman of the Canadian delegation, to table in the Senate, in both official languages, the interim report of the meeting of the Canada-United States Inter-parliamentary Group that took place in Vancouver earlier this month, from June 4 to 8, 1987.

For many years it has been the custom of the Senate to have a full report of the Canada-United States Inter-parliamentary Group tabled and printed in the *Debates of the Senate*, and the same procedure will be followed for this year's meeting as well. However, there is usually a considerable delay in the process, since it has been customary to circulate a draft of the full report first to all the Canadian participants for their approval. The text will, therefore, not be available until the autumn.

In the meantime, several Senate participants considered that some of the issues discussed at this year's meeting with the American Congress were of such current interest that before the summer recess I should table a brief interim report giving the highlights of the valuable exchange of views which took place.

As senators are no doubt aware, the role of certain congressional figures will be of critical importance in the process of U.S. ratification of a Canada-U.S. trade agreement, if and when a draft agreement is drawn up. This year the U.S. delegation to the Vancouver meeting was of high calibre and included a couple of these key members of the House of Commons Ways and Means Committee, whose approval will be necessary for the agreement to go ahead. Honourable senators will be interested, I think, in the summary of their remarks on this point.

Both in committee and in the plenary, the discussions on trade issues were informed and at times vigorous. In plenary, in addition to looking broadly at the prospects of a bilateral free trade agreement, there was a discussion of the implications of the bilateral relationship on Canada's cultural sovereignty.

As senators will see from this interim report, the agenda for meetings, divided into three committees, covers the gamut of Canada-U.S. relations. Canadian delegates, including an able Senate contingent, aired Canadian concerns on a variety of issues, including countervail, steel, corn, softwood lumber and film distribution; on energy and defence issues, such as the proposed U.S. oil import tax and the recent FERC decision on gas pricing; and on environmental issues, including acid rain and other trans-boundary and fisheries problems. There is no doubt that this is the most important inter-parliamentary relationship of the Canadian Parliament.

This year was the twenty-seventh consecutive meeting of this group, and honourable senators will be interested to know that its early success owes a great deal to a former member of this assembly, the late Senator Grattan O'Leary, who, with his friend, Senator George Aiken from Vermont, could be considered fathers of this important organization.

These annual meetings provide Canada with a unique opportunity for getting Canadian viewpoints and concerns directly to U.S. Congressmen in a way that cannot be duplicated by officials, no matter how skilful and assiduous.

Honourable senators, with leave of the Senate, I ask that the Report of the Twenty-Eighth Meeting of the Canada-United States Inter-parliamentary Group be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings*

of the Senate of this day and form part of the permanent records of this house.

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(For text of report, see Appendix "C", p. 1610.)

Hon. Jerahmiel S. Grafstein: Honourable senators, I was pleased to be a member of the Twenty-Seventh Annual Meeting of the Canada-United States Parliamentary Group which met this June in Vancouver.

To meet American counterparts from the Senate and the House of Representatives and to exchange ideas on current public policy and priorities of our respective public agendas is always a stimulating challenge. We seem to be looking, however, at opposite ends of a telescope. Sometimes one feels as if trapped in a surrealist painting by Salvador Dali.

While we Canadians were convulsed by issues of gas export pricing, film distribution in Canada, softwood lumber and Arctic sovereignty, the Americans arrived fresh from congressional committee discussions on the missile attack on the U.S.S. Stark in the Persian Gulf and the continuing saga of Irangate. Many members were delayed because of their attendance at these hearings. Americans are debating the role of their President and Congress, their economic future, compounded by their stupendous budget deficit, the impact of their debt overlay on the free world, and the continuing Samurai-like attacks and counterattacks on their corrosive trade deficit.

To cause Americans to focus on Canada-U.S. relations at any time is an act of optimism over experience. The baroque American mind now, however, has become concentrated on international trade.

I can report that the Americans in Congress are slowly beginning to concentrate on Canada-U.S. negotiations. While obsessed with local constituency trade protective measures, trade, indeed, will be an issue in the run-up to the American presidential elections commencing after Labour Day this year. But American realism is concentrating the American mind as the velocity of the Canada-U.S. fast-track negotiation reaches a critical period later this fall.

Some American congressmen were pessimistic that Congress could grapple with a comprehensive trade bill in the available time period. Some were pessimistic that if the time period were too short before a trade agreement was open for debate, a congressional delay would be granted. However, American lawmakers are always passionate in pressing their local interests, provocative in promotion of their national positions, provocative in applying their global responsibilities, and at all times are united and programmed to propel their manifest destiny.

We did not, honourable senators, meet the stereotype of the "ugly American." Rather, we met articulate, well-briefed, well-travelled, skilled, public-spirited legislators who, while declaiming their global goals, continued to act in their local interests. This meeting went beyond the niceties and developed into a genuine exchange of viewpoints. Under the excellent chairmanship of Patrick Nowlan and our colleague, Senator Balfour, supported by the excellent staff and briefing by departmental officials, the Canadian delegation was well prepared, vigorous and even eloquent.

[Senator Balfour.]

• (1140)

The list of issues, as outlined in the report tabled by Senator Balfour, was extensive and wide-ranging. Let me touch briefly on a few of the issues, two of which I was asked to present.

On Arctic sovereignty, we pointed out that there was a strong consensus in Canada to exercise full sovereignty over our historic internal waters of the Arctic archipelago. Canada, with our rights well founded in law and fact, is now prepared to have its position affirmed before the International Court of Justice. Legislation defining the straight base lines for these internal waters became effective January 1, 1986, and Canada's exercise of sovereignty is in no way a precedent that would justify interference with international navigation in other parts of the world, precisely because Canada's rights to the Canadian archipelago are unique in that it is unlike any other archipelago in the world in geographic terms. This Artic area has been used and occupied by Canadian Inuit from time immemorial, and it has not customarily been used for international navigation. Thus, the Northwest Passage does not constitute an international strait.

Canada, we indicated, would prefer cooperation rather than confrontation. We are united in our concern that our sovereignty, security, preservation of the environment and the welfare of the Inuit in the Arctic continue. The Canadian position, while formally questioned by Americans, was informally well received and well supported. We believe we made the point that Americans should seek cooperative arrangements rather than crudely breaching what all Canadians consider a clear case of our sovereignty.

On cultural sovereignty, the plenary dealt with the Honourable Flora MacDonald's recent film policy to separate the Canadian marketplace from the American marketplace, and to allow Canadian film producers and film directors an opportunity to establish viable businesses within our own domestic marketplace here in Canada. Less than 10 per cent of the films distributed, produced and exhibited in Canada are Canadian. Yet, surprisingly, there was vitriolic objection to any modest step to repatriate even a small portion of our own domestic marketplace by American film lobbyists.

We argued that Americans had a similar situation with respect to books by American authors at the turn of the century that were substantially published in England. At that time Congress placed a provision in their Copyright Act that provided that American writers, to be protected in their copyright, must be published by American publishing firms. Sixty years later that protective provision in the U.S. Copyright Act was deleted, because, by that time, American publishing firms had become large and healthy having effectively repatriated their domestic marketplace. Now the overwhelming majority of books read by Americans are written and published by Americans in America.

We argued that in Canada our cultural industries, such as films, do not even have a level playing field in Canada. Canadians cannot get on our own field in our own country to play the game. Again the majority of the American delegation was informally sympathetic to our viewpoint. One American legislator even went so far as to point out jocularly that, to be fair, Canada should be given at least 60 years to repatriate our marketplace, as the Americans did. However, we were reminded that fairness in America is no equivalent to any dilution, however minor, to a perceived American interest, and that hell hath no fury like an American lobbyist deterred.

On acid rain, the Americans used their familiar technique of the sword and the shield. While sympathetic, they hid behind their divided jurisdictions, which exist between the two houses of Congress and the President, which act as a collective shield against any coherent continental policy that would protect Canadians or Americans against acid rain in the short run.

Finally, a small item placed on the agenda by the Americans illustrates the American competitive spirit at work. The Japanese have demonstrated recently that they are about to become world leaders in the development of superconductor technology in such applied areas as nuclear medicine and electronic technology. In America this has provoked a publicly perceived gap in high tech. In order to catch up by the year 2,000, America is prepared to build a super conducting supercollider called SSC. The estimate for this major project is approximately $4 billion to $5 billion.

The Americans have demonstrated the vibrancy and imagination of their economic model. While we Canadians are obscenely concerned about supporting General Motors at Ste. Therese, Americans are looking to the future for breakthroughs in high tech and are prepared to put their money where their minds are.

Walt Whitman, the great American poet, wrote a beautiful poem called "I Hear America Singing". At this meeting we heard American legislators, we listened to their words, we listened to their music, and I came away believing that Canadians must be more coherent in our national policies, more united in our national objectives, more concentrated in our national priorities if we are not to be drowned out by the cacophony of the grand American chorus.

One final footnote, honourable senators. Our American colleagues, while not wishing to interfere with or intrude on domestic Canadian affairs, were informally most interested and bemused by Canada's new constitutional model. Read, I was advised, read the deliberations of the Grand Convention held in Philadelphia 200 years ago in 1787 that led to the new U.S. Constitution to see how Americans dealt with their national idea of "a more perfect economic union." Sometimes, honourable senators, sometimes American advice should be heeded!

Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: As no other honourable senator wishes to participate in the debate, this inquiry is considered debated.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I propose that the Senate adjourn now until 2 o'clock this afternoon.

I understand that as the next item of business on the order paper we will be going into Committee of the Whole, and it may be just as well for us to break before that and start with Senator Forsey at 2 o'clock this afternoon.

The Senate adjourned until 2 p.m.

At 2 p.m. the sitting of the Senate was resumed.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, it was agreed that we would meet again to proceed with questioning of the Honourable Eugene Forsey. If you are prepared to proceed now, we will invite Senator Forsey to join us.

Senator Frith: While we are waiting, honourable senators, I should explain that we hope the next time we resolve into Committee of the Whole on the Meech Lake accord to try to place the table in a different position. We all know that the present position is not satisfactory. The suggestion is that the table be placed to the left of the Chair, but the problem is that some wiring has to be done in order to make that possible. I do not want honourable senators to think that we have ignored our common concern over the placement of the table.

Pursuant to Order adopted on June 18, 1987, the Honourable Eugene Forsey was escorted to a seat in the Senate Chamber.

The Chairman: Thank you, Senator Forsey, for joining us again today. My apologies for your having had to wait on a couple of previous occasions when we thought that we would proceed to Committee of the Whole. Having been in this place

for many years yourself, I am sure that you realize that our schedules are not exactly predictable at times.

The purpose this afternoon is to proceed to questioning of Senator Forsey. I believe it was agreed by the steering committee that we would start off with someone from the opposition, followed by someone from the government. Then senators will follow at random as I see hands raised, but I will attempt to ensure that there is balance.

Senator Frith: Mr. Chairman, Senator Stewart will begin for the this side.

The Chairman: I recognize Senator Stewart.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman. My first question, honourable senators, relates to the proposed new section 2 of the Constitution Act. It relates to the way paragraph 2.(1)(*b*) is to be read when we take into account subsection (4). What does proposed subsection 2.(4) mean when read in the light of the overriding rule that the entire Constitution of Canada, with the exception of those sections specified in section 16 of this Constitution amendment, is to be interpreted in a manner consistent with the recognition that Quebec constitutes, within Canada, a distinct society?

Hon. Eugene Forsey: Senator Stewart, I tried to make clear the other day my view that subsection 2.(4) does not provide an adequate safeguard against the difficulties which might arise from the provisions of section 2, subsection (3). I do not know that I can make it any clearer. It seems to me that there is the possibility that the opening words there:

> The Constitution Act, 1867 is amended by adding thereto, immediately after section 1 thereof, the following section:
>
> "2.(1) The Constitution of Canada shall be interpreted—

represents the kind of possibility that I referred to the other day and that subsection (4) does not adequately protect us from the consequences.

I do not know whether I have really seized the purport of your question and given an adequate answer, but I tried to make it clear the other day. Perhaps you had better have another shot and see if you can straighten me out.

Senator Stewart (Antigonish-Guysborough): Let me put it this way: Would it be unreasonable for a judge to decide that subsection (4) does not change in any way the list of powers, et cetera, of Parliament, but that in the future there is to be a new rule of interpretation, an overriding rule of interpretation, when cases involving conflict between the powers of the Parliament of Canada and the powers of a provincial legislature take place? I refer to the case when that conflict is between Canada and the authorities in Quebec. That rule would not apply, of course, in a case involving Canada and Ontario, let us say.

Dr. Forsey: Yes, I would think there is the possibility of a complete overriding there, especially in view of the provisions of section 16.

Senator Stewart (Antigonish-Guysborough): With respect to the word "society", where will the court look for guidance in deciding what is meant by "society" in this new section? What do you think, on the basis of that kind of guidance, the courts will decide the word "society" means? Clearly this rule of interpretation refers to far more than language, which is dealt with adequately in the new section 2.(1)(a).

Dr. Forsey: Yes, clearly it deals with far more than language, especially, again, taken in conjunction with section 16. The meaning of the term "society" puzzles me. I am afraid I simply do not know enough law to guess what the courts would take that to mean. I am afraid that question, as to the actual construction the courts would put on the word "society", would have to be addressed to somebody with more knowledge of law than I possess.

• (1410)

Senator Stewart (Antigonish-Guysborough): Honourable senators, I have a further question. It is short, but I would like to give a little background for it. Much of the important litigation concerning the Constitution Act of 1867 has centred on section 92(13), the "Property and Civil Rights in the Province" clause. We know that in 1914 Parliament enacted the War Measures Act, which authorized in certain circumstances, among other things, the "appropriation, control, forfeiture and disposition of property and of the use thereof". That statute was upheld by the Judicial Committee of the Privy Council in 1923 in the *Fort Frances* case, where the committee advised that property and civil rights in the province in emergencies may have aspects:

> . . . by reason of the special circumstances of the national emergency which concern nothing short of the peace, order and good government of Canada as a whole.

The War Measures Act is still on the books; but last Friday the Minister of National Defence introduced in the House of Commons a bill for a new Emergencies Act, which will provide the Government of Canada with exceptional powers to deal with national emergencies at four different levels.

Even at the lowest level of emergency, the new act will authorize the Governor in Council to make orders in council with respect to:

> the requisition, use or disposition of property.

Now, given the rule that hereafter, in the case of Quebec, the provision "Property and Civil Rights in the Province" is to be interpreted in a new way—that is, as property and civil rights in a distinct society—is it possible, Senator Forsey, that an order under this proposed new Emergencies Act would be found valid for Ontario or New Brunswick but invalid for Quebec?

Dr. Forsey: In my opinion, yes, perfectly possible.

Senator Stewart (Antigonish-Guysborough): In other words, property and civil rights in the province will be a much more powerful assignment of power in the case of Quebec than for Ontario and New Brunswick.

Dr. Forsey: Yes, or any other province.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I have one further question, if I may. As you said on Friday, Senator Forsey, up to the present the spending power has been used to help provincial governments participate in shared-cost programs with objectives and standards defined by the Parliament of Canada.

Under the proposed new section 106A, where a new shared-cost program is established by the Government of Canada, a province that chooses not to participate is to receive reasonable compensation if "it carries on a program or initiative that is compatible with the national objectives."

In contrast, as you pointed out, to proposed new section 95B, dealing with national standards and objectives relating to immigration or aliens, the proposed new section 106A makes no reference to the Parliament of Canada.

It has been argued that the national purposes or national objectives—whichever term you wish to use—in areas under exclusive provincial jurisdiction can only mean the sum of provincial purposes or objectives. That position was asserted by no less a person than the present Attorney General of Nova Scotia. In 1984 Mr. Donahoe appeared before the Standing Senate Committee on National Finance, which was then dealing with a bill concerning federal-provincial financial arrangements with regard to education. He said:

> Given the provincial jurisdiction in the field of education, provincial ministers of education would contend that "national purposes" can be only understood in terms of the sum of provincial purposes.

Later he went on to say:

> What deeply concerns us is a possible interpretation of this clause, which would render the term "national purposes" synonymous with "federal government purposes".

So there we have a very clear definition—a provincialist definition—of the term "national purposes" or, alternatively, "national objectives." My question is this: Is the omission from section 106A of any reference to the Parliament of Canada as defining the objectives of new shared-cost programs consistent with the view stated by the present Attorney General of Nova Scotia—namely, that in these areas "national purposes" or "national objectives"—whichever term one wishes to use—can be understood only in terms of the sum of provincial objectives?

Dr. Forsey: It seems to me that it might be—although, of course, the Meech Lake accord does say "the Government of Canada". For reasons that I explained the other day, I don't think that is adequate. I cannot believe that the definition of "national purposes", as simply the sum of provincial purposes, in areas of exclusive provincial jurisdiction, is adequate at all. I should reject the theory put forward by the present Attorney General of Nova Scotia.

Incidentally, even in connection with education, I think it fails to hold water, because, as two very distinguished constitutional lawyers have pointed out—the late Alex Correy of Queen's and Senator Hicks of this chamber—section 93 of the act of 1867 says, "in and for each province" the legislature shall exclusively make laws in relation to education, subject to—and then come provisions for separate schools.

Senator Stewart (Antigonish-Guysborough): But, Senator Forsey, let us not get into the problem of deciding how much of education is provincial and how much might be federal. Some of it is provincial, clearly.

Dr. Forsey: Yes.

Senator Stewart (Antigonish-Guysborough): In that area which is clearly provincial, would a definition of national purposes or objectives, as the sum of the purposes of the provincial governments, be a reasonable definition?

Dr. Forsey: No, I don't think so.

Senator Stewart (Antigonish-Guysborough): You would not think so?

Dr. Forsey: No.

Senator Stewart (Antigonish-Guysborough): In other words, you disagree emphatically with the present Attorney General of Nova Scotia?

Dr. Forsey: Yes—very rash of me, perhaps, but I do.

Senator Stewart (Antigonish-Guysborough): But at least that is a definition which could reasonably be put foward by a proponent of the provincial viewpoint. After all, in 1867 they did assign certain things exclusively to provincial jurisdiction.

Dr. Forsey: Yes, but they also assigned certain things to the jurisdiction of the central Parliament and government, and Sir John A. Macdonald's cardinal principle was the general government and legislature for general purposes and local governments and legislatures for local purposes; and there is no doubt at all in my mind that if Sir John had been confronted with Mr. Donahoe's proposal, he would at least have laughed at it. I think he would have rejected it completely.

That is, of course, not decisive; but it seems to me that if you're talking about expenditures by the Parliament of Canada, the Parliament of Canada has the right to say, "We are going to make these expenditures for certain purposes and we decide what those purposes are; we attach the conditions to the expenditure of our money."

I don't see how they can abdicate in favour of a sum of provincial purposes in any jurisdiction, even if the jurisdiction is completely provincial. If they are going to have a spending power at all and use it, it seems to me that the Parliament of Canada must say, "on certain conditions."

Now, obviously if there are certain conditions which it might try to impose which would be intolerable, they would have to be rejected. But, in fact, we know that in the shared-cost programs various conditions have been laid down which have been adhered to, and which I think have passed without serious question—the extra billing provision, for example, in the Canada Health Act.

Senator Stewart (Antigonish-Guysborough): Certainly that has been the pattern in certain cases; but there is a notable case, namely, education, where the Parliament of Canada

provides large sums of money to provincial governments and the Government of Canada and the Parliament of Canada have not been successful in establishing the national purposes or the national objectives. They have accepted the "national purposes" or the "national objectives" as defined by Mr. Donahoe, who in 1984 was speaking as the Chairman of the Council of Ministers of Education for Canada. It seems to me that this interpretation is not one that ought to be dismissed out of hand. It is one which has applied to a major part of the transfers to the provinces for many years.

● (1420)

Dr. Forsey: Unquestionably Parliament can make unconditional grants to anybody it wants to.

Senator Stewart (Antigonish-Guysborough): Which on this interpretation will have a constitutional blessing or imprimatur?

Dr. Forsey: I think that Parliament has the power now either to make conditional grants or unconditional grants. It has power to do both.

Senator Stewart (Antigonish-Guysborough): But in the case of shared-cost programs, using this interpretation of "national objectives," whereas up to now Parliament could say, "We will not give you any money unless you meet our objectives," a province hereafter will be able to say, "We have our own initiative here. It does not conform with what you say are the standards, but that is not required by the Constitution in order for us to qualify for our money."

Dr. Forsey: Quite so, subject, of course, to the interpretation put on the word "compatible" and subject also to the interpretation put upon the word "initiatives". What exactly constitutes an "initiative," which is "compatible"—a queston mark again—with "national objectives"—a question mark again. And there is also the possibility that the "national objectives" might be set by that ineffable body, The Conference of First Ministers. I cannot refrain from drawing attention to a very curious thing in the accord which I at first took to be simply a misprint caused by what I believe is called the prevalence in the post-literate age of computers and word processors, and so forth. In the second "whereas" I believe it says that this will bring Quebec into the Constitutional Councils—c-o-u-n-c-i-l-s—of Canada. When I saw that I thought, of course, that they meant c-o-u-n-s-e-l-s. But after hearing the exaltation of the Conference of First Ministers, I began to ask myself whether, in fact, they are speaking of a new entity here—the Constitutional Councils of Canada. It seems to me that it is possible that with the magnification of the Conference of First Ministers, we might have the first ministers taking upon themselves the task of defining what the "national objectives" are. Of course, the text says, "The Government of Canada." It seems to me that it is a mass of obscurities and ambiguities.

Senator Stewart (Antigonish-Guysborough): The section speaks only of a national shared-cost program that is established by the Government of Canada. It does not say in any place that the Parliament of Canada or the Government of Canada is to establish the national objectives.

[Senator Stewart (Antigonish-Guysborough).]

Dr. Forsey: That is a further ambiguity. The more one goes into this the deeper one sinks into the linguistic bog.

Senator Frith: Mr. Chairman, earlier a question was raised by both Senator Stewart and Dr. Forsey as to what might be the courts' interpretation of the word "society". The Encyclopedia of Words and Phrases, Legal Maxims, Canada, 1825-1978, Third Edition by Sanagan, does not have an interpretation for the word "society." In fact, there is nothing in this book between the word "soap" and "sodomy."

Senator Doody: It would cost a fortune to get that kind of information outside.

[*Translation*]

The Chairman: The next person on my list on the government side is Senator Flynn.

Senator Flynn: Mr. Chairman, I did not hear the initial questions asked by Senator Stewart (Antigonish-Guysborough). If I happen to raise points that have already been covered, please let me know and I will drop them accordingly.

Senator Forsey, it was said that you had a problem with the term "distinct society". Wouldn't you agree that further defining "distinct society", as opposed to maintaining this general term, would create further problems?

Dr. Forsey: Further defining this term?

Senator Flynn: You suggested that the term "distinct society' should be clarified, did you not?

Dr. Forsey: Yes, I did.

Senator Flynn: But don't you think that by doing so, you might be creating more problems than by refraining from doing so?

Dr. Forsey: Possibly, but I think that would depend on the definition chosen. In fact, there are always problems, but—

Senator Flynn: Always problems?

Dr. Forsey: Yes, always. But I would like to see something more specific on the situation of the Anglophone minority in Quebec, in that "distinct society". I feel it is not quite clear.

Senator Flynn: In any case, some people who object to this term say there is not enough emphasis on the rights of the Anglophone minority, while according to others, the rights of the Francophone majority are not satisfactorily defined.

How would you resolve this dilemma?

Dr. Forsey: Well, I leave that up to the legal experts.

Senator Flynn: Indeed. So you agree that in fact—

Dr. Forsey: Well, I leave it up to the legal experts because I do not have more than a layman's knowledge in this respect.

Senator Roblin: You are very philosophical!

Senator Flynn: We might be better off with the approach taken in the case of the Charter of Rights and Freedoms, that is, letting matters evolve, depending on a possible definition by the Supreme Court. I think we will be in for a few surprises, as was the case with the Charter of Rights and Freedoms.

Senator Forsey, I suppose, for instance, you did not anticipate that in the Charter of Rights and Freedoms, freedom of association would mean that unions would be able to use the money they collect for union purposes only and not for political purposes. I don't think you anticipated that.

Dr. Forsey: I didn't, but—

Senator Flynn: Would you have preferred further clarification and do you think this could have been anticipated?

Dr. Forsey: Before the Charter of Rights and Freedoms was adopted, I know former Senator Goldenberg asked the Prime Minister at the time for a more precise definition. Mr. Trudeau rejected the suggestion out of hand, saying that it would be up to the courts to decide.

Senator Flynn: I see.

Dr. Forsey: And Senator Goldenberg was profoundly shocked by the decision.

Senator Flynn: Excuse me, whom are you talking about?

Dr. Forsey: Senator Goldenberg. I was also deeply shocked.

Senator Flynn: I would like to get back to my question. Don't you think that by trying, at the time, to clarify further the meaning of freedom of association, and so forth, this would have created even more problems than the particular issue we have been confronted with recently?

Dr. Forsey: Possibly, but it would depend on the terms of the definition.

Last night in a speech, I said, and I will quote myself in English:

[*English*]

I think it is the duty of the legislator to indicate as precisely as possible to the courts what he has in mind.

• (1430)

Senator Flynn: I agree with that, too.

Dr. Forsey: And not simply to say: "Open the gates as wide as the sky and let the judges come riding by."

Senator Flynn: On that basis, I think the Charter of Rights would be twice or three times the size that it now is, don't you think? In using general terms in the Charter of Rights, we opened the door and we let in the flood much more than we thought we were doing.

Dr. Forsey: Yes, I think it was too inclusive, and I do not think it was well drafted.

Senator Flynn: It is very difficult to draft perfectly, Senator Forsey.

Dr. Forsey: Yes, I know. I have no claim to any special knowledge in that area. However, I remember one time I was discussing this matter with the late Elmer Driedger who did know something about drafting. I said to him: "Lawyers whose judgment, experience and knowledge I trust tell me that it was not well drafted," and he replied: "It's abominably drafted."

Senator Flynn: Yes, but, in the same fashion, do you know of any legal text that has not created a problem of interpretation?

Dr. Forsey: Of course not, but it seems to me you would want to reduce the problems as far as you can.

Senator Flynn: Let me come back again: Do you not think when you try to reduce the problem by attempting to be more precise that you create more problems?

Dr. Forsey: That is possible—

Senator Flynn: Okay, I agree with that.

Dr. Forsey: But also, it is not necessarily so either.

Senator Flynn: It is not necessarily so, but I suggest that in the present case it would be.

In any event, let us get down to brass tacks: When we come to deciding on this accord, do you suggest that we risk the fate of the accord by trying to be more specific on the "distinct society" or any other part of the accord?

Dr. Forsey: I think that is a matter for the judgment of the Senate.

Senator Flynn: But I am asking you, as an expert. You have been a member of this chamber; you should know what the consequences are of the accord or of amendments to that accord. I am asking you: Do you think that you would risk the fate of the accord?

Dr. Forsey: Yes.

Senator Flynn: On perfecting the—

Dr. Forsey: Yes.

Senator Flynn: —and at the risk of excluding Quebec, and putting Quebec back where it was before the accord?

Dr. Forsey: I suppose there is a risk in any course that you would take.

Senator Flynn: But I am asking you if you are prepared to take that risk?

Dr. Forsey: Yes. The Constitution belongs to all of us.

Senator Flynn: Yes, I agree with that.

Dr. Forsey: This accord deals not only with the powers and rights of Quebec specifically but of all the provinces.

Senator Flynn: Yes, but it belongs to all the provinces, and all of the provinces have been involved in the making of the accord and have signed it.

Senator Frith: All of the provincial governments.

Senator Stanbury: All of the premiers have signed.

Senator Flynn: At this time I am speaking of the provincial governments as well as the Government of Canada, of course.

Senator Frith: And one legislature. The Constitution requires "legislatures."

Senator Flynn: I am coming back to that question. Are you prepared to risk the accord for clarification of one term or the

other, even if it is not of the essence but really is only a question of perfection?

Dr. Forsey: It may or may not be of the essence. I think in this case a "distinct society" is very much of the essence, in the first place.

In the second place, if you take the view that the accord is there and that to touch it in any way is to invite the most disastrous consequences, then you are practically saying—

Senator Flynn: The disastrous consequences at this time—

Senator Frith: Let him finish: "You are practically saying . . ." what?

Dr. Forsey: You are practically saying that the thing is "chose jugée;" that Quebec has spoken—*Roma locuta est*—and there is nothing further to be said.

Senator Flynn: That is what you say. "Chose jugée" would mean that the Supreme Court would have passed judgment on your view that "distinct society" is not clear enough. That would be "chose jugée," but, with great respect, I think you are pushing it a little bit, Senator Forsey. "Chose jugée" is about the practical consequences of the failure of the accord only because you have some doubts about the effect of "distinct society."

Dr. Forsey: Yes, and I think that the doubts need to be cleared up.

Senator Flynn: It cannot be cleared up if you start the negotiations again and someone gets excited about the term—as you are—and then the whole round of negotiations and agreement starts again and, in that case, is doomed to failure.

Dr. Forsey: Not necessarily.

Senator Flynn: If you want to push Quebec back to where it was before the accord only because you are not satisfied with one or two words or with an imprecision of some kind, then we are not on the same basis at all, I can assure you.

Dr. Forsey: I do not think it is a question of a word or two; I think it is a question of something—

Senator Flynn: Two words—

Senator Frith: Let him finish, for goodness sake. Can't we hear his answer? We have been listening attentively—

An Hon Senator: It is a sermon, not a question.

Senator Frith: Look, your questions are quite in order, but we have listened to them and we can't seem to get the answer.

Senator Flynn: You will get the answer; don't worry. Senator Forsey is used to me, and he is even used to you.

Senator Frith: Mr. Chairman, I would like to hear the answer. Can we get it from the witness?

The Chairman: Honourable senators, I assume that in Committee of the Whole we operate under the same rules as we do in the Senate. Therefore, it is up to honourable senators to control themselves; it is not up to the Chairman. In other words, as in the Senate, we do not expect the Speaker to interfere. I have not interfered. If you want me to do that, I shall, but I assume that we operate under the same rules as we do in the Senate. However, I am asking you.

Senator Flynn: Mr. Chairman, I am listening.

The Chairman: Très bien. Dr. Forsey?

Dr. Forsey: It seems to me that the logical consequence of the view that Senator Flynn is putting forward—and I say this with great respect, because I think there is no one in this chamber for whom I have a more profound respect than I have for Senator Flynn and for his vast legal knowledge and his general good judgment. However, it seems to me that the consequence of the view that he is putting forward pretty well emasculates all of the legislatures that have yet to pronounce on this matter and both houses of the Parliament of Canada. They will be told: "You must not touch this. It is the two Tables of the Law brought down from Mount Sinai by 11 Moseses and you cannot touch it, because, if you do, the whole fabric of civilization will collapse."

Senator Flynn: I think I should make it clear again that I am speaking of problems of interpretation of certain words; I am not speaking of a substantial, very important defect. What you are saying is that "distinct society" could be clearer. You do not even say in what way it could be clearer. Go ahead and tell me in what way it could be clearer and we will see whether you can produce an obvious solution that would be accepted by everyone.

Dr. Forsey: I am not a draftsman, Senator Flynn, and I would not attempt to do that. Again, I do not think that it is a matter of just one word to clear it up. You might go through this accord and pick out various difficulties and say: "This is just one word; this is just one word; this is just one word; these are just two words." However, very serious consequences may arise from one word or two words. I am not appearing here as some sort of encyclopedia or expert draftsman and saying: "You ought to change this to read thus and so." I am not competent to do that. I raise questions which other people—yourself included—are far better able to answer than I am. However, I think I am entitled to raise the questions; that is why I am here.

Senator Flynn: You are entitled to raise the questions; I agree with you, but what I am saying is: Is your question of such importance that you have a clear solution, or that you are prepared to say: "The hell with the accord," if it cannot be made clearer?

Dr. Forsey: Whether or not I have a clear solution does not decide the question.

Senator Flynn: No. Then answer the other part.

Dr. Forsey: Which is that?

• (1440)

Senator Flynn: If you have no solution, "to hell with the accord."

Dr. Forsey: No, that I have no precise wording to suggest does not torpedo my argument nor affect—

Senator Flynn: Does that not destroy your argument to even risk the fate of the accord?

Dr. Forsey: No, I do not think it does.

Senator Flynn: I mean, if you change it and if it does.

Dr. Forsey: This accord has to go before the Parliament of Canada. Of the ten provincial legislatures one has pronounced. The others have still to pronounce.

Senator Flynn: I am speaking from a practical viewpoint. You sat in this place for several years. We are speaking of 11 legislatures; let us say ten now that Quebec has accepted it. We change a word; we start a debate on changing the definition of "distinct society". It goes through a round of ten legislatures. It may be 11, in fact, because there is the Senate and the House of Commons.

Senator Stewart (Antigonish-Guysborough): It must be very fragile if it will not bear some examination or amendment.

Senator Flynn: I have no problem with that examination. I am asking a practical question. I do not mind listening to Senator Stewart ad infinitum, as we always have to do, but that is something else.

Senator Frith: It is like a museum. Look, don't touch!

Senator Flynn: I like the intervention of Senator Frith. I was here when we debated the 1982 resolution after it was signed by nine out of the ten premiers. You said that it was impossible to change anything. This argument was made over and over again, even if it excluded Quebec.

Senator Frith: You show me where I said that.

Senator Flynn: I remember that very well. We said, "Try to meet the main objections of Quebec," and you said, "It's impossible. We cannot touch it." You remember that very well.

Senator Frith: I never said that.

Senator Flynn: You should not have the gall of taking that stand.

Senator Frith: I would have the gall anyway, but I never did say that. Now, stop it.

Senator Flynn: If you did not say that, someone else next to you said it.

I think I have made my point on "distinct society." We could not foresee all the consequences, as you have said, of the Charter of Rights when we passed it. If there is something very important that flows from the generality of this term, we can change it. However, do you agree that it is important to have this process of bringing Quebec back into the Constitution? Do you think it is a major objective?

Dr. Forsey: Yes, certainly. However, it does not follow that it should be pursued at any price.

Senator Flynn: Yes. Can you point out to me the real price? Tomorrow is another day; today is today.

Thank you, senator.

Dr. Forsey: I have tried to point out what seemed to be the possible consequences of this section, notably taken with sections—

Senator Flynn: Anyway, you are in good company. You are in company with the centralists and you are in company with the separatists in this area.

Dr. Forsey: Guilt by association.

Senator Frith: What an unfair association to make.

An Hon. Senator: Shame!

Senator Flynn: There is no shame in that. If there is any shame, Senator Lang, come on, step up and speak. Is it true that the separatists opposed it?

Senator Lang: I might speak today, if you will shut up.

Senator Flynn: I am shutting up right away. Speak up, Senator Lang.

Senator Frith: Hear, hear!

Dr. Forsey: I was not able to finish my last answer. I am afraid I cannot now remember what it was I was going to say, because in the middle of my sentence I was cut off.

Senator Flynn: By the other hand.

Dr. Forsey: If the answer appears imperfect, I am afraid it is not entirely my fault.

[*Translation*]

The Chairman: Senator Flynn, have you finished?

Senator Flynn: For the time being, Mr. Chairman.

[*English*]

The Chairman: The next name on my list is Honourable Senator Lang.

Senator Lang: Thank you, Mr. Chairman. Following from the remarks of Senator Flynn, I might remind him of the old adage:

> I am the Parliamentary Draftsman. I draft the country's laws, and of half the litigation I am undoubtedly the cause.

Senator Flynn: Of course.

Senator Lang: I must say to Senator Forsey that I am not glad to see your back. This is a problem that is brought about by the way this chamber has arranged your position.

Some of my questions will initially be what might be termed of a legalistic nature. I know Senator Forsey will immediately profess that he is not a lawyer.

Senator Doody: Excuse me, senator, I wonder if Senator Forsey will be more comfortable in one of these other chairs.

Dr. Forsey: I will be better able to see the questioner. Thank you.

Senator Lang: I was saying that I know Senator Forsey is going to protest that he is not a lawyer. However, in my experience he has the best legal mind that I have ever come

across, uninhibited by being circumscribed by legal formal education.

Looking at clause 2(1)(*a*) I notice that French-speaking Canadians are centred in Quebec whereas English-speaking Canadians are concentrated outside Quebec. Would normal draftsmanship not assume that the word "centred" would apply to both French-speaking and English-speaking? Can you understand why one is centred and the other con-centred, because they are obviously the same root? What significance could that have? I do not believe that this is a sloppily drafted document. I think it is a very craftily drafted document.

Dr. Forsey: I am puzzled by that discrepancy, as by some other discrepancies in the document. I should, however, point out that unless I am mistaken—and I have the two texts before me—in French the same word is used, concentrés.

[*Translation*]

> —the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec—

[*English*]

The two texts are supposed to be equally authoritative, and I do not know how much importance one should attach to the difference between the words "centred" and "concentrated" in the English text. It is curious. I do not know why it is there. They used the same word in French and I do not know why they did not use the same word in English.

Senator Lang: That same query arises further on in this section. I do not know if the problem is with the translation. The word "society" is used in the English text, and then in item (3) the word "identity" is used, and, yet, there is no identity referred to in item (*b*). In the French text the word is "caractère". What is the difference between "identity" in English and "caractère" in French?

Dr. Forsey: I am afraid I am not a linguistic expert. I do not think I am qualified to answer that.

Senator Lang: Would you not agree that these are going to be problems that the judiciary are going to have to face sooner or later in interpreting this section?

Dr. Forsey: They may well.

Senator Lang: I note that under clause 2(2) the initiative of the Parliament and legislatures is to preserve the fundamental characteristics of Canada. It says that the Government of Quebec and the legislature of Quebec are "to preserve," but, in addition, they are "to promote." Would you attach any significance to that distinction?

● (1450)

Dr. Forsey: Yes, I am inclined to do so, and more particularly because I am under the impression that a number of the representatives of the French-speaking Canadians outside of Quebec have attached some importance to it and have wondered why the word "promote" was not used in both cases.

[Senator Lang.]

In light of what appears in the newspaper this morning and the news from Alberta about the fate of the unfortunate Monsieur Piquette, I think one may well ask why there is this discrepancy between these two subsections. I must say that I am horrified beyond description by the treatment that the Legislature of Alberta has meted out to Monsieur Piquette, and I wonder whether, if the word "promote" were in here, there would be some possibility of redress which does not appear to be open at present.

Senator Lang: Would it not be that the distinction between the wording in those two clauses would mean that it is intended to maintain the *status quo* outside of Quebec but not within Quebec?

Dr. Forsey: Yes; that is very much what it looks like.

Senator Lang: On the same clause again, I note that with respect to the Parliament of Canada and the provincial legislatures generally, they are to preserve certain things. But then when you get down to the Legislature of Quebec, there is, in addition, the wording that the "Government of Quebec is to preserve and promote the distinct identity of Quebec."

Does that mean that the actions in preserving and promoting identity in Quebec could be done by order in council, for example, by government, whereas for the rest of the country preserving identity is confined to Parliament and legislatures?

Dr. Forsey: That, again, seems to me to be possible. If that is not the intent, why is there this discrepancy between the two sets of words, the two phrases?

Incidentally, this gives me an opportunity to mention something that I forgot to mention the other day, namely, the size of the English-speaking minority in Quebec, which I think is sometimes overlooked. It is approximately something like 800,000 people—I was looking up the figures the other day. That figure is larger than the total population of Newfoundland, New Brunswick, Prince Edward Island or Saskatchewan, and is larger than the total French-speaking minority in Ontario and New Brunswick combined.

So we are dealing with a rather large question here, demographically speaking, and not a tuppenny-ha'penny affair. Rights are rights, even for a minority of half a dozen people, but they assume, for practical purposes, a somewhat larger significance, I think, if they relate to a large number of people.

Senator Lang: I would like to pass on that for a moment and turn to the Supreme Court of Canada sections. I noticed in section 101 B.(2) it states:

> At least three judges of the Supreme Court of Canada shall be appointed from among persons—

If you then go on and read the balance of the provisions in 101 C.(1) and following, I do not know how you could have more than three judges appointed from Quebec—unless there is some hidden method in here which I am not aware of. In other words, are those words "at least" redundant? If so, why would a good draftsman put them in there, or is there some way that under the following sections or subsections there could be more than three judges from Quebec?

Dr. Forsey: In the first place, it has been called to my attention that that phrase "at least three judges" is in the existing Supreme Court Act. I was not aware of that, but on investigation I discovered that it was so. That is the first point.

The second point is that it has been pointed out to me that the provisions for the appointment of a chief justice from among the existing members of the court are special, and that you might conceivably have one of the three Quebec judges appointed chief justice. He then might be replaced as one of the "at least three" so that in that way there would be the chief justice and three other justices from Quebec. That is about the only light that I can throw on this.

I might perhaps add this. If, in fact, you had four judges from Quebec, for example—and there is obviously room for that under this provision—it would leave five for the other provinces. I suspect that Ontario would be inclined to insist on three and the western provinces and the Atlantic provinces would have to make do as best they could with two, which might give rise to heartburnings in the west and even in the Atlantic provinces. However, that could happen now, because you already have the "at least" provision in there.

Senator Lang: The next point I would like to raise is: What is the effect of section 16? If certain groups such as Indians, Métis and others are excluded from the effects of the "distinct society" provision—

Dr. Forsey: And the duality provision.

Senator Lang: —what happens to the others, for example, the Anglo-Saxon-speaking minority in Quebec, under the doctrine of *inclusio unius est exclusio alterius*?

Dr. Forsey: Well, it seems to me that there is a possibility there—I would not put it more strongly, because I am not qualified to do so—that practically everything else is left open to the application of these two new principles of interpretation. In other words, that the whole of the powers of the Parliament of Canada, except for the provision on Indians and lands reserved for the Indians, the declaratory power under section 92 10.(*c*), for example, and so forth, and all of the provisions of the Charter, except those relating to the aboriginal peoples and multiculturalism, are open to the application of these two new principles of interpretation. What that could do to the powers of the Parliament of Canada and to the Charter of Rights is something that allows the imagination to work, shall I say, with perhaps some rather lurid consequences.

We do not know what the courts would do with this, but there is a possibility there that in a given case they might say, "Look, the two new principles of this interpretation, duality and the "distinct society," apply to this particular provision of the Charter, this particular power of the Parliament of Canada." This could make a considerable difference to the application of these various provisions of the existing Constitution.

I was reading a letter the other day from a lawyer in Toronto with whom I am not otherwise acquainted. He said that it meant that everything in the Charter, except multiculturalism and the aborigines, was up for grabs. That is perhaps putting it in the extreme form, but this was his opinion. He is a lawyer of some years of practice, and I think not altogether irresponsible, shall I say. I do not know him personally, but from the little that I have heard about him I would think that he is of some standing. That statement bothered me.

• (1500)

Senator Lang: On another matter, you will note with regard to those sections respecting appointments to the Senate and to the Supreme Court of Canada that the provinces "may"—which is the permissive "may"—nominate names whereas, with respect to the federal response, it is the mandatory "shall." I can conceive that this could create tremendous problems in the event of a non-nomination either with respect to the Senate or with respect to the Supreme Court of Canada. This could suspend the appointment procedure, and it may even do so indefinitely. Have you any thoughts on that?

Dr. Forsey: Well, the theoretical possibility is there. I am not very much frightened by it, as a matter of fact, because I find it difficult to believe that any provincial government, confronted with the possibility of recommending somebody for appointment either to the Senate or the Supreme Court of Canada, would say, "We are not going to propose anybody at all."

I suppose that you could get some freak government which would take this line. You might get an NDP government saying, "We are so against the Senate that we will have nothing to do with it, and we will not even soil our fingers by suggesting somebody for nomination." But I have a feeling that there would be a lot of NDPers in the province concerned who would say, "Well, why not? The British Labour Party is in favour of the abolition of the House of Lords, but British Labour governments appoint people to the House of Lords. If it is good enough for the holy British Labour Party, it ought to be good enough for you."

I suppose it is possible that you might get a Péquiste government who might say, "We will snarl things up properly by not nominating anybody." Again, I doubt that. I would think they would say, "At least we can put somebody in the Senate who will help us snarl things up for those blankety, blank Anglos." They would say, "We will suggest someone for appointment in the Supreme Court who would make things very difficult for the rest of the members of the court and cause a great deal of trouble which will help us get our way and break up Confederation."

I would think that the chances of a provincial government not nominating anybody are pretty slim. The difficulty, it seems to me, is more likely to arise from nominating somebody and the government here saying, "Oh, this won't do at all. This is a perfectly fantastic nomination. All six of the people you have proposed just won't do at all. Some of them are senile; some of them are corrupt; and some of them are people who know no law whatsoever and heaven alone knows how they passed their bar examinations. No, we cannot take these people." Where are you in that instance? I think the Victoria Charter, for example, had an elaborate provision for an arbitrator who would decide in cases of conflict over the nominations to the judgeships. Here, it seems to me, you have no

provision for looking after an impasse, and that is what worries me rather than the problem of some government saying, "Oh, no, we cannot touch this."

Senator Lang: My reading of this resolution is that there are six areas that were previously dealt with under the two-thirds rule which are now being subject to unanimous consent or are to be under this resolution. In terms of that, together with the appointment procedures to the Senate and to the Supreme Court, how do you generally view the shift of constitutional jurisdiction that could flow from this document?

Dr. Forsey: Well, in general, I would say that the existing Constitution is already pretty rigid, especially in relation to changes in the Senate. This will make it rather more rigid. I am not really enthusiastic about making the Constitution more rigid. You have to have a certain degree of rigidity, but I think we have probably gone a long distance in that direction and I am dubious about going further.

I cannot see, for example, why on earth the provision for the creation of new provinces really has to be moved into the unanimous consent category. I find it difficult to believe that that is something very close to the heart of Mr. Bourassa and Mr. Rémillard and their colleagues. I wonder who in the world put it in there. What is the point of it? If it were deleted, would the whole thing collapse? Would Quebec draw back and say, "This is one of our sacred rights and we simply must have it"? I do not know. I feel dubious about this, and I do not imagine it will make an awful lot of practical difference.

As far as amendments concerning the Senate are concerned, I do not think it will make any difference at all. I think it will be so difficult to get any amendments now on the matters which require them in connection with the Senate that I do not think there will be a possibility of getting anything, but you have now certainly made it even more difficult.

As I said the other day, I think the triple E Senate is out. I do not think we could possibly get it through the seven-province formula. But now I think it is out, out, out, outer, outest. When you have a unanimous consent approval, it recedes into infinity.

Senator Lang: I think I am trespassing on your time, Senator Forsey.

I would just like to wind up on one matter which I think follows on from Senator Flynn's remarks. Recently the Prime Minister has indicated, or originally he indicated—perhaps he has moved away from that position somewhat—that Quebec having signed this, the matter is now engraved in stone and that what might happen within the Parliament of Canada or the legislatures of the provinces other than Quebec would be merely exercises in futility. Combined with that, we have in this document the constitutional entrenchment of a yearly First Ministers' Conference. Can you foresee, over the longer run, that this could seriously affect our Westminster concept of parliamentary supremacy?

Dr. Forsey: Yes, I think it could. Legally I do not think it does it, but you may get, it seems to me, the possibility of a new constitutional convention arising by which people will be induced to believe that if the 11 premiers have said something, that settles the matter, because it then becomes a very important plant, so to speak, a tender plant, and you must not even touch one of the leaves lest the whole plant disappear with the most horrendous consequences.

I think we may be in danger of setting up, by convention, by understanding, not by law, a body which, in fact, will reduce Parliament and the legislatures, for purposes of constitutional amendment, to a very small role, indeed. I think there is a real danger there. I did not think that at first. I was inclined to say, as I said the other day, the First Ministers' Conferences are there and they are not going to go away, so you are merely giving them a certain extra cachet. Later on I thought "cachet" is not quite the proper word and "legitimacy" is perhaps better.

Then I began to see this tendency coming out in the remarks of the Prime Minister, even in the subsequent explanation he gave; coming out in articles in the press; and coming out in conversations I had with various knowledgeable people, that is, this idea that once the First Ministers have pronounced, that is it, and you are just fooling yourself if you think anything can be done about it: It is finished, for all practical purposes.

This, I cannot accept. I am in this respect, as in many others, a constitutional conservative. I do not like the idea of this new sanhedrin, this new infallible, omniscient and inerrant power being set up which will simply say to the legislatures and to Parliament, "The First Ministers have spoken, let all the earth keep silence before them." This worries me.

• (1510)

Senator Stanbury: By way of a supplementary question, Mr. Chairman, I wonder whether Dr. Forsey could tell us what sort of action or what sort of declaration might prevent that from becoming a convention? What sort of actions by those who are discussing the accord or what sort of declarations by some element of our society might prevent that from becoming a convention? What, if anything, would prevent it from becoming a convention?

Dr. Forsey: I think the refusal of Parliament and the legislatures to be bound by any such idea would prevent that from becoming a convention. Sir Ira Jennings in his account of conventions, which was referred to by the Supreme Court on the patriation case, said that one of the rules is: Is this understanding, this custom, this usage, this convention accepted by the people who have to work under it? If it is, that is one thing; if it is not, that is another. I think that if there is a danger of a convention like this growing up, the incisive way to stop it is for Parliament and the legislatures to say, "No, we are not going to regard this accord reached by 11 ministers as sacrosanct and untouchable."

The Chairman: Honourable senators, this morning we had tentatively agreed that we would be about an hour. Is it the wish of senators to continue? I know that there are several other questioners; I am in the hands of the committee.

Senator Frith: If we do not have any legislation, perhaps we should continue.

Senator Doody: Honourable senators, Bill C-56 has arrived, as has Bill C-69. Bill C-63 is in third reading at the present time in the other place.

Senator Frith: Mr. Chairman, I believe that I am on your list of those who wish to ask questions.

The Chairman: You are.

Senator Frith: I only wanted to deal today with one question. It's about section 16. It has really been discussed by Senator Lang and Dr. Forsey. Perhaps I could just put on the record the meaning of the Latin phrase that has been used by Senator Lang and Dr. Forsey. Before we adjourn, I would like to put on the record the meaning of that phrase.

The Chairman: Is it agreed?

Hon. Senators: Agreed.

Senator MacEachen: That will not be necessary for me, but perhaps for the others—

The Chairman: Should I ask all those who need the translation to raise their hands?

Senator Frith: I want to try to put the phrase in context. All Latin scholars, and I suppose all Roman Catholics of a certain age would understand it—I remember one friend of mine defining Anglicans as Roman Catholics who had failed Latin.

At any rate, as I understand it, section 16 says that nothing in section 2—which has to do with duality and the distinct society—affects sections 25 or 27 of the Canadian Charter of Rights and Freedoms, which two sections deal with aboriginal rights and multicultural heritage; that nothing in section 16 affects section 35 of the Constitution Act, 1982, which has to do with Indian and aboriginal rights; and that nothing in section 16 affects class 24 of Section 91, which has to do with Indians and lands reserved for the Indians. In the case of sections 25 and 27 of the Canadian Charter of Rights and Freedoms, those are only two of its sections—there are others. Therefore, section 16 of this Constitution amendment mentions two sections and does not mention the others. The same would apply to section 35 of the Constitution Act, 1982 and class 24 of section 91 of the Constitution Act, 1987.

Dr. Forsey has said that there is the possibility that section 16 would be interpreted in such a way that, since it referred to those particular sections as not being affected, all of the other sections not referred to are affected.

Senator Hicks: Or could be.

Senator Frith: All right, "are" or "could be" affected. That is why I wanted simply to put on the record the interpretative maxim or principle that leads to that result.

The Latin phrase is *inclusio unius est exclusio alterius.*

Senator Marshall: What's that again?

Senator Frith: I'm coming to that. According to the same Encyclopaedia of Words and Phrases to which I referred earlier on the question of "society," the definition is: "This inclusion of one means the exclusion of the other."

There is a reference to a Supreme Court of Canada case in which this definition was applied: *Tremblay v. Beaumont*, 1946; there is mention made of a Quebec case, *Bissonnette v. Bissonnette*, which was dealt with in the Quebec Supreme Court, and a final reference to another Quebec case, *Guay v. Provident Accident & Guarantee Co.*, and the latter reads as follows:

> It is the rule—

not the possibility,

> —that where the law ordains as to certain cases which it enumerates, the law is presumed to have excluded the other cases from its disposition:

Then the Latin phrase is quoted.

The same rule, incidentally, applies, for whatever interest this might be, in the United States.

In Black's *Law Dictionary* the definition is also "the inclusion of one is the exclusion of the other." Therefore, the application, if that rule were applied by a court, would be such that section 2 overrides all sections of the Charter except sections 25 and 27; that it does not override section 35 of the Constitution Act, 1982, and that it overrides all of the powers of Parliament under section 91 of the Constitution Act, 1867, except as they apply to class 24.

There are under section 91 of the Constitution Act, 1867, 25 classes of subjects over which Parliament may legislate, including: The regulation of trade and commerce, unemployment insurance, the raising of money by any mode of taxation, the borrowing of money on the public credit, postal service, the census and statistics, militia, military and naval service and defence, the fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada, navigation and shipping, seacoast and inland fisheries—and I am merely choosing a few of them—currency and coinage, banking, incorporation of banks and the issue of paper money, weights and measures, bills of exchange and promissory notes, interest, legal tender, bankruptcy and insolvency, patents of invention and discovery, copyrights, naturalization and aliens, marriage and divorce, the criminal law—

Senator Doody: It sounds better in Latin!

An Hon. Senator: Dispense!

Senator Frith: —the criminal law, the establishment, maintenance and management of penitentiaries, and so on. If that rule were applied, all of these classes, including some I did dispense with, would be overridden by section 2 of the constitutional amendment.

Thank you, Mr. Chairman.

Senator Tremblay: Read subsection 1(4) at the same time.

Senator Frith: I thought senators wanted me to dispense, but I could go on. Senator Tremblay wants some more. It would also include the residual power and it would include peace, order and good government.

The Chairman: Honourable senators, I see two hands raised, those of Senator Neiman and Senator Sinclair. Is it the wish of senators to continue?

Senator Neiman: Honourable senators, I have only a brief question. I may be missing the point of this, Mr. Chairman, but section 16 begins by saying:

Nothing in section 2 of the Constitution Act, 1867—

I have been looking at the amendment and this section 2 is repealed. Are we referring to section 2 of the 1867 act or are we talking about that of 1982?

Senator Frith: No, section 2 of the Constitution Act is repealed and replaced by this new section 2. This section 2, by the Meech Lake accord, is made section 2 of the 1867 act.

● (1520)

Senator Sinclair: As a supplementary, I think Senator Frith said it "overrides." I would suggest that it does not override; it makes it "subject to," because it is an interpretative clause. For example, "peace, order and good government" would be "subject to" the distinct society, not "overrides."

Senator Frith: "Subject to;" I will accept that.

Senator Grafstein: I believe that section 16 arises out of this question. I am not sure whether it is appropriate at this time. It deals with the Charter as it arises out of section 16. Is it appropriate to continue that now?

The Chairman: We had tentatively agreed to be roughly an hour. Your name is on my list. I presume that we are going to ask Senator Forsey to return, because I have several names on my list. Can it wait until the next time, Senator Grafstein?

Senator Grafstein: Perhaps I can make it short. Senator Flynn put a proposition to this chamber which I think each senator will have to answer for himself. That is whether or not the question of substantive and material defects arise as a result of the Meech Lake accord. I think from the information and opinions that I have been getting that there is a material defect, and I would like to have a brief response at this time from Dr. Forsey, and perhaps he can deliberate over the summer and we can have him come back and attack this again, because it is a complicated area.

It is simply this: As a result of section 16, has the paramountcy of the Charter of Rights been materially diluted or substantially affected in Quebec or outside of Quebec, and specifically with those sections in the Charter dealing with sections 2, 7, 15 and 23—and specifically, in connection with section 2, the question of freedom of the press?

The Chairman: I presume, senator, you are asking Senator Forsey to reply on the next occasion?

Senator Grafstein: Perhaps he can respond briefly now, and then think about it, because it is an important question.

Dr. Forsey: I am afraid my answer is, "Yes"; but if I might borrow from the usage of the chamber, I should prefer to take notice of it and give an answer at some future time—always supposing by "future time" I have not been retired up or down.

[*Translation*]

Senator Denis: Mr. Chairman, am I to understand that Senator Forsey is supposed to meet us again in Committee of the Whole?

The Chairman: Yes, Senator Denis.

Senator Denis: You are supposed to come back and you agree?

Dr. Forsey: God willing, after all I am 83 now!

Senator Denis: We shall be delighted to have you. You can come back with your doctor!

Senator Flynn: Senator Forsey, Senator Denis is about your age!

[*English*]

Senator Lucier: Honourable senators, I rise on a point of order. Has there been any discussion with the steering committee concerning travel to the two northern territories to discuss the Meech Lake accord?

The Chairman: No, Senator Lucier, there has been no discussion of travel by the steering committee.

Senator Lucier: Mr. Chairman, I would like to speak on behalf of the people of both territories, who have been directly and adversely affected by the Meech Lake accord, with no participation, no input, at any of the meetings. They feel that they have been betrayed by the one person who supposedly represented them at those meetings—namely, the Prime Minister of Canada.

I would like to make it clear that the people of the north are not upset with the premiers. They were there getting what they could for their provinces. That was their job. I also want to make it very clear at this time that the people of northern Canada would like to see Quebec become part of the Constitution. I fully agree with the objectives of the Meech Lake accord.

However, I would like to make it clear that we feel that we had a representative at those meetings who was not elected by the people of the north. The Prime Minister of Canada was supposedly speaking for the north, and we feel that he sold us down the river.

I find it very difficult to accept that, whereas the people of northern Canada have always been quietly cast as second class citizens, we have now been openly declared to be second class citizens. There are four areas of the Meech Lake accord on which the people of the north want to be heard. They are aboriginal rights, provincial status, naming of judges and senators, and holding of constitutional conferences.

By giving an absolute veto on constitutional changes to every province, the Canadian Prime Minister has, in one sentence, doomed the aboriginal people to their present status, has precluded the Yukon and the Northwest Territories from becoming provinces in the future, has made no provision for naming senators or judges from the territories, and has made no provision to enable us to attend future constitutional conferences.

Honourable senators, what kind of a rag is this? There was always the feeling that those Canadian citizens who live in the northern one-third of Canada were a little less than those in the rest of Canada, but this document now spells out that they

are second class citizens. It has made it very clear that with the provincial vetoes the Yukon and the Northwest Territories will never become a province. It will be virtually impossible for that to happen.

There is a clause which says that nothing is taken away from the aboriginal people. Well, big deal! It says that nothing is taken away from them, yet we give the provinces an absolute veto which says that any province can now veto a request of the aboriginal people for self-government. So, the government has not said they cannot have self-government. All it has done is to say to the provinces: "If all ten of you agree, they will have it."—which means that it will never happen.

It says that the naming of judges and senators—the clause is very clear—will be done by the provincial premiers through a list. It does not say that the judges and senators from the Yukon and Northwest Territories will then be named by the Prime Minister. It does not say that. It says nothing. It is unbelievable. It says only that the premiers and the Prime Minister will now hold conferences every year to discuss the welfare of Canada. It does not mention the two territories. We are not invited. We cannot participate.

An Hon. Senator: You will be taken over by the provinces.

Senator Lucier: That would be the worst thing that could happen to us. Honourable senators, the people of northern Canada can be very proud of the treatment they have received over the years from the Canadian Senate. I have now been a member of the Senate for 12 years, and during that time honourable senators have taken a great interest in the north. Senate committees have travelled to northern Canada to hear the people of the north on matters concerning health, oil and gas, the environment, fisheries, and so on. A terrific job has been done by Senator Marshall in connection with fisheries. The Senate has done a good job of hearing the views of northerners. Surely, to be consistent on something as basic as the Constitution, we are not going to ignore the people of the north and not travel to the north.

Again I would like to point out that this is not a partisan issue. It seems that I am always saying that in the Senate. This is not a partisan issue. This is an issue in which the whole Senate must take an interest and in whether the northerners are to be heard on this issue. When the Deputy Prime Minister was asked in the other place if the joint committee would travel, his answer was very clear. He said:

> It is not the intention of the Government to allow the committee to travel, for a number of reasons. We think the logistics and the difficulties in organizing such travel would cause problems which would be almost insurmountable.

It is only one-third of Canada. What the hell, they don't count! He continued:

> However, certainly from the standpoint of accommodating people who may want to be heard, I think there can be arrangements made which would hopefully facilitate and satisfy groups such as the Hon. Member indicated.

Now, isn't that beautiful? The Deputy Prime Minister of Canada is saying, "This is too important for the people of northern Canada. It would be too much trouble to go up there and talk to them, but if you want to bring a couple of them down here to speak to the committee, we will do that."

• (1530)

Honourable senators, nothing in the Senate has riled me as much as this accord has. I want you to know that it is not just me. The people of northern Canada are damn mad about this thing. They are very upset over it, as they should be. For this chamber to allow this document to go through would in itself be a disgrace, but to do it without hearing from the people in the north would be unforgiveable. I ask the support of all senators in seeing to it that a committee of this chamber travels to the north and hears not only the views of people in Yellowknife and Whitehorse but the views of people in all the areas of northern Canada affected by this legislation. At least, they ought to be given an opportunity to tell the government how bad a job it is doing.

Some Hon. Senators: Hear, hear!

The Chairman: Thank you, Senator Lucier. The members of the steering committee, most of whom are here, will have heard your comments.

Honourable senators on the list who wish to ask questions are Senators van Roggen, Fairbairn, Grafstein, MacEachen, Frith and Le Moyne. There may be others who have not raised their hand yet.

Dr. Forsey, thank you very much again. We look forward to the pleasure of seeing you the next time the committee meets.

Senator Frith: Mr. Chairman, you may take my name off the list. If I wish to speak again, I shall go to the bottom of the list. I have had my opportunity for this round.

I move that the committee adjourn, report progress and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Senator Molgat: Honourable senators, I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

Motion agreed to.

FINANCIAL INSTITUTIONS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-56, to amend certain Acts relating to financial institutions.

Bill read first time.

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that the bill be read the second time now.

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

Hon. Senators: Agreed.

Hon. William M. Kelly: Honourable senators, I am pleased today to introduce Bill C-56. I might say I have been here, waiting patiently, since 11 o'clock this morning to introduce this bill. My whip said that I had to be here.

Senator Frith: Put me in there, coach.

Senator Doody: One for the gypper.

Senator Phillips: He should have been here yesterday, too.

Senator Kelly: Bill C-56 will amend certain acts relating to financial institutions. As honourable senators are aware, this bill is part of a package of current and forthcoming legislative initiatives. The package of legislation brings together a long list of initiatives and proposals at both the federal and provincial levels relating to the financial sector. These initiatives include: the McDougall Green Paper, properly known as "The Regulation of Canadian Financial Institutions: Proposals for Discussion", tabled in April 1985; the Report of the Ontario Task Force on Financial Institutions, tabled in the Ontario Legislature on November 18, 1985; the report by the Economic Council of Canada; the Sixteenth Report of the Standing Senate Committee on Banking, Trade and Commerce, tabled on May 1, 1986; the Report of the House of Commons Standing Committee on Finance, Trade and Economic Affairs, tabled in November 1985; the Inquiry into the Failures of the Northland Bank and Canadian Commercial Bank headed by Justice Estey; the announcement by the Ontario Government in December of last year to open up the ownership restrictions on Ontario investment dealers; the Ottawa, Ontario Agreement of April 1987 on the Regulation of Investment Dealers operating in Ontario, and I should not forget to add to this list the announcement in 1983 that the Government of Quebec intended to remove foreign ownership restrictions on investment dealers in that province. Some of my colleagues may wonder why I have paid so much attention to Ontario's initiative in this regard and suspect that I am motivated by chauvinism.

[The Hon. the Speaker.]

Senator Doody: Never!

Senator Kelly: As you all know, the Toronto Stock Exchange persists as Canada's largest exchange. The TSE requires investment dealers registered with it to abide by the ownership and other regulatory requirements imposed by the Ontario Securities Commission. In this way Ontario's requirements have become something of a *de facto* national standard.

Bill C-56 consolidates and amends Bills C-8 and C-9, which were tabled in the other place in October 1986. In turn, Bills C-8 and C-9 originate from Bills C-123 and C-103 that died on the Order Paper in the other place at the end of the previous session of Parliament. Bill C-56 proposes to amend a total of nine federal statutes, including the Bank Act, the Canadian and British Insurance Companies Act, the Foreign Insurance Companies Act, the Loan Companies Act and the Trust Companies Act.

My major interest is the effect Bill C-56 will have on the traditional four-pillars policy of the Canadian financial sector, and I shall address the significance of this impact later. As honourable senators are probably aware, the impact of Bill C-56 in the cross-ownership area has been narrowed considerably due to an agreement between the government and the House of Commons Standing Committee on Finance, Trade and Economic Affairs reached last week. As a consequence of that agreement, the provisions of Bill C-56 allowing financial institutions to acquire securities dealers remain, but analogous provisions relating to the ownership of insurance, trust and loan companies have been deleted and will be handled in a separate bill tabled in the other place. This bill originally included a requirement that the Minister of Finance approve direct or indirect purchases or significant interests in federal financial institutions. The minister had proposed that the enabling clauses in Bill C-56 be replaced by the clauses that had originally been drafted for Bills C-8 and C-9, given that it was discovered that the C-56 rules would have required ministerial approval for transfers in ownership of companies that were unrelated to financial institutions.

● (1540)

The concern expressed about the relationship between the approval mechanism and the new ownership policy also led the minister to announce that the share transfer approval rules would not be proclaimed until the ownership policy legislation had been released and debated in Parliament. While I understand the rationale behind the agreement reached, I must say—and perhaps this is my inexperience showing—that I find the last-minute changes rather frustrating and irritating, especially since many of these provisions have been before Parliament for some time.

Honourable senators, I do not intend to get into the details of Bill C-56. In essence, this proposes five changes or adjust-

ments. First, federally-regulated financial institutions would be able, subject to the approval of the Minister of Finance, to acquire or set up securities firms. No distinction is made in the bill between domestic and foreign-owned national institutions. I understand, however, that applications from foreign-owned financial institutions will be the focus of particular scrutiny, and that one of the criteria to be applied will be reciprocity. In other words, the extent to which Canadian and other foriegn institutions enjoy the same privileges in the applicant's country of residence.

Further, the minister has stated that in reviewing applications the government intends to apply the regime set out in his December policy paper. This includes a one-year delay before non-residential financial institutions can take full advantage of the powers provided by this bill. The new regime will mean that as of June 30, 1987, foreign investors will be able to acquire up to 50 per cent of the ownership of a securities dealer and as of June 30, 1988, foreign investors may acquire up to 100 per cent. The establishment of a securities subsidiary by a foreign institution prior to June 30, 1988, would result in the subsidiary being limited for one year to the activities which its Canadian parent is already permitted to do in-house.

Furthermore, any non-resident owning a Schedule "B" bank in Canada and wishing to acquire or establish a securities dealer would be required to do so through the Schedule "B" bank.

Second, a mutual life insurance company will be deemed to be a resident Canadian company if its head office and chief place of business are located in Canada and if at least 75 per cent of its directors are Canadian citizens. This amendment to the Canadian and British Insurance Companies Act removes the uncertainty faced by mutual life insurance companies having a substantial portion of their policyholders outside of Canada. Because mutual life insurance companies are owned by their policyholders, under the previous approach the residency of such companies was defined by the foreign residency of their policyholders. I think this change—which has long been requested by the industry—makes good sense.

Third, the Superintendent of Financial Institutions would have the power to order any financial institution to cease and desist, and I quote:

> . . . any act or course of conduct he deems to constitute as unsafe or unsound business practice.

These powers proposed for the Superintendent of Financial Institutions have been the subject of some concern by industry spokesmen. I would like to point out, however, that some half dozen insurance companies have failed over the past five years. Imprudent management practices have often been a factor. The Superintendent of Insurance has testified on more than one occasion that his office lacked the regulatory authority in these areas to intervene in a timely and effective way. Bill C-56 represents a great step toward rectifying these problems.

Fourth, the Superintendent would be given the power to obtain an independent appraisal of real estate assets held by any trust, loan or insurance company in order to determine compliance with solvency ratios. Honourable senators, inaccurate valuations of real estate assets, particularly valuations used to justify the 75 per cent loan-to-value ratios in mortgage lending, have been the cause of difficulties for financial institutions in the past and a persistent source of concern to regulatory authorities.

Fifth, the approval of the Superintendent would be required to cede re-insurance business to companies with which the insurer is associated, and cabinet is given the authority to issue regulations limiting the extent to which an insurance company may re-insure.

The measures proposed in this bill have been in the public domain for several months and, in the main, are generally supported by the industry. In terms of impact, the most significant provisions of this bill are those that authorize federally-chartered and regulated financial institutions to own investment dealers.

Bill C-56, thereby, will begin the dismantling of the separation of the "four pillars" of the financial sector which, to date, has characterized Canadian policy. This old system, to which I admit I have had considerable loyalty, imposed restrictions on cross-ownership within the financial sector to insure that companies within each "pillar" and their policies and practices were independent, professionally-owned and managed and largely Canadian-owned.

This major change in approach responds to an international trend towards the integration of the "pillars." It also responds to the exigencies of international competition.

If the Canadian financial sector is to be able to compete in an increasingly competitive and deregulated international environment, Canadian financial institutions must be able to increase their capital bases and enhance their international connections.

Allow me to provide a few illustrations: Canada's largest investment dealer, Dominion Securities Inc., has net assets under administration of roughly $3.1 billion. The top seven investment dealers in Canada together account for net assets under administration of something of the order of $12.5 billion. Any of the larger U.S. brokers individually account for two, three or four times that figure. Merrill Lynch alone, for example, has $53 billion U.S. in assets under administration.

The same is true of the Canadian banking sector. The Royal Bank—Canada's largest chartered bank—accounts for $99.6 billion in assets. Together the Canadian "big five" chartered banks account for about $385 billion. These figures pale in comparison to some of the banks with which they compete internationally. The Fuji Bank of Japan has $220 billion U.S. in assets. The top five Japanese banks together account for more than $900 billion U.S. in assets. Citibank, the largest U.S. bank, has $196 billion U.S. in assets. In terms of deposits, as of December 31, 1985, *American Banker* ranked the Royal Bank twenty-sixth in the world, the Bank of Montreal thirty-seventh, the Canadian Imperial Bank of Commerce forty-first, the Bank of Nova Scotia fifty-second and the TD Bank sixty-fifth.

Permitting financial institutions to own securities firms is an important and perhaps vital step towards giving the Canadian securities industry access to new sources of capital.

Bill C-56 also responds to current trends in the securities industry. Increased use of computers linked to international networks has increased the internationalization of the securities industry, with more and more businesses flowing to major centres such as Tokyo, London and New York. Canadian investment dealers must be strengthened or they risk being left in a backwater.

Further, "securitization"—the new process by which corporations raise debt and equity through securities rather than through bank-held notes—has recently become a favoured vehicle for raising money in the capital markets. Canadian dealers require enhanced capital bases if they are to play a role in this form of financing, which last year accounted for 84 per cent of all borrowing worldwide.

No government is able to embark upon such a major initiative as this having foreseen all or even most of the circumstances, challenges and pitfalls that might confront it. Having made the decision to permit financial institutions to own investment dealers, I think the government has acted wisely in drafting this bill so as to require the Minister of Finance to approve the acquisition or establishment of securities dealers on a case-by-case basis.

As currently cast, the bill does not contain any criteria on which approvals will be based, and thus gives very wide discretion to the minister.

As a general principle, honourable senators, I am opposed to providing ministers or officials with wide administrative discretion. Too often this can be used by governments as a "blank cheque", and the discretion can be used to implement policies or directions never examined or approved by Parliament. Wide discretionary powers can also lead to inconsistent application in practice.

In this case, however, I have concluded that such discretionary powers represent the only practical way. We are, to an extent, embarking on an unknown path.

• (1550)

The Minister of State has pointed out on several occasions the pace of regulatory change in other jurisdictions, particularly in the securities field. The government, therefore, needs the flexibility to respond fully and effectively to unforeseen situations and to changing requirements and circumstances.

I would hope that having gained experience through reviewing ownership requests, the government will be able to establish clear, public guidelines to govern the exercise of ministerial discretion. One day I hope to see these guidelines entrenched in legislation.

Other clauses in Bill C-56 provide very wide ministerial discretion related to ministerial approvals, however, of changes in ownership of financial institutions. As I noted earlier, these sections have been withdrawn from the bill and are being introduced separately. This, again, was through an agreement reached three days ago.

[Senator Kelly.]

There is one final issue raised by Bill C-56 that I would like to address. The integration of our financial system, especially when coupled with any integration of financial firms with non-financial interests, increases the potential for abuses and conflicts. A corporate structure performing a variety of financial functions has increased opportunity for self-dealings and conflict of interest situations.

The paper released by the Minister of State for Finance in December of last year addressed this issue through ownership requirements and through restrictions on self-dealing by commercially-linked financial institutions. The December paper also proposed measures such as "Chinese walls" within institutions, greater disclosure to consumers, and enhanced internal security through the creation of monitoring groups within each institution. I understand that these and other elements of the ownership policy will be set out in the legislation currently being drafted by the government. I look forward to reviewing that legislation, as I am sure do many of my colleagues.

Honourable senators, I believe that Bill C-56 is an important and positive initiative by the government. It enhances and clarifies the important parts of the regulatory framework, and provides for greater integration and controlled internationalization of the Canadian securities industry. As such, I commend it to your approval.

Senator Sinclair: Honourable senators, I am sure all of us would want to thank Senator Kelly for the excellent exposition he has made of this legislation.

If I may, senators, I would like to once again do what I did this morning, and that is to draw to the attention of this house, and hopefully to the attention of government, that giving people bills as complicated as this bill or Bill C-42, without providing consolidation, is not only unfair but it is wrong. I must say that when the third tranche of these bills comes forward—which I understand is three times the size of Bill C-42 or Bill C-56—at least we will be provided with a consolidation so that we do not have to thrash through numerous statutes.

As Senator Kelly has noted, Bill C-56 amends nine statutes. To try to grasp the amending factors and the effect they have on the Bank Act, the effect they have on the Insurance Act and the effect they have on the Loans Act is a little too much. I hope when the third tranche comes along that we will be given the opportunity to pre-study it, because I can assure honourable senators it is not an easy job to go through these kinds of statutes in a hurry. It is equally important to understand what is being proposed.

I certainly hope that when the next piece of legislation comes forward, we get the opportunity to handle it in a quiet and orderly manner, and that we press the government—and I am looking at the Deputy Leader of the Government—to give us a consolidation at the same time.

Senator Kelly has stated that this bill is an important piece of legislation. There is no question about that. It does move forward a very major step. All Canadians have to recognize that the effect of it is going to be, over time, to take what has

been purely an independent Canadian operation, namely, security dealers, and put them under foreign control. Over time, that will happen. It is as sure as anything.

I gave you some idea of the size in the world of these companies. Let me give you one more example. Namura Securities of Japan has twice the capital of all financial institutions in Canada—banks, trust companies, loan companies and security dealers. It is the largest one in Japan, and it is open to Canadian operation. Now, in the first year, it is limited. However, in a year from now it will have a much broader mandate. I do not know that that is bad, but the securities dealers of substance, as we know them, may disappear. However, there will be others come forward that will be dealing with niches, and there will be boutiques that are operating as Canadians. As you know, one of the largest investment dealers in the United States, Solomon Brothers, does not even bother to try to sell retail. In Canada the retail part of our market is very important.

Honourable senators, I am somewhat disturbed, as I understand Senator Kelly is, that at a very late date significant changes were made to this bill. I am deeply concerned—as I hope many senators are—with the public perception that there is a lot of hanky panky going on in the financial security business. Up to now no shoes have dropped in Canada, but they certainly have dropped in the United States; they have dropped in the U.K., and financial people of substantial standing, incorporations in Germany, have been in trouble. It is quite a thing when someone becomes a convicted felon in a financial institution. There is nothing that requires confidence more than financial institutions, and there is nothing that requires confidence more than people who have discretion on investment. That is what many trust companies have. I do not think it is good enough to put up "Chinese walls". I do not think it is good enough to rely on corporate governance to give the public the confidence they need to have in financial institutions not being involved in self-dealing or other improper activities.

Commercial links between financial institutions and non-financial institutions open up a whole series of problems. In Bills C-8 and C-9 they tried to deal with this with a 50 per cent rule, or what is called a legal control rule. The word "control" of a financial institution and the word "control" of any corporation is one that is very difficult to define. It can range to widely-held organizations, in some cases, to as low as 15 per cent, where they have members on executive committees and have significant influence in policy matters. As a result of difficulty of control, from the provision of Bills C-8 and C-9, the minister, when he first introduced Bill C-56, moved to a 10 per cent rule. People came out of the woodwork saying that the matter had not been debated, so they went back to Bills C-8 and C-9 and that did not satisfy anybody either. So, he has taken it all out.

Commercial links are out; ownership links are out with respect to a certain element of the finance community, and they have been left for the third tranche. We will have to deal with a prohibition by statute of self-dealing, or a limitation of self-dealing by statute, or a severe limitation on cross ownership. We expect to see that in the next bill. That was one of the more difficult parts of Bill C-56 that has now been removed.

Insofar as the permission to enable banks to purchase all or part of the shares of a security firm is concerned, that was inevitable. It is fine that it has gone forward. The banks in Canada apparently have taken the position that they will be building with subsidiaries. As Senator Kelly has said, foreign banks wishing to get into the securities business have to do so through a Schedule "B" bank.

● (1600)

I feel that the regulations imposed by the new Superintendent of Financial Institutions—and covered by Bill C-42—will be able to deal with this matter, but I think senators should realize one thing: We have had an exempt market in Canada. After this bill goes through, there is no longer an exempt market in Canada. We even have regulations for deals between sophisticated people dealing in government securities. The exempt market is now a regulated one. The markets that have been regulated under the Ontario Securities Act and the statutes of other provinces have been expanded so that investment dealers—whether they are free standing, owned and controlled by banks, or owned or controlled by foreign institutions—will now be covered by regulation in the exempt market. Maybe that is a good thing. At least we will have a handle on what has been going on. When you consider that over-trading by one financial dealer in New York resulted in the loss of $250 million, maybe we should be worried about control in the exempt markets.

One of the things that was brought to the attention of the committee, honourable senators, was differences between various types of financial institutions. The purpose of the government was moving towards a level playing field. When the committee drew some of these matters to the attention of officials and the minister, he took action to correct them. I think that the government's thrust is towards a level playing field.

One area where the statute does not provide for a level playing field is in the appraisal of assets. Under the legislation, the Inspector of Financial Institutions can revalue any asset of a bank, but he can only revalue real estate assets of other financial institutions. With the extended powers of institutions other than banks and the growth in that area, the differences between banks and other types of financial institutions is disappearing. The minister has said that in the third tranche he will take a look at possibly giving the Inspector General power to deal with all assets of all financial institutions. I think that that would be better.

One other thing that bothered the committee was the provision under the Bank Act where a bank could not enter into a joint venture or a partnership. The committee found it difficult to accept that; that was not addressed.

If you are giving the bank a right to buy all or part of a security dealer, why would you not allow the bank to enter into a partnership or a joint venture? Surely to do something less

than a whole ownership should be allowed. That provision comes from the old ideas of controlling commercial banks, and it was not addressed. There, again, the minister pointed out that there was a provision in the Bank Act where, if you wanted to enter into a joint venture, you could get an exemption for a two-year period. That is already provided for; you can get an exemption by application to the minister. That application can be further extended at the end of two years. However, you should not force people to go back with the uncertainties of two-year tranches. I think that that should be looked at.

Senator Kelly has said that this is a major step. Certainly no one knows exactly how all things will work out. This legislation may not be perfect, but if problems arise they can be addressed. I do think, honourable senators, that this legislation is sound and should receive your approval. Even though there are substantial changes from the bill that we looked at in the committee, I think we have to accept the view of the government that they will take out all of those ownership and commercial links and put them into the next piece of legislation. It is unfortunate that time did not give the government an opportunity to meet some of these problems, but, in any event, we have to remember one thing: The minister has put everyone on notice that as and from December 18, 1986, when his white paper came forward dealing with financial institutions, anyone who departs from the rules regarding ownership or commercial linkage may have to unscramble the egg that they have put together. Hopefully there will not be those kinds of cases until we get the rules, but if there are some, anyone who does proceed must know that they are doing so at their peril.

Honourable senators, I do not want to take any more time. I feel that a difficult drafting job has been undertaken with some skill. The policy, I think, is proper, and the deferment of the commercial links and ownerships of certain types of financial institutions is regrettable, but, nevertheless, necessary so that we can address it properly when it comes before us.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

● (1610)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

SEVENTH REPORT OF COMMITTEE TABLED

Leave having been given to revert to Reports of Committees:

[Senator Sinclair.]

Hon. Brenda M. Robertson: Honourable senators, on behalf of Senator Tremblay, I have the honour to table the Seventh Report of the Standing Senate Committee on Social Affairs, Science and Technology. This report is entitled "Child Benefits: Proposal for a Guaranteed Family Supplement Scheme."

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

CUSTOMS TARIFF DUTIES RELIEF ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-69, to amend the Customs Tariff and the Duties Relief Act.

Bill read first time.

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that this bill be read the second time now.

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

Hon. Senators: Agreed.

[*Translation*]

Hon. Jean-Maurice Simard: Honourable senators, the bill as such was not considered by the Senate Committee on Banking, Trade and Commerce. However, the committee did examine the subject matter of the bill. You will recall, honourable senators, that Senator Sinclair, chairman of the committee, reported yesterday and that committee members recommended in favour of approving the bill.

The bill provides for four categories of changes. It has received the support and approval of six groups of companies. Only one company objected to the bill.

[*English*]

This bill before us today provides for four categories of tariff changes. The first involves those changes that are being undertaken at the request of Canadian manufacturers and will assist in maintaining the competitiveness of Canadian firms.

Some of these changes may, on the surface, appear small and even inconsequential. I might, for example, point to the removal of duty on sewing machine needles and on lambskin imported from countries entitled to the British preferential tariff. However, I am certain that honourable senators will appreciate that there are many companies across the country, both large and small, that are affected by the Customs Tariff

on a daily basis. Tariff changes such as those contained in this bill, although small from the perspective of the national economy, are critically important to the companies that request them, and can often have a direct impact on maintaining jobs in Canada.

Another change I might point to involves the removal of duty on polyethylene netting used by farmers to protect fruit crops from birds. This will be of benefit to the agricultural community.

The livestock industry will also benefit indirectly from the duty-free treatment being accorded to mobile veterinary clinics. These units are not manufactured in Canada, and duty-free entry will allow veterinarians to better serve their clients, particularly in rural areas.

[*Translation*]

The second type of tariff changes contained in this bill, honourable senators, covers those which implement the recommendations contained in Phase II of the Tariff Board's report on tariff items concerning goods made and not made in Canada. These recommendations and the measures we are adopting, arise from a commitment made by Canada at the Tokyo Round of multilateral trade negotiations.

[*English*]

For years one of the significant features of the customs tariff has been the determination of rate of duty based on whether or not the goods are made in Canada. Generally, as you all know, goods made in Canada attract a higher rate of duty. However, our trading partners objected to this approach because of the uncertainty created for their exporters.

The determination of whether goods were deemed to be made in Canada was an administrative decision made by Customs, and the status of goods could change with little notice. They argued for identifying the goods that were determined to be "made" and "not made" in Canada. Therefore, in return for freer access for some of our exports to major markets, Canada agreed to undertake a review of its "made" and "not made" tariff items.

The matter was referred to the Tariff Board for study and public input, and its reports and recommendations were issued in two phases. Most of the Tariff Board recommendations have been implemented by previous legislation. The tariff changes encompassed by this bill complete the outstanding statutory changes required as a result of our Tokyo Round commitment on "made" and "not made" items.

I am certain that honourable senators will remember that in response to the U.S. imposition of a 35 per cent tariff on Canadian exports of red cedar shakes and shingles, the government, through the introduction of a notice of ways and means motion in the House last June, imposed higher rates of duty on a range of goods, originating principally in the United States. The government also acted to tighten controls on the export of cedar logs and bolts. These actions were not taken lightly. Canada needed to send a strong message to the United States about its protectionist action and had to guard against a loss of Canadian jobs.

The action taken by the government achieved its purpose. The restrictions on the export of cedar logs and bolts protected the competitiveness of the Canadian industry while the tariff measures demonstrated that protectionist action on the United States' part could not be undertaken without cost to it.

I am certain, therefore, that all senators welcomed the Minister of Finance's budget announcement that, having served its purpose, the tariff component of the government's response to the U.S. action on red cedar shakes and shingles was being amended forthwith.

Since the legislation to enact the motion of last June has not been considered by Parliament, this bill amends the Customs Tariff to give effect to higher rates of duty on certain items, commencing June 6, 1986. It also restores, effective February 19, 1987, the rates of duty that were in place prior to June 6 of last year.

[*Translation*]

Finally, honourable senators, the bill includes a number of major technical changes to the Customs Tariff and the Duties Relief Act. Among other things, it is aimed at achieving conformity between the French and English versions of these Acts.

[*English*]

I might also add for the benefit of honourable senators that two of the technical changes to the Customs Tariff are being made to reflect recommendations received from the Standing Joint Committee on Regulations and other Statutory Instruments.

In conclusion, the amendments contained in this bill to the "made" and "not made" tariff items and to some of the items involved in Canada's response to the U.S. action on cedar shakes and shingles give effect to important trade policy decisions. The bill also responds to the evolving needs of Canadian business and holds benefits for Canadian firms and for individual Canadians from many walks of life. It responds as well to recommendations of a joint parliamentary committee. As such, the bill deserves the full support of all honourable senators.

● (1620)

In closing, I should add that the government action, which took effect from June 6, 1986, to February 1987, and which imposed additional duties upon books, semi-conductors and other things like Christmas trees, tea bags, and so forth, resulted in additional revenues of $36.2 million over that period. The other changes contained in this bill have a neutral effect; that is, they will not affect the deficit that was planned, announced and projected for this year.

[*Translation*]

In concluding, I again wish to recommend adoption of this bill on second reading. Thank you, honourable senators.

[*English*]

Hon. A. Irvine Barrow: Honourable senators, I wish to thank Senator Simard, the sponsor of Bill C-69, to amend the Customs Tariff and the Duties Relief Act, for the care and precise explanation he has given.

As all honourable senators know, this bill has recently been the subject of a pre-study conducted by the Standing Senate Committee on Banking, Trade and Commercee. The committee filed its report yesterday with the recommendation that the bill be favourably considered by the Senate. There are, however, a couple of points I wish to make.

Under clause 5 of the bill, item 21950-1 is struck from the Customs Tariff and authority to establish tariffs is transferred directly to the cabinet. Item 21950-1 is chemicals, except antibiotics, of a kind not produced in Canada when for use in the manufacture of animal or poultry feeds. I question the necessity for the change in this procedure.

In June 1986, as Senator Simard has said, the United States government imposed a 35 per cent tariff on Canadian exports of red cedar shakes and shingles. Our government responded by imposing tariffs on a variety of controversial items, including books and computer parts. The total value of the related U.S. exports was not as large as the value of the U.S. tariff, nor was it as large as the value of the Canadian shake and shingle exports. This retaliatory effort was seen to be a silly and unnecessary imposition on the public at large. As a result of what was largely public opposition, the government, in its February 1987 budget, announced that it would remove the retaliatory tariffs. Orders in council were employed to remove the tariffs on books, printed matter, computer parts and semi-conductors. Clause 6 of Bill C-69 would, first, impose the tariffs on the remaining items and then reset them to their pre-June 1986 levels, thus completing the removal of these increases.

In the May 1985 budget the government announced that as of January 1, 1987, automobile and other motor vehicle parts from developing countries would be subject to two-thirds of the most-favoured-nation rate. In addition to implementing changes concerning goods "made" and "not made" in Canada, clauses 2 and 5 of Bill C-69 would implement higher tariffs on motor vehicle parts imported from developing countries. Specifically, clause 2 of bill C-69 would strike the tariff rates previously in place while clause 5 would implement the new tariff rates.

Although the government is to be commended for this move, it still has not addressed the question of requiring offshore auto manufacturers to adhere to the North American auto pact. By not addressing the unequal treatment, in the final analysis the government may be jeopardizing the auto pact itself.

Honourable senators, with those few remarks, I recommend that Bill C-69 be given second reading. In my view, it is not necessary that any further study be done by the Banking, Trade and Commerce Committee.

Motion agreed to and bill read second time.

[Senator Simard.]

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

THE CONSTITUTION

CONSTITUTION AMENDMENT, YEAR OF PROCLAMATION (NEWFOUNDLAND ACT)—MOTION ADOPTED

Leave having been given to revert to Order No. 12:

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Marshall:

That, whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto:

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

I. (1) Section 3 of the *Newfoundland Act* is renumbered as subsection 3(1).

(2) Section 3 of the said Act is further amended by adding thereto the following subsection:

"(2) a reference to this Act, or a reference to the Terms of Union of Newfoundland with Canada set out in the Schedule to this Act, shall be deemed to include a reference to any amendments thereto"

2. (1) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is renumbered as Term 17(1).

(2) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is further amended by adding thereto the following:

"(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in

Newfoundland all the same rights and privileges with respect to denominational schools and denominational colleges as any other class or classes of persons had by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (*a*) of paragraph one of this Term and the words "all such colleges" in paragraph (*b*) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland."

3. This amendment may be cited as the *Constitution Amendment, year of proclamation (Newfoundland Act)*—(*Honourable Senator Lewis*).

Hon. P. Derek Lewis: Honourable senators, I have much pleasure in rising to support this motion, which proposes the adoption of the first amendment to the Terms of Union between Newfoundland and Canada.

Since these Terms of Union are part of the Canadian Constitution, the amendment proposed must be made under one of the amending formulae of the Constitution. Specifically, section 43 of the Constitution Act, 1982 provides that a provision of the Constitution, which applies to one or more but not to all provinces, may be amended by proclamation when so authorized by resolutions of the Senate and the House of Commons and of the legislative assemblies of the provinces to which the amendment applies.

In this case, the constitutional provision in question provides for the maintenance of denominational schools in Newfoundland, and hence the proposed amendment certainly applies only to the province of Newfoundland.

The object of this motion is to amend the provisions of the Constitution by adding a further clause to Term 17 of the Terms of Union that will enshrine in the Constitution the educational rights of the people of the Pentecostal faith in Newfoundland. Term 17 of the Terms of Union ratified the adoption of the system of denominational schools in the province. It entrenched the rights of those various religious denominations at that time—that is, 1949—specifically then authorized by the law of Newfoundland to operate denominational schools. At that time, the educational rights of the Pentecostal Assemblies were not recognized under Newfoundland law, and thus their rights were outside the provisions of Term 17.

In 1954 recognition was given by the province to the Pentecostal Assemblies as being organized for educational purposes, and they have operated in that manner as a separate denominational school system, but without the status, integrity or protection given to other denominations under Term 17 of the Terms of Union. The Pentecostal Assemblies have for some time been anxious to be in a position similar to other recognized school-operating denominations.

Despite this situation, the Pentecostal Assemblies have continued to operate and expand their educational system and today operate some of the most modern, effective and progressive educational facilities in the province. They are to be commended for the very valuable service they have provided to society, and to the provincial denominational education system in particular. This system is very important to the fabric of the distinct society that is the province of Newfoundland.

Surely it is the time to rectify the situation as desired by the Pentecostal Assemblies and to enshrine their rights in the Constitution. As Senator Doody said in introducing this motion, the Government of Newfoundland has requested this amendment and a resolution to this effect was, on April 10, adopted by the House of Assembly of Newfoundland. The resolution was similarly agreed to in the House of Commons on June 23.

• (1630)

Honourable senators, in the circumstances, I would strongly suggest the adoption of the motion today, without the necessity of its being referred to committee.

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

Hon. Senators: Agreed.

Motion agreed to.

FRESHWATER FISHERIES

RESPONSE OF FEDERAL AND PROVINCIAL MINISTERS TO INTERIM REPORT OF FISHERIES COMMITTEE

Hon. Jack Marshall rose, pursuant to notice of Tuesday, June 23, 1987:

That he will call the attention of the Senate to the responses of the federal and provincial ministers to the recommendations made by the Standing Senate Committee on Fisheries in its interim report on the freshwater fisheries.

He said: Honourable senators, I am pleased to have the opportunity to report on the responses of the federal Minister of Fisheries and Oceans and of the various provincial ministers responsible for the jurisdiction of the freshwater fisheries in the areas of Canada concerned with the recommendations made by the Standing Senate Committee on Fisheries in its interim report on the freshwater sector of the industry.

Before dealing with the responses, I offer as background some of the introductory notes from the report, which put forward for the consideration of industry and governments proposals which we hope will facilitate the marketing of Canadian freshwater fish.

Although the freshwater fishing industry in Canada is a relatively minor contributor to the GNP and employs only a small fraction of the labour force, some remote communities in the north are more dependent on commercial freshwater fishing than some parts of the Atlantic provinces, and it is important to stress their local significance in the isolated northern areas where up to 90 per cent of fishermen are of native origin and where the lack of alternative employment makes such communities more dependent on the fishery, even though it represents only 6 per cent of the total Canadian fishery.

Statistics for 1985—the latest figures that were available at the time—indicate that the landed value of the inland fisheries was $61.6 million against the value of the sea fisheries, which at the time was well over $1 billion and is now over $2 billion. The employment statistics showed that some 8,392 fishermen were involved.

Our study of the freshwater fishery took us to the northern communities of the Northwest Territories and the Hay River, to Lac la Ronge in Saskatchewan, to Lac la Biche in Alberta, to Thompson and Ashern in Manitoba, and also to Winnipeg, where we visited the Freshwater Fish Marketing Corporation.

May I also comment that the Ontario and western regions—the areas of our examination—produce 97 per cent of both the quantity and the landed value of the freshwater fish harvested in Canada.

In the freshwater fishing industry there are two parallel regimes operating in those two regional fisheries. First is the Ontario region, which can be described as a mosaic of private sector organizations, characterized by a wide range of fishing operations which catch, process and market the available fish. The free enterprise concept of marketing prevails, and pricing is the essence of the competition for the local producer.

The western region, which takes in the Northwest Territories, Manitoba, Alberta and Saskatchewan, operates mainly through a crown corporation—namely, the Freshwater Fish Marketing Corporation, which, as a single selling desk operation, collects, processes and markets some 23 species of fish listed in the Freshwater Fish Marketing Act.

The federal Minister of Fisheries and Oceans, the Honourable Tom Siddon, responded in a letter dated January 13, 1987; he stated that:

> The recommendations of the committee are useful for freshwater fish marketing and, in fact, initiatives are already underway with the Department of Fisheries and Oceans and the Freshwater Fish Marketing Corporation to address many of the important issues raised in the report.

The minister also agreed that the role of the Department of Fisheries and Oceans in analyzing the domestic market is an important one—recommendation number (2)—stating that additional efforts in the area "could be triggered in the future by developments in traditional export markets." The need for promotion to stimulate domestic demand for freshwater fish was also recognized—which was contained in our recommendations (15) and (18c).

The minister agreed that, first, variable pricing in the western region should be expanded—recommendation number (5); second, that the consultation between the FFMC and provincial officials, when establishing quotas, could be improved—recommendation (6a); third, that cooperation between governments and the FFMC is needed to balance investments in harvesting facilities and the number of participants, given the harvestable quantities of fish—recommendation (8b); and, fourth, that stock enhancement of commercial species of fish should be given serious consideration—recommendation (9b). The Minister of Fisheries and Oceans agreed with those recommendations.

It was said that recommendations related to fish habitat, such as compensation for fishermen who lose their livelihood because of industry projects, would be addressed, pursuant to the department's new policy on fish habitat. That was contained in recommendations (10a) and (10b).

There were, on the other hand, expressions of disagreement from DFO and the provinces to some of the report's proposals with respect to the government's role in promoting fish consumption and in developing markets—which was contained in recommendation (20). But this, however, overlooks the fact that although generic promotion is now largely the responsibility of the private sector, the federal government indeed provides funding on a shared-cost basis. For example, during 1986-87 contributions of $400,000 and $275,000 were made to the Seafood Advisory Council and to the Fisheries Council of British Columbia, respectively.

Also, the minister disagreed with the recommendations for changing some aspects of the Freshwater Fish Marketing Corporation's operations, such as the licensing of rough-fish operators. "Rough fish" refers to underutilized species such as carp, mullet and burbot. He also disagreed with the call for the classification of the FFMC's whitefish pool into quality grades, and recommended a pilot project in the Northwest Territories designed to assess whether private enterprise has the capability to revitalize the declining fisheries of the Territories. Those were recommendations (4a), (12) and (13b).

I might say, honourable senators, that even though there was disagreement, fishermen in the Northwest Territories were highly in favour of this recommendation, which is reflected in their response to the recommendations with which I now propose to deal.

So, taking into account provincial jurisdictions, I offer, first, comments made by the Minister of Renewable Resources for the Northwest Territories. The Honourable Red Pedersen, in his letter of May 19, said:

> In response to recommendation (12), which called for the whitefish species pool to be classified into appropriate categories according to the quality grades of the whitefish caught and marketed, the minister felt that "This would allow for a better return to Northwest Territories for the higher quality fish."

The minister also agreed with recommendation (13B), which suggested that the territorial and federal governments cooperate in licensing a few individuals or groups to purchase and market species from the territorial harvest. Furthermore, he went along with the suggestion made in the text that Arctic char would be the logical choice for such an experiment. The minister congratulated the committee on its report and indicated that he looked forward to the implementation of the recommendations.

● (1640)

The comments made by the Saskatchewan Minister of Parks, Recreation and Culture, the Honourable Colin Max-

well, were equally encouraging. While he took exception to several points, he stated that on the whole the report provided valuable suggestions relating to the future of the freshwater fishery. Here is a quotation from the minister:

> I believe the development of a new approach to resource allocation must be sought. Saskatchewan intends to embark on such a process shortly. A major facet of this will entail developing better communications between all levels of government, the FFMC, commercial fishermen and other fishery users.

The minister referred in his response to the 20 recommendations of the report, which are too lengthy to list today. I mention this to indicate that the same remarks are directed to the responses of the Minister of Resources in Ontario, the Honourable Vincent G. Kerrio, who responded to 15 of the recommendations. I shall highlight his responses to (14e) and (18b). (14e) reads:

> Ontario processors in cooperation with the Department of Natural Resources investigated the possibility of processing fish from the more remote areas of Northern Ontario (including those currently under FFMC jurisdiction).

The minister's response is:

> Ontario is assessing the applicability of processing fish in remote areas. The major problems curtailing such facilities are low volumes of fish, high transportation costs, reduced marketing ability and quality standards. The present Ontario policy on commercial harvest is one of a balanced harvest as now practised under FFMC and we feel a policy allowing remote processing may precipitate high-grading of the fisheries resources.

Recommendation 18(B) reads:

> The Ontario Council of Commercial Fisheries, in cooperation with other industry associations such as the Ontario Fish Producers Association undertake to develop and promote the sale of freshwater fish in the major supermarket chains in Ontario.

We are referring here, of course, to domestic marketing. The response is:

> The ministry understands that the development and promotion of the sale of freshwater fish is being sponsored through the Seafood Advisory Council. Also, Department of Fisheries and Oceans is contributing funds to the Ontario Fish Producers Association for product promotion.

The Honourable Don Sparrow, Minister of Forestry, Lands and Wildlife of Alberta, responded to only three of the recommendations; stock enhancement, (9b); allocation of game species to commercial fishermen to enhance incomes, (9c); and (10a), which recommended that DFO, in collaboration with the Department of Environment, continue its evaluation and monitoring with respect to all industrial projects that might affect fish or their habitats; and his assessment of the report is reflected in these comments:

> For the most part I agree with, and support, the minister's responses. As Mr. Siddon points out there are many presently ongoing changes to our respective regulatory and management programs which address quite a number of the Standing Senate Committee on Fisheries' recommendations. Among the most constructive efforts in the past 10 years is the much increased dialogue which has begun between fisheries' ministers and our senior fisheries' officials. Mr. Siddon has been instrumental in this and is to be commended for his leadership.

Honourable senators, only one of the provinces has not responded as yet, but it was not because of a lack of interest. In a conversation with the Office of the Honourable Leonard Harapiak of Manitoba last week, I was advised that they were under the impression that a response was to be sent out. Another one has been sent, but we have not received it yet. This is regrettable, because Manitoba is one of the main players in the freshwater fishery, and the location of the Freshwater Fish Marketing Corporation is in Winnipeg. Unfortunately, it is too late to include their response in my inquiry today, but I am sure it can be included in a subsequent report that the committee will be tabling.

In conclusion, I would like to say that the responses of the provinces concerned and the Department of Fisheries and Oceans contain valuable comments that will not be ignored and that will assist us in our future deliberations and in the formulation of our final recommendations.

I apologize for introducing my comments so late, but the fact is that not all of the responses were received until recently, and I felt that it was important to put them on record before the summer recess. However, to save time, I have brushed over very lightly the responses concerned. I feel, however, that they are deserving of more attention and more explanation. In order to give the reports adequate and deserving recognition, I request that the responses of the governments concerned be tabled.

The Hon. the Acting Speaker: Honourable senators, if no other senator wishes to speak, I declare this inquiry debated.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we are presently awaiting some legislation from the other place. The bill next on our list of expectations is Bill C-63. It is currently receiving third reading in the other place and will probably reach us in a little while.

Perhaps I can bring honourable senators up to date on what we are expecting this evening following Bill C-63. There is Bill C-80, which I am told deals with the Windsor tunnel. It is a companion piece to the private member's bill introduced by our colleague Senator Frith some time ago. Bill C-80 is a government bill which deals with safety features for that particular operation. Then we have Bill C-78, which is a farm loans bill. Bill C-62 should follow that bill. It deals with the write-offs of debts held by some countries because they are unable to repay them. This bill began in this place some time

ago. It was found to be a money bill and, therefore, should have begun in the other place. We sent it back to the other place. It has been dealt with. We have pre-studied it, and now it is on its way back here again.

We will also receive Bill C-70, the Workplace Hazards Act, and there are one or two other bills dealing with the Customs Act and the House of Commons Act which might come here this afternoon or later this evening. However, we are not certain that they will reach us. If they do, I don't think it will take us long to deal with them.

NATIONAL FILM BOARD

INQUIRY ON REPORT ON FILM ENTITLED "THE KID WHO COULDN'T MISS" REFERRED TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE

Leave having been given to revert to Order No. 16:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the motion adopted by the Senate on May 28, 1986, and passed by a vote of 28 for and 17 against, that the Report of the Standing Senate Committee on Social Affairs, Science and Technology entitled: Production and Distribution of the National Film Board Production "The Kid Who Couldn't Miss", tabled in the Senate on 15th April, 1986, be referred back to the Committee with instructions to consider and report upon the following:

Strike out page 20 and substitute

Recommendations

1. That after the titles of the film, the following disclaimer be added: "This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.

Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne."

2. That the National Film Board be requested to take action to eliminate from the film the unproven allegations, charges and innuendoes against the integrity of Billy Bishop; and

further, that consideration be given to the apparent disregard by National Film Board officials to their commitments to the Senate Sub-committee on Veterans Affairs arising out of evidence before the Sub-committee.

And on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Le Moyne, that the inquiry be referred to the Standing Senate Committee on Social Affairs, Science and Technology for study and report.—(*Honourable Senator Petten*).

Hon. Jack Marshall: Honourable senators, I wonder if Senator Frith has anything to say about this order.

[Senator Doody.]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I discussed this matter with my colleagues today. We decided that one should make up one's own mind on this matter—I suppose a free vote is the right expression—and therefore it would not be a vote on which party position need be established. I believe that on such a vote the motion would probably carry. So, we could adopt the motion on division, which would send the matter to the committee and also protect the position of those who might wish to vote against it or to speak against it.

● (1650)

Honourable senators, I say that, but perhaps there is some senator who will not be prepared to give leave to do that. However, if there is anyone here in the chamber who wants to speak to the matter, he or she may. I know that Senator Gigantès has some views about it, but if he or anyone else is prepared to have the matter go on division, instead of having a recorded vote, then that would be satisfactory. However, I leave it up to any honourable senator who would rather demand a recorded vote.

Hon. Jean Le Moyne: Honourable senators, I said before that I would support the motion of Senator Marshall provided that it is understood that the committee will try to find some means other than censorship to put pressure on the National Film Board, because I agree fundamentally with the outrage felt by Senator Marshall and by the distinguished witnesses we heard in this committee.

Hon. Philippe Deane Gigantès: Honourable senators, I would like to support what Senator Le Moyne has just said. I would like the committee to be particularly careful not to give the impression of exercising censorship; nor would I like the committee to appear to be threatening to cut off the funds of the National Film Board, which has been the pride of Canada for its technical and intellectual achievements, simply because the Senate has a disagreement with the wrong labelling of one National Film Board production. In other words, I do not want it to appear that the Senate is attacking a cultural institution that is financed by the state.

Despite what the legislation says, I would not want it to appear that we are in any way intruding upon the intellectual freedom of such institutions, among which is the CBC, one of the very best television networks in the world. It has been the pride of this country to have been able to produce this kind of institution, which Senator Barootes obviously does not like. However, he and I have different tastes, so what can I do?

Senator Frith: Honourable senators will remember that I had some reservations about the original work of the committee and asked in committee for an amendment to its original suggestions. However, I supported the report as it appeared and I thought it was a reasonable request that the committee was making of the National Film Board. That board has chosen, apparently, to ignore that request, and, having listened to Senator Marshall's interventions on the motion, I was persuaded that his feelings are close to the context expressed by both Senator Gigantès and Senator Le Moyne. Therefore, I

believe that the committee should find out why the National Film Board has totally ignored what was, it seemed to me, a very reasonable request.

Senator Marshall: Honourable senators, I am merely asking that the matter be referred to the committee and then we can proceed from there.

Motion agreed to.

SMALL BUSINESSES LOANS ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-63, to amend the Small Businesses Loans Act.

Bill read first time.

SECOND READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Jack Marshall: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that the bill be read the second time now.

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

Hon. Senators: Agreed.

Senator Marshall: Honourable senators, I am pleased to present to the Senate Bill C-63, to amend the Small Businesses Loans Act. The amendment will make fishermen eligible for loans under the act. This is an urgently needed and important piece of legislation. Senator Corbin and I were watching television coverage of the passage of this bill in the other place and there were three amendments proposed which were lost on division.

Honourable senators will remember that the subject of guaranteed loans for fishermen was before us last December for consideration in another context. At the time, the government was seeking a six-month extension of authority to grant loans under the Fisheries Improvement Loans Act.

That time was needed to consider a range of options for securing fishermen's accesss to guaranteed loans. There were shortcomings in the Fisheries Improvement Loan Program that were becoming more evident with every year. There was an obvious need for an approach that would do two things: first, meet the continued need of fishermen for guaranteed loan capital and, second, do so in ways that would encourage careful rather than careless borrowing and lending. The evaluation is now complete. The most desirable option to emerge from that process is embodied in the legislation now before us.

As honourable senators know, this bill has come before the Standing Senate Committee on Banking, Trade and Commerce. The Minister of State for Small Businesses and Tourism appeared before the committee to explain the rationale and the context of the bill—he was accompanied by experts from his department and from the Department of Fisheries and Oceans. I notice that Senator Sinclair, chairman of that committee, is here listening intently. I may say that he conducted the committee's study of this bill very appropriately.

We were able, at this hearing and before it, to consider the effect of these changes on fishermen. We requested, and received, a detailed comparison of the salient characteristics of the two acts—loans ceilings, interest rates, total funding and others. I believe it is fair to say that the committee in general agreed that of the various options available, this was the best. Let me summarize some of the more prominent features that were compared in reaching this conclusion.

(1) Interest rates: These are the same in both acts: prime plus 1 per cent.

(2) Flexibility in the use of funds borrowed: Under the Small Businesses Loans Act, fishermen will enjoy new options. They will, for instance, be able to borrow money to purchase land connected with their business. This is besides the regular funds that were available under the act for the purchase of gear, to buy a vessel or to build a vessel.

(3) In the Small Businesses Loans Act, fishermen will be eligible for a more solid and predictable loan program, one with less potential for unpleasant surprises. As honourable senators know, both acts work on the principle of established loan periods and fixed loan limits.

One inconvenient feature of the FILA Program was its relatively short loan period. At the end of that time, the government would come to Parliament for an extension. It was very much a stop-and-start operation.

Another limiting factor was total funding for loans: Under FILA, it was $30 million a year. Once that limit was reached, even though the window of time might still be open, the lending window was closed because funding was exhausted.

Under the Small Businesses Loans Act, the lending window will be longer. For instance, the current five-year period ends in 1990. The total available for loans is not $30 million but $2.5 billion. That figure will, of course, be distributed among a larger number of potential borrowers. Even taking that into account, fishermen will have access to a larger fund. This does not guarantee, of course, that funding will never run out before the last applicant gets to the bank, but it will be less likely to happen.

(4) Another feature of the two acts that we compared was the percentage of the loan guaranteed. Under FILA, the government guarantees 100 per cent. Under the Small Businesses Loans Act, the guarantee is 85 per cent. This feature needs to be carefully evaluated. We have in different parts of Canada a recurring, even a chronic, problem of overcapacity in fishing fleets. Boats that should never have been built have been purchased with money which probably should never have been borrowed, or lent. It can be argued, of course, that lenders were less apt to exercise foresight or to counsel it to borrowers when 100 cents on the dollar were protected.

• (1700)

5. There is a difference in the dollar limit per loan. It is $150,000 under the Fishermen's Improvement Loans Act and only $100,000 under the Small Businesses Loans Act. This difference has to be evaluated in relation to the actual pattern of borrowing.

The record shows that loans over $100,000 have been unusual. In the five years ending in 1986, the average loan under the Fisheries Improvement Loans Act was $18,000. Back to the start of the program in the 1950s—I think it was 1955—the average has been around $20,000. Last year loans over $100,000 made up only three per cent of the total. What about those three per cent? Where will these fishermen find loans? That is a reasonable question, and the answer is that other sources are available, such as the Federal Business Development Bank. For east coast fishermen a loan under the Atlantic Enterprise Program will soon be another option.

6. The payback time limit under the Small Businesses Loans Act is ten years compared with fifteen years under FILA. Again, examination of the record shows that this is not likely to be a problem, because the average payback time has been three years. There is a 1 per cent fee under the Small Businesses Loans Act which covers the cost of administration. Given the average loan amounts, these are not onerous charges. For a loan of $20,000, for instance, we are talking about a fee of $200.

I have one final point, honourable senators. There will be no change in the status of loans already guaranteed under the Fisheries Improvement Loans Act. The act will remain on the books while loans are outstanding. The Department of Fisheries and Oceans will continue to administer those loans, and the new loans will be administered by the Department of Regional and Industrial Expansion.

Honourable senators, bringing fishermen under the umbrella of an act designed to help small businesses makes sense. The fishermen who need these loans are in small business. Like others in this sector, access to low interest credit is the breath of ecomonic life. The opening of the Small Businesses Loans Act program to fishermen will guarantee that access and, at the same time, promote care and foresight in lending. Honourable senators, passage of this act will make these features available to fishermen with a minimum of interruption. I recommend we give this matter rapid and positive consideration.

Hon. Eymard G. Corbin: Honourable senators, in William Shakespeare's play *Hamlet*, act II, scene 2—and I just picked this off the fireplace in the reading room a few minutes ago—one of the characters says:

> There is nothing either good or bad but thinking makes it so.

I have done a little bit of thinking with respect to Bill C-63. I cannot say I find anything terribly bad with the bill, but it is a change of focus; it is a change in emphasis with respect to services to fishermen. Up to this point in time, fishermen have been able to look to their program and its administrators as part of their general bailiwick. They looked to the administrators of that program as people who understood their particular needs. They related to the banking and the loan trade people as people who understood their particular needs, and, in fact, that aspect will not change at all.

Nevertheless, there is a dimension that disappears today. The recognition of the special needs of fishermen who are now being lumped under Bill C-63, and who will be considered with the rest of the small business sector, manufacturing, the wholesale trade, the retail trade, service businesses, construction, transportation, communications. I understand that the government has just introduced a bill in the other place to include under this particular umbrella the farming community. It is my understanding that the bill was just introduced a few minutes ago, so I am not cognizant of exactly what it contains. In other words, fishermen, in terms of small commercial operations, are now part of the overall Canadian landscape of small business. They have been lumped in with the rest. I am sure they feel a sense of loss of special identity, an identity that goes as far back as 1935 when the government of the day introduced the Canadian Fishermens Loans Act. It was not a terribly successful program, because in the 20-year period under that particular act a total of 79 loans totalling $40,000 were involved. Nevertheless, that was replaced in 1945 by the Fisheries Improvement Loans Act, which is the program that I should not say is being discontinued, but it disappears under its very special designation, to be lumped in with the Small Businesses Loans Act administration.

The Fisheries Improvement Loans Act was rather successful, because from 1955 to March 1986 a total of 18,198 loans totalling $246 million were made out to the small fishermen's interests. Therefore, it has been a rather successful operation. There is so much more risk involved in fishermen's operations than in the other component of the small business enterprise in Canada, and I would express the wish that that not be lost sight of in the reshuffling process that is occuring today. They are subject to the inclemencies of weather; they are subject to marine disasters, and so on.

I hope that the people who administer this program, and I hope that the lenders who, in fact, take the risk of lending money to the fishermen, will not forget that special particular feature of the fishing industry, which is one that we, who have a maritime orientation, attach a great deal of importance to.

The departmental press release which dealt with the announcement of the absorption of the Fisheries Improvement Loans Act attempted to make a big deal out of very little, in my view. The minister was quoted as saying that under the Small Businesses Loans Act, fishermen will even be able to borrow funds for a wide variety of needs when, in fact, the only added feature is that they may be able to borrow money to buy land. The rest is already available.

As has been said earlier, the amount of the fund is vastly increased from $30 million to $2.5 billion, but that does not signficantly add anything as far as the fishermen are concerned. They will be competing with all of the other sectors of the small business community which I named a few moments

ago. All in all, keeping in mind what Shakespeare had to say, that "there is nothing either good or bad but thinking makes it so," I feel that I have made my point. I regret to see the special designation dropped; I hope that the program will continue to be administered with a generous heart. Perhaps, as a final note, I regret that the government has decided to take a 1 per cent up-front fee. It is not a large one when you are dealing with a small amount, but if you are dealing with the full amount, it is $1,000, and $1,000 is quite a fee.

● (1710)

Having said that, honourable senators, I would like to congratulate Senator Sinclair's committee, which thoroughly pre-studied the legislation; I congratulate Senator Marshall, my beloved chairman of the Fisheries Committee, for the outline he gave to the house. I believe it should proceed unchallenged through all remaining stages in this house.

Senator Marshall: Honourable senators—

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Marshall speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Marshall: Honourable senators, I welcome the remarks of Senator Corbin. Having been heavily involved, as a member of Parliament, with the fishermen of the west coast of Newfoundland, I ran into many situations involving loans under the Fisheries Improvement Loans Program, and, indeed, represented a lot of fishermen before the banks.

It appears that his comment is real in that we are lumping in the fishermen with other small businessmen. However, fishermen are becoming confused with all of the programs that are available, and I think this will probably be helpful. Fishermen will know that if it is a small business loan, they can go and get a loan with more adequate funds. More importantly, there was extensive consultation on both the east and west coasts on this program, which included consultation with the Atlantic Regional Council. I am sure, with his experience in fisheries and the Fisheries Committee, that we can watch to ensure that the bill is directed towards the benefit of the fishermen of all of Canada.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Jack Marshall: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

PRIVATE BILL

WINDSOR-DETROIT TUNNEL—MESSAGE FROM COMMONS

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-11, respecting the acquisition, operation and disposal of the Windsor-Detroit Tunnel by the City of Windsor, and acquainting the Senate that they had passed the bill without amendment.

[*English*]

CUSTOMS ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-80, to amend the Customs Act.

Bill read first time.

SECOND READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that the bill be read the second time now.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Doody: Honourable senators, just a word to introduce this bill to the Senate for second reading. The bill is a companion piece to Bill S-11, the private member's bill dealing with the Windsor-Detroit Tunnel, which was introduced in this place a little while ago by Senator Frith and passed, sent to the House of Commons and returned to us, now passed, in this place.

The Government of Canada has seen fit to offer an amendment to the Customs Act. Bill C-80 deals with the safety conditions, working conditions and facilities at international bridges and tunnels, with the priority directed at this particular facility at Detroit-Windsor.

I have little other information than that on this. I think that Senator Frith is far more familiar with this particular situation than I am. I simply move second reading and ask him to give us the benefit of his knowledge.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I can say that, as Senator Doody has said, this bill has application to Bill S-11 which was passed a few moments ago. But, as Senator Doody has also said, it is of general application.

The current Customs Act that is amended here was enacted in the Statutes of Canada, 1986, Chapter I. Sections 5 and 6 in the original act deal with customs offices and facilities. The

purpose of this bill to amend the Customs Act is to amend section 6 in order to do four things: one, to allow the government to make regulations determining what are adequate customs facilities at bridge and tunnel border crossings; two, to specify that facilities that do not meet the health and safety requirements of the Canada Labour Code are not adequate facilities; three, to allow the government to upgrade inadequate facilities to adequate standards; and, four, to make the owner or operator of the bridge or tunnel liable for the reasonable costs of the government in upgrading the inadequate facilities.

The last part can be of some interest to the City of Windsor in view of the fact that the scope of the act extends to the Windsor-Detroit Tunnel as an international tunnel for the use of which a toll is payable. So its amendments will apply to the City of Windsor when and if it becomes the owner of the tunnel.

There are a couple of problems, however, that have been raised by the researchers. There is sort of bad news and good news. The bad news really concerns some areas in which I have placed a question mark.

The first question is whether the minister should, under subsection 6(5), be required to specify in the notice the deficiencies that need to be corrected so that the owner or operator, during the 30-day notice period, has the chance to do the improvements himself. As it stands, the minister simply has to give notice that he intends to carry out the construction or repairs. There might be some objection to it on that basis.

The other thing is that subsection 6(6) raises the issue of whether, after the City of Windsor becomes the owner and operator of the tunnel, Her Majesty in right of Canada will be able to enforce a debt recovery against Windsor, as a public body. There is a question mark there on the bad side of the bill if this is so.

The timelessness of the act to amend the Customs Act is a comfort to the City of Windsor, as any work that needs to be done in the customs reception area of the tunnel in Windsor could be completed by the minister and paid for by the company that is the current owner of the tunnel. The City of Windsor could get comfort in that context.

● (1720)

There is also a technical problem with respect to the liability for the cost of improvements in subsection (6), but that is really a problem for the government as to whether they can effectively do so under the provisions of the act. I have had suggested to me an amendment which might clarify that shadowy area, but I do not think, on balance, it is appropriate to put forward that amendment at this stage of the proceedings.

On the balance of the goods and the bads in the bill, I find that the goods come out ahead. Therefore, I recommend that we pass the bill.

Hon. Daniel A. Lang: Honourable senators, just as a historical footnote, I think senators might be interested to know that the Windsor-Detroit tunnel was originally conceived, financed and sponsored by a group of Canadians, mainly Torontonians, including some lawyers whose names I will not mention. It, the tunnel company, went bankrupt in 1929, with the result that three or four of the directors of that company jumped off high buildings and bridges. I hope that today we are not seeing that sort of trauma being imposed on people by government agencies.

[Senator Frith.]

Senator Doody: Honourable senators—

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Doody speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Doody: Honourable senators, even if I do not speak, I suspect that in this particular instance it will close the debate. I thank honourable senators for their comments and I commend the bill.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Senator Doody: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, while we await the next item on the menu, Bill C-78, the Farm Improvement and Marketing Co-operatives Loans Bill, which is currently in Committee of the Whole in the other place, I suggest it might be advisable that we adjourn for an hour and come back here at approximately 6:30 p.m.

Hon. Royce Frith (Deputy Leader of the Opposition): Are they going to keep working through over there?

Senator Doody: My understanding is that they are.

Hon. Allan J. MacEachen (Leader of the Opposition): Is there a firm time set for Royal Assent?

Senator Doody: We have tentatively set Royal Assent for 9 o'clock this evening. My understanding is that the House of Commons has set 8 o'clock this evening as their target time for cutoff. I would think that whatever they have dealt with will be sent to us at that time. Therefore, I think 9 o'clock is as good a guess as any for Royal Assent.

Hon. H.A. Olson: Senator Doody has suggested that we adjourn until 6:30 p.m. Could we perhaps adjourn to the call of the bell so that we know that the bill has arrived in this

place? If it is still in the Committee of the Whole in the other place, they may not be through with it at 6:30 p.m.

Senator Doody: I suggest that we adjourn until 6:30 p.m. or to the call of the bell.

The Senate adjourned during pleasure.

• (1830)

At 6.30 p.m. the sitting of the Senate was resumed.

FARM IMPROVEMENT AND MARKETING COOPERATIVES LOANS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-78, to increase the availability of loans for the purpose of the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations, to amend the Farm Improvement Loans Act and to amend certain other acts in consequence thereof.

Bill read first time.

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that the bill be read the second time now.

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

Hon. Senators: Agreed.

Hon. Efstathios William Barootes: Honourable senators, I welcome the opportunity to speak today on Bill C-78, which proposes to amend the Farm Improvement Loans Act. I will refer to it as FILA, similar to the nomenclature used by Senator Marshall.

In its current form, FILA authorizes the Minister of Agriculture to guarantee against losses on term loans made to farmers by chartered banks, by the Alberta Treasury Branches and by other designated lenders. The maximum lending rate is 1 per cent above prime. The program offers loans to buy machinery, implements, livestock, major repairs to equipment or buildings, or even to purchase additional land. It complements the Farm Credit Corporation lending program, which, among other things, offers start-up capital.

Farming, by its very nature, is capital intensive. That is why farmers require reliable access to reasonable credit. Very few farmers could survive without access to some kind of credit—start-up capital, operating credit and term loans to cover their machinery and equipment expenses. This is what the Farm Improvement Loans Act provides. Fortunately, there exists in Canada a wide range of credit options for farmers through lending institutions and through provincial and federal programs. Each program fulfils a specific need, and FILA is part of that network. So the program is really important to many farmers. It is also true, however, that in the 42 years since the original act was introduced, FILA has become somewhat less important in the credit field. There are many reasons for this change. For instance, provincial governments have entered the agricultural lending field in a variety of ways. Banks and other lending institutions have also set up specialized programs for farm lending. We should encourage banks and other lenders to continue searching for new ways to meet the special credit requirements of our farmers.

Aside from that, however, I believe that FILA must continue to exist. Moreover, I believe that its role must be enhanced, and that the purpose of this legislation is exactly that. However, it should be understood that the changes proposed by Bill C-78 represent only one aspect of an overall government response to the financial and credit needs of Canadian farmers.

The causes of today's farm financial problems are well known. High interest rates in the early 1980s crippled many farm operations. Some of them have not yet fully recovered. In addition, low commodity prices brought on by an international subsidy war coupled with increased input costs have reduced grain farmers' incomes.

The Government of Canada believes that greater farm income stability in this country will grow out of an overall effort. The effort must, first of all, provide farmers with a variety of flexible credit options. Second, it must provide them with financial assistance when necessary. Third, it must place greater emphasis on marketing. Indeed, the federal government has taken significant action in all of these areas.

Government support of marketing efforts has been strengthened. Numerous steps have been taken to improve the flexibility and availability of credit for farmers. The federal government has taken extraordinary action to address the special financial needs of the farm community. The purpose of Bill C-78 is to build further on these many initiatives.

The intention of this legislation is to broaden the scope of FILA and to make it a more flexible and accessible farm credit tool. I expect that these changes will result in expanding FILA's importance in the farm credit area.

In keeping with the government's added emphasis on marketing, Bill C-78 proposes to guarantee loans for cooperatives that have been set up by farmers to process, market and distribute their commodities. In order to reflect this expansion in the scope of the program, the act will be renamed the Farm Improvement and Marketing Cooperatives Loans Act.

The new provision will enable the federal government to assist a group of farmers who are willing to diversify their operations by taking the initiative to market their own products cooperatively.

These cooperatives have been and are being established by enterprising farmers who discovered that it is getting very

difficult to sell traditional raw product in the marketplace. The traditional markets are not as secure as they used to be. Some customers are looking for different kinds of products and consumer habits are changing.

For all of these reasons farmers can no longer rely exclusively on the old standby markets or on the old standby products. In this regard, farm cooperatives have considerable and perhaps tremendous potential for developing new products, and developing new markets for these products.

By extending the guaranteed loan program to farmer cooperatives, the federal government is assisting and encouraging diversification and ingenuity in the farm sector. And that is a key to unlocking the door to greater prosperity in our farm industry. These new loan guarantees will not stand alone. They add a new element to the federal government's existing marketing assistance scheme for farm cooperatives. As a result, farm cooperatives will not only have access to the operating assistance already available under existing programs but they will also have access to capital assistance in order to get started.

● (1840)

Other provisions of Bill C-78 are also important to the farm community, and I would like to take a few moments to outline some of them. The bill proposes to increase the borrowing limit from $100,000 to $250,000. This is a more realistic reflection of the cost of today's farming machinery and equipment.

It also proposes to extend the definition of a "farmer" to include producers who have off-farm employment. This change is in recognition of the financial circumstances facing many of today's farmers who have sought off-farm employment in order to keep their operations viable. Under the old definition, these loans were really available only to those defined as "full-time farmers".

There is also a new refinancing option which will allow farmers to consolidate their loans. Farmers with a number of intermediate-term outstanding loans will have the opportunity to consolidate them. In cases where the refinance loan extends the average term of the original loans, the annual payments shall be smaller. This will serve to increase the farmers' cash flow during this period.

The refinancing option also allows farmers to benefit from temporary low or interest-free provisions when they are buying farm machinery. When low or interest-free loan terms expire, they can refinance with a guaranteed loan at the favourable rate of prime plus 1 per cent.

The amendments I have outlined will give more farmers an opportunity to secure loan capital. I am confident that the program will better suit today's needs in our farm communities.

Two further amendments are proposed in Bill C-78. The first is called a cost recovery fee. It proposes a minimal user fee of 1/2 of 1 per cent. That is a small amount in relationship to the benefits of the guaranteed loan at a favourable interest rate of 1 over prime.

[Senator Barootes.]

The principle of a user fee has been widely applied to the delivery of many of our government services in Canada. Small businesses have been paying a service fee for government guaranteed loans under the Small Business Loans Act, and in fact it is 1 per cent.

Honourable senators may ask how the 1/2 of 1 per cent came into being. Over the 42 years of the existence of the Farm Loans Act, the loss ratio has been 1/2 of 1 per cent. In the last three years, unfortunately, with the farm crisis that faces us, that has gone up to slightly over 1 per cent. However, it was decided that the fee be based not on that higher loss ratio under the FILA program but on the lower expected losses in the longer term and on an historical basis, as the farm financial situation is expected to improve. In that sense, the government has taken into account the difficulty facing many of our farmers today.

The bill also proposes that lending institutions be responsible for 5 per cent of the risk on a loan whereas under the current act the federal government guaranteed 100 per cent of the loan. We have just heard that in the fisheries loan undertaking the guarantee is on 85 per cent of the loan. This will be on 95 per cent. It was felt appropriate that where lenders are provided with loan guarantees, they should at least take a small part of the risk.

Again, it should be noted that lenders have been sharing the losses on loans to small businesses since April 1985. I am confident that the provision contained in this bill will not create a significant disincentive to lenders; and it will certainly be a more fairly distributable responsibility to the lending institutions.

In conclusion, FILA has been a useful tool for farmers over the past 42 years. But times have changed. The act needs updating in order to meet today's reality in the farm sector, and that is what the bill proposes to do.

I should point out that the upper limit of funds available under this act will be raised to $1.5 billion. The present amount of money at risk is about $466 million. The average expected in new loans each year ranges between $160 million to $200 million; and therefore, with the ceiling of $1.5 billion and with the roll-overs that occur, it is pretty obvious that we shall not have to, as we have been doing in the past, return to this chamber and to the House of Commons to have an extension of the period, as I believe was done last December.

So making it the $1.5 billion and allowing it to have the roll-over will probably carry it through for a considerable period of time.

By taking this kind of initiative the government is creating a more meaningful and useful credit tool for farmers. The legislation is the result of extensive review undertaken by Agriculture Canada. It is the result of many consultations with the farm community.

The changes proposed in Bill C-78, together with the federal government's many other farm credit, farm financial and farm marketing efforts—which are the product of many govern-

ments, provincial and federal—are resulting in a more effective network of programs for Canadian farmers.

Honourable senators, I am confident that this legislation will be of benefit to our farm community. It is well worth your full support, and I commend it to you.

Hon. Daniel A. Lang: I wonder if I may ask the honourable senator a question arising out of my abundance of knowledge of the farming community! When a government agency lends money under the Farm Implements Loan Act, does the government take a chattel mortgage on the implements?

Senator Barootes: Indeed, the government does not take a chattel mortgage. The mortgage is taken by the lending institution, be it a credit union, a bank, or so on.

Hon. H.A. Olson: Honourable senators, Bill C-78 is one that I, too, recommend that we pass today for the simple reason that the old one that was in existence expires today. Therefore, I think we should pass it. As Senator Barootes, the sponsor of the bill, has pointed out, this bill, or this program, has been around for approximately 40 years and it has proven to be one of the most satisfactory that I know of—that is, from the point of view of the farmer—in the way that he obtains the credit, mostly from the chartered banks, although there are some other institutions, such as credit unions, which have extended the credit recently. It is more satisfactory than any other loan program that I know of—and I have also heard the same thing said about the Fisheries Improvement Act and others—because it is set up in such a way that it is administered in almost every community where there is that kind of activity going on—in this case agriculture.

However, having said that, I can find very little to agree with in what Senator Barootes had to say about this bill. For example, he said that farmers were still suffering from interest rates from the early 1980s and that many of them had not recovered—attempting to leave the impression that it is because of what happened then that farmers have such severe farm debt service problems today.

I completely disagree with that. What has happened is that the income, the revenue which farmers have lost in the past three years particularly, since 1984, is what has caused all of the problems. They simply do not get enough revenue from the sale of grain any more to service the obligations they have, whether they be debt service charges or other costs. The government knows very well that gross farm income for grain producers has dropped by 40 per cent to 50 per cent since it came into office. I do not know whether it wants to accept the blame for this loss in gross income to farmers, but I think it should at least admit to the reason for the loss. I think that a whole lot more could have been done by this government, as governments have done over the past number of decades, to keep the international market viable. However, this has not happened in the past three years. Instead, we have seen a ratcheting down of grain prices through those years.

● (1850)

The sponsor of the bill said that the government has taken some extraordinary action to help the farm credit situation. What extraordinary action has this government taken, except to drop the provision to have a moratorium on foreclosures? It has done just about everything else to make it as difficult as possible for farmers who are in desperate financial straits to meet their obligations, especially when grain prices dropped so drastically. For weeks I have been asking the government in this chamber, "What are you going to do to relieve the situation?" Last year it came along with a program offering some offsetting acreage payments. Even then they admitted that it was something less than one-third the amount farm income in the grain sector fell by, but, nevertheless, they said, "One billion dollars is a lot of money, and that is all we can put together." Now half of 1987 has gone by and, in spite of questions asked in the other place and in this place as to what the government is going to do for 1987, there has been no reply at all.

Honourable senators, this is serious. As bad as the situation was last year, it is at least 20 per cent worse this year. The initial prices on wheat and barley have been reduced by 18 to 27 per cent. So I do not know what the honourable senator means by "extraordinary action to take care of the situation." If the consequences of the government's extraordinary action is an indication of how valuable it was, then I suggest that it stop it. There is more distress in the agriculture sector today as a direct result of debt servicing charges than at any other time. Most of it has happened since this government came to office. They say, "Well, it is the international market situation that has caused it, and there is nothing we can do about it. We are doing all we can about it." The results of all their promises so far has been a big zero. The only result we can see is farm prices going down and down and down.

The government has not even announced a program for this year that is equivalent to the one they announced for last year. As a matter of fact, when the premiers met in, I believe, Humboldt, Saskatchewan, they said the very least that would be acceptable in acreage deficiency payments for this year was a program involving $1.6 billion. The federal government has not come through with it. So, by way of general criticism of what this government has done, honourable senators can probably understand where I am coming from.

Some of the provisions of Bill C-78 are good. I accept that and I think we should pass it. However, I do not think we should try to sell the bill on the idea that the government has done a lot to relieve stress in the agricultural area, particularly as far as debt service charges are concerned. One thing the government has done in this bill is to raise the application fee to 1/2 of 1 per cent. The excuse they give is that this is now the amount of the losses of the past 40 years, or whatever. Until three years ago the loss was 1/10 of 1 per cent.

Senator Barootes: No.

Senator Olson: No, 1/10 of 1 per cent. It has gone up to over 1 per cent in the past three years. If you are going to average that out, go back into the 1970s and the average will drop to 1/2 of 1 per cent. For the previous 30 to 35 years of the program, the average was 1/10 of 1 per cent. One half of 1 per cent does not sound like very much, but if a farmer has applied

for $100,000, which is the limit now, it amounts to $500. If you are broke already, that is a lot of money. If you are having great difficulty in paying your grocery bill, your taxes, and so on, $500 amounts to a lot of money. I do not understand why the government is introducing this measure. It was not there before.

This kind of convoluted reasoning the government uses in saying what is good is beyond me. Why would they stick a farmer for another $500 when he is having a terrible time looking after his debt service charges now? This is considered good service? My gosh!

The other thing the government is doing in this bill is transferring 5 per cent of the risk factor over and above what was there before to the lending institution. I am not sure that the explanation given was intended to be misleading, but I suspect that if the sponsor of the bill were to go back and ask for a better explanation, he would find out that the government is talking about 5 per cent over all, not 5 per cent on each individual loan. This proposition creates a completely different situation. Honourable senators can figure it out for themselves, but on $1.5 billion the lending institutions are taking on a pretty substantial risk factor. The sponsor admitted that it was a disincentive. I ask honourable senators; why do it at all knowing that farmers are having a more difficult time than ever before in looking after debt service charges? Why stick on another disincentive by transferring 5 per cent of the gross amount as a risk factor to the lending institutions when in the past the government has assumed all the risk? If that is taking extraordinary action to be helpful in the farm credit situation at a critical time, to me it is a complete contradiction in terms. It is making things more difficult, not less difficult. I know that earlier today some attempts were made to amend the bill to remove the 1/2 of 1 per cent fee.

One other thing that has not been explained with regard to that 1/2 of 1 per cent fee is that every time a farmer goes back to have the loan renewed, he will probably have to pay the 1/2 of 1 per cent over again because of the new application. If what Senator Barootes has said about the amount going from $100,000 up to $250,000 is true, it means that there could be an application fee of $1,250 each time the loan is renewed. That is not helpful.

● (1900)

In any event, the old act expires today, and, as I have said, over the past 40 years up until at least the last three years, this has been one of the most useful farm credit policies that has been in effect. Therefore, honourable senators, I intend to support this bill simply because I do not think that the program should die today. However, as far as there being anything helpful in the bill in relation to someone who is already deeply involved in trying desperately to hang on to what he has got, there is nothing helpful. I agree that adding cooperatives and other changes of that nature could be helpful, but for the individual farmer who is already in difficulty, let us not kid ourselves that there is anything in Bill C-78 that will help him. In fact, it will simply make matters worse.

[Senator Olson.]

In any event, rather than let the program die, I recommend that we pass Bill C-78 so that the program has a continuity of life on the statute books of this country.

Hon. Dan Hays: Honourable senators, I would like to add a few words to those of Senator Barootes and Senator Olson. To begin with, I urge honourable senators to pass Bill C-78. It is very much needed at a time of distress in the agricultural sector. I will make a couple of comments about that and a couple of comments about the bill itself.

Essentially, I regret that the bill did not come before the Senate so that we might have had an opportunity to look at some of the provisions of the bill in committee and give it the due consideration that the Senate, I think, would like to have given to it.

As to my first point, I would like to draw to the attention of honourable senators the fact that farm debt doubled between 1975 and 1980 from $8 billion to $16 billion. In the current year farm debt is of the order of $22 billion. That is quite a remarkable increase, honourable senators, in the debt load that farms are carrying in something just over a ten-year period. During that ten-year period we experienced very high interest rates for a portion of the time. In 1981 interest payments alone for agriculture reached $2.4 billion; in 1986 interest payments were around $1.4 billion.

Another statistic that I would like to draw to the attention of honourable senators, derived from the Farm Credit Corporation, is that approximately 30 per cent of farmers are under financial stress. Eight per cent of those farmers are insolvent and the balance are facing severe financial difficulty. Therefore, honourable senators, my approach to this piece of legislation is that it is welcome. We need to do a great deal more to address the needs of the farm sector in terms of government policy with respect to the granting of credit of this nature, and of course the Standing Senate Committee on Agriculture and Forestry is currently conducting a study of that subject and hopes to report no later than January 31 of next year.

As to Bill C-78, some of the things that I would like to have had an opportunity to discuss with officials of the department relate to such things as the statement by Senator Barootes to the effect that under the Farm Improvement Loans Act, interest rates were 1 per cent over prime. Honourable senators, I do not have that act before me, but looking at the bill which we are being asked to pass today I see that provision is made in that bill for establishment of interest rates by regulation. The fee that Senator Olson talked about can be changed by regulation. There are many things that are adjustable by the executive branch of the government by regulation, and I must say that that kind of thing is worthy of inquiry before legislation is passed to fix, as a matter of evidence in a committee, the kind of range that the executive branch has in mind when this or similar legislation is implemented. It is interesting to note that the only item in the bill that will come into force tomorrow is the extension of the Farm Improvement Loans Act. The rest of the bill will come into force at a date to be proclaimed at some time in the future. Honourable senators, it is quite possible—or even probable—that the government

could have extended the Farm Improvement Loans Act and brought in the rest of this legislation at a later date so that it could have received the scrutiny of Parliament—not only of the Senate but of the House of Commons.

As I say, honourable senators, these provisions bother me somewhat. I do not think there is anything new in this bill, but I do think that we as parliamentarians, both in this house and in the other place, should be very wary of the extent to which acts are mere shams in that, because of provisions in them that allow the executive to change the heart of the act, they can basically be terminated without reference to Parliament. In other words, they can sit around on the books for some later Parliament to eventually do away with.

Honourable senators, those are my comments on Bill C-78. I think everything else has been adequately covered in terms of the description of the bill, as I understand it in the short period of time that I have had to examine it. It increases the limits of loans; it increases the total amount of funds available from roughly $400,000 outstanding now to $1.5 billion, and it allows loans of up to $3 million to organizations that are going to upgrade or value-add to agricultural commodities. These are all things which give me a very positive feeling about the bill and a positive feeling about the initiative of the government in bringing it forward.

In saying that, I do not take away from my criticisms of the manner in which it has been brought forward and the speed with which we have been asked to deal with it. I would not suggest that it was designed to go through quickly so that it would not attract a lot of attention here or in the House of Commons or in committee. However, I hope that in the future this government—and all governments—will provide more time for legislation such as this—albeit good legislation—to be scrutinized and possibly improved.

Honourable senators, I commend the legislation to you at this time.

Senator Barootes: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Barootes speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Frith: You do not have to speak; you are entitled to waive it.

Senator Barootes: I appreciate the help of the honourable senator, but I think I would like to make one or two comments. First of all, I would like to thank my two Alberta confrères for their observations which, as usual, have some validity and some cogency. In particular, Senator Hays is absolutely right on two points. I, too, am sad that we did not receive this legislation at an earlier date so that he and his committee and the Senate could investigate it a little further. However, that is the way it has gone. Perhaps in the future your admonition and that of others will have the effect that some of this legislation reaches us in more timely fashion.

My second point is that the proclamation date in clause (*b*) is delayed, and it will be proclaimed when the rules and regulations under the bill have been prepared and have been consulted upon with the farm organizations. In the meantime, during that transition period, the old FILA will apply.

Senator Olson, I am pleased that you supported the bill. If you had not supported the bill, I can hardly imagine what you might have said. You could have blown me right through that wall. However, in view of the fact that you were so conciliatory about the bill, I was delighted. I know Senator Olson felt that there were a few weaknesses. "Damned with faint praise," I think is the expression that we use.

In any event, I must point out to you, sir, that I did not blame all of the farm problems on the high interest rates. I said that high interest rates were one of the factors. I think if you look again you will see that I did indeed mention low commodity prices and increased farm input costs as also being at the root of the problem as well as the international subsidy war which has affected us in that regard.

• (1910)

You ask what we have done or what this government has done or what governments have done, and maybe it is better to say, "What have governments done to assist in farm credit, particularly in recent times?" I do not want to try to recall to your memory all the things you already know, but one of them is they have reduced the farm credit interest rates under the FCC. The establishment of these committees throughout the country is assisting farmers who are in desperate condition not only with their own confrères, who are farmers and helpful, but also with professional help.

We must mention the $1 billion special grains assistance. We must mention the draining of the Western Grain Stabilization Fund. Obviously, they will have to dip into general revenues if further money is required. We must mention the Advance Grain and Commodities Program, and there are several others.

One correction that must be made, and I bring it to your attention, is the 1/2 of 1 per cent front-end fee. That percentage of 1/2 of 1 per cent is the average between the years 1935 and, I believe, 1984. That charge, Senator Olson, is a one-time charge only and would not apply for reapplication or reinstitution of the loan at a later date.

Those are the main comments I would like to make. I do want to thank both gentlemen for their cogent observations, which always are interesting and always have application to our problems here.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I moved that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

FORGIVENESS OF CERTAIN OFFICIAL DEVELOPMENT ASSISTANCE DEBTS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-62, relating to the forgiveness incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and of the Islamic Republic of Mauritania and also to the former East African Community.

Bill read first time.

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate, now.

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

Hon. Senators: Agreed.

Hon. Ian Sinclair: I would like to ask a question. What is the urgency about this bill?

Senator Doody: The urgency of the bill is that it has been around for some time, and the government is anxious to get the matter cleared up and cleared off the books. As the Honourable Senator Sinclair knows, an attempt was made some time ago to introduce this bill here in this chamber to try to move it along. Unfortunately, that was not proper.

It was subsequently entered into the Order Paper of the House of Commons and has passed that place. It has now reached us. It has been pre-studied, as I understand it, by the Foreign Affairs Committee of this place, and it would seem sensible to try to move it along and to pass it now so that we can dispense with it. I see no purpose in holding it any longer.

Senator Sinclair: Thank you.

The Hon. the Speaker: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Rossiter, that this bill be read the second time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Explain.

Hon. Eileen Rossiter: Honourable senators, I am most encouraged that the members of the Senate have chosen to consider this legislation without further delay. The matter is urgent and pressing, and I thank you for your cooperation in bringing it before the Senate for discussion at this time.

What the bill before you proposes is to forgive debts incurred through certain official development assistance loans made by the Government of Canada to the Governments of Togo and Mauritania and also to the former East African Community.

There are two vital issues at stake here: shattered African economies and Canada's international reputation. Let me elaborate a little on both of these.

In the mid-sixties, when development assistance on a widespread international scale really began, the poor countries of the Third World were only too happy to borrow what the rich countries were willing to lend. Both lenders and borrowers were optimistic—perhaps naively so—that these loans would quickly rescue the borrowers from their economic woes, and that repayment would be no problem. But no one could foresee what lay ahead—the decline in prices paid for many Third World exports, for instance, and the drastic rise in the price of oil—and many developing countries found thay had to keep borrowing more and more money just to stay afloat.

By the mid-1970s it was obvious that many of the borrowers had become far too poor to repay the money already borrowed from Canada and other industrialized nations. By attempting to make these payments, they were, in fact, sinking further and further into debt, requiring more loans, and perpetuating a vicious circle of economic dependence.

In 1977, in the context of the North-South dialogue of that period, Parliament agreed to forgive the aid-related debts to Canada of 12 countries on the United Nations list of the world's least-developed. In December of the same year debt-forgiveness to these dozen nations was enacted into legislation by the Canadian Parliament. Our initiative was applauded internationally as being not only enlightened but being ultimately practical. Canada was one of the first officially to recognize the debt problems of the poorest countries and do something positive about it. That was a decade ago, and I congratulate the current Leader of the Opposition in the Senate, the Honourable Allan MacEachen, for his statesmanship and leadership in this matter.

We have continued to be a world leader on the issue of the Third World debt. In February 1986 the Right Honourable Joe Clark announced that Canada's Official Development Assistance would no longer take the form of loans. From that point on, our Official Development Assistance has been provided on an all-grant basis. This means, in effect, that developing countries, in receiving Canadian aid, will not go further into debt with Canada, because any money allotted for official development assistance will be in the form of a grant and, as such, not subject to repayment. Mr. Clark described this decision as "a tangible step toward offering more effective aid to the Third World."

But more needed to be done. The countries of sub-Saharan Africa, in particular, were facing a human and financial crisis of appalling proportions. Not only had they amassed huge

foreign debts but the desert was eating up their farmland, crops had failed for several years in a row, and millions of people were starving. What few resources they had needed to be spent on food, seed and agricultural improvements, not repaying existing loans. So at the United Nations in May of 1986, Canada announced a five-year moratorium on debts incurred by the sub-Saharan African states. Under this moratorium, the sub-Saharan countries need not make any payments to Canada for five years. Indeed, if their economies had not appreciably improved, they could put off repayment for a further five years, and so on, up to the year 2000, if necessary.

• (1920)

This was hailed as a generous and humanitarian move by the entire international community, and particularly by the nations of Africa. It is a decision that has enhanced the reputation Canada enjoys as a world leader in concern for the ravaged economies of the African continent. It is in this spirit that I ask you to consider the bill you have before you today.

In a way, this bill is a hold-over from 1977, when Canada officially forgave the debts of the countries then on the United Nations list of the least developed. Since that time, two other African countries, Togo and the Islamic Republic of Mauritania, have experienced economic troubles so serious that they, too, have been defined by the United Nations as least developed. The Government of Canada feels that to be consistent in our policy toward all such countries, we need to forgive the aid-related debt of these two financially strapped nations. In addition, we should also cancel the remaining debt of the now defunct East African Community, which consisted of three countries, two of which—Tanzania and Uganda—are on the least-developed list.

Our position with regard to Togo is especially critical, since, in 1982, Canada indicated its willingness to forgive the ODA debt incurred by that country. To have dragged our feet this long is bad enough, but to renege on our promise would seriously undermine the high degree of confidence the African nations have in us.

I hope, therefore, that you will give urgent consideration to the passing of this bill.

Hon. Ian Sinclair: Honourable senators, I have a question I would like to ask before you deal with it. Would you tell us how much money is involved in each of these instances?

Senator Rossiter: In Togo and Mauritania, the total is $20.8 million. The amount for the East African Community—this amount is divided between Kenya, Uganda and Tanzania—is $47.4 million, for a total of $68.2 million.

Senator Sinclair: Thank you.

Hon. Henry D. Hicks: Honourable senators, Senator Rossiter has dealt quite fully with the reasons behind Bill C-62. She rightly pointed out that this arises from an initiative taken by Canada at the Conference of International Economic Co-operation in 1977—under the leadership of our Opposition Leader in the Senate, as he now is, the Honourable Allan MacEachen—when Canada announced that loans to the LDC—least developed countries—as defined by the United Nations, would be forgiven by Canada. She explained the reasons as to why, in addition to this initial group whose loans were forgiven some decade ago, the five countries whose loans are before us this evening should now be forgiven and placed in the same category.

It is interesting to me to know that when the Standing Senate Committee on Foreign Affairs undertook its study and reported on the debt problems of Third World countries, we noted and commended the policies of the Government of Canada in relation to the forgiveness of these loans to the really hard-up African countries, the least developed countries. I should point out now that in addition to that, the United Nations has added another category of countries, the LLDCs, the least less developed countries, whose incomes are less than $200-U.S. per annum per capita; the LDCs are countries where the incomes are under $400-U.S. per capita per year. So this is an action which I think should appeal to the responsible instincts of every honourable senator in this house.

In the report of the Standing Senate Committee on Foreign Affairs we expressed the hope that other countries would follow the lead given by Canada—and some have done so. I hope that with this additional effort on the part of our country, still other of the developed countries, and the countries of the EEC particularly, would follow Canada's lead. I do not think I need say very much more, because Senator Rossiter covered the reasoning behind the forgiveness of the debt of each of the five countries mentioned in this bill.

The bill has been pre-studied by the Standing Senate Committee on Foreign Affairs within the last week or so, which reported back to the house with a favourable recommendation. I agree with Senator Rossiter's recommendation that we should pass it with dispatch this evening, and I see no reason why it should be referred to a committee again.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

HAZARDOUS PRODUCTS ACT AND OTHER STATUTES

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-70,

to amend the Hazardous Products Act and the Canada Labour Code, to enact the Hazardous Materials Information Review Act and to amend other Acts in relation thereto.

Bill read first time.

● (1930)

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*f*), I move that the bill be read the second time now.

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

Hon. Senators: Agreed.

Hon. Brenda M. Robertson: Honourable senators, this bill is a good news bill, and I am pleased to be able to make a few comments concerning the Workplace Hazardous Materials Information System, WHMIS. The primary purpose of WHMIS is to protect Canadian workers by disclosing information about hazardous substances. This kind of information is often not available to workers and employers at the moment, but it is something all Canadians working with hazardous materials have a right to know.

Before I describe WHMIS to this chamber, let me tell you briefly about the process of consultation and consensus developed by organized labour and the federal, provincial and territorial governments that produced this legislation.

The Canadian Labour Congress, the Canadian Chemical Producers' Association and the Canadian Manufacturers' Association were also keen non-government parties to the WHMIS consensus.

Honourable senators, the cooperation that went into designing WHMIS and the strong and enthusiastic support for WHMIS among all consulting parties are unprecedented. The program is unique because all participants, each representing a different interest, fully support the proposal.

As for WHMIS itself, honourable senators, the programs and national information standards are designed to protect Canadian workers by providing workers and employers with vital information about hazardous chemicals used in the workplace.

To be effective, a workplace hazardous materials information system must be comprehensive. It must be applied consistently in workplaces across Canada. It would make little sense to require hazardous product information in one jurisdiction and not in another. This means that a comprehensive WHMIS program requires the cooperation of federal, provincial and territorial jurisdictions. These jurisdictions all have existing occupational safety and health programs. WHMIS would work through these safety instruments to implement uniformly a national program in all 13 Canadian jurisdictions.

[The Hon. the Speaker.]

Even though WHMIS is essentially an occupational safety and health initiative, honourable senators, the governments, business and labour agree that the present federal Hazardous Products Act is the best existing statute in which to establish the core requirements for WHMIS, that is, because WHMIS will deal with standards and disclosure requirements for hazardous products at the point of sale or importation.

The bill would deliver the federal portion of WHMIS and would enable the program to be efficiently implemented through the existing occupational safety and health programs of the jurisdictions concerned. This will help avoid needless duplication, make for smoother administration, and enable WHMIS to be a leaner, more efficient program.

Altogether the bill contains modifications to the Hazardous Products Act and to Part IV of the Canada Labour Code. It would also establish new provisions to protect legitimate confidential business information.

The Hazardous Products Act amendments, honourable senators, will serve as a national regulatory foundation for WHMIS. WHMIS will identify the hazardous materials and require information about them in the workplace. It will set up a cautionary labelling system for containers of hazardous materials and require the disclosure of even more information through material safety data sheets, including the identity of hazardous ingredients. It will also establish a maximum fine for an indictable offence of $1 million for violations of the Hazardous Products Act and increase the fine on summary conviction from $1,000 to a maximum of $100,000.

It will also set up a mechanism to protect sensitive, confidential business information, and require the suppliers to provide information, in confidence, to treating medical professionals during emergencies.

The bill also provides for consultation with the provinces, with the territories, with industry and with labour prior to changes in the WHMIS regulations or schedules and the revised Hazardous Products Act.

Honourable senators, amendments to the Canada Labour Code, Part IV, are an important part of the WHMIS legislation. These will extend the protection of the WHMIS proprietary information mechanism to federally regulated employers. All other authorities to implement WHMIS, including requirements for worker education programs, are currently contained in the Canada Labour Code, Part IV.

The goal of WHMIS, honourable senators, is to protect workers, and worker education programs constitute an important part of the system. Under occupational safety and health legislation, the program will require employers to establish education and training programs for employees exposed to workplace hazardous materials. These programs will ensure that employees have the information they need to handle hazardous materials safely.

Honourable senators, in arriving at a workable WHMIS program, the government had to be very sensitive to the need to balance Canadian workers' legitimate right to know about the hazards of products they handle with industry's need to

protect confidential business information. Attaining this delicate balance is a fundamental consideration of WHMIS.

The bill therefore includes a mechanism to determine if a supplier should be allowed an exemption to the WHMIS ingredient disclosure requirements on the grounds that such disclosure would cause economic harm.

During consultation all parties agreed on the best mechanism to deal with claims. The mechanism would screen initial claims, adjudicate appeals against screening decisions, and provide a method of judicial review limited to points of law. The bill would create the Hazardous Materials Information Review Commission. It would be a single, national, independent agency able to screen trade secrets and to hear appeals. Trade secrets claims will be ruled on initially by a screening officer of the commission. The affected parties—the manufacturers, the importers and the employees—would have the right to appeal screening decisions to a tripartite appeal panel comprising members nominated by industry, labour and provincial governments.

The commission would be governed by a multipartite council of governors and would report to Parliament through the Minister of Consumer and Corporate Affairs. I would advise that there is a maximum of 17 members on this council of governors, 13 from the various jurisdictions, two from industry and two from labour.

The commission would be self-financed by fees charged to claimants and appellants.

To guarantee that proprietary information provisions will not conflict with the requirements for worker safety in cases of medical emergencies, provision has been made for the release, in confidence, of necessary information to medical professionals.

WHMIS will get information on hazardous products out where it will do the most good and avoid the problems and significant costs Canadian industry would face if each occupational safety and health jurisdiction tackled the matter on its own.

WHMIS will also reduce the many fatalities and injuries that Canadian workers suffer every year—fatalities and injuries that result in years of lost productive time and billions of dollars' worth of direct and indirect costs to the Canadian economy.

WHMIS is the best kind of regulation. It will provide information so that workers can protect themselves. Instead of proposing detailed requirements that attempt to control every aspect of the problem, it uses a performance-type approach that allows business some flexibility in how to meet regulatory requirements.

The program, honourable senators, places the onus for providing information where it belongs, that is, on the suppliers and importers. These are the people who have the information or who can obtain it at the least cost. In terms of regulatory reform, WHMIS is well designed.

I began my remarks by speaking of the very broad consensus that produced the WHMIS bill, a consensus of industry and labour and of provincial, territorial and the federal government, including the Official Opposition and the NDP members in the House of Commons. WHMIS is a national program with national backing at every level of Canadian society.

I might add, honourable senators, that in the last year representatives of industry and labour have, hand in hand, approached every minister responsible for the regulation of the occupational health and safety standards in Canada, asking to be regulated in accordance with this piece of legislation as rapidly as possible, and they received unanimous support.

The bill will come into force no later than October 31, 1988.

WHMIS consists of a criteria-driven system and has four basic points: one, labelling; two, materials safety data sheets; three, worker education programs; and, four, a trade secret review mechanism.

Honourable senators, this program is long overdue. I certainly hope that the Senate will pass this legislation without too much dissent. I understand that the opposition wishes to have more good news about this legislation, so, the minister is available, at your convenience, to appear before a Committee of the Whole. I will try to answer any questions they may have about the bill. As I have said, if I cannot do so, the minister is available.

● (1940)

Hon. Henry D. Hicks: Honourable senators, I have a question right off the bat, which may reveal my own ignorance, but, if I do not reveal it, I will never have it cured. The mover of the motion referred several times to a word which sounds like "WHMIS", which I have never heard before. I went through the bill and I could not see any reference to it there. Would she please explain it to me?

Senator Robertson: Yes, honourable senators, I would be glad to. I had trouble with that myself. Every time one comes across one of those acronyms, it presents difficulties—at least, that is the case for me, being a little tongue-tied. WHMIS is the acronym for Workplace Hazardous Materials Information System. It is really a substitute for the name of the system that will be incorporated under the act.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Robertson has covered the waterfront quite effectively on this bill and there is not much more I need to say. I would, however, like to raise four or five small points. First, this is a long awaited piece of legislation. As she pointed out, the bill is the result of widespread consultations held by industry, organized labour, the federal, provincial and territorial governments. I think the minister, whom we may be seeing shortly, described it as a real product of consensus. He did not add that it is an initiative of the previous Liberal government, and I thank him for leaving me the opportunity to underline that fact. It is, indeed, an initiative of the former government that has been carried on by the present one.

We support this legislation—

An Hon. Senator: What did he say?

Senator Frith: This is an initiative of the previous Liberal government that has been carried on by the present government.

Senator Doody: They need good news so badly!

Senator Frith: May I proceed? We support this legislation, but we regret that it took so long for the government to complete the initiative. I daresay that the government is also sorry it took so long. The initiative began some four years ago.

As was pointed out, it is going to establish what Senator Hicks and the rest of us have just learned is to be the Workplace Hazardous Materials Information System—what we end up with is WHMIS. I will try to remember how to pronounce that, because I know of a very small village just west of Perth called Wemyss, where several of my relatives, members of the Cameron clan, live. At any rate, WHMIS we will call it, and everyone will know what we are talking about—not the small village west of Perth.

The purpose of this legislation is to protect Canadian workers by disclosing information about hazardous substances used in the workplace. How will this be done? This system will transfer information about hazardous materials from producers, suppliers and importers to employers and, in turn, to employees who use those materials in the workplace. The result is a uniform national system achieved by consensus, and that requires the cooperation of all federal, provincial and territorial governments.

I have a couple of reservations about this legislation; one of them is that we have not had the assurance that the various necessary jurisdictions—namely, the federal, provincial and territorial governments—will have the necessary resources to enforce the legislation. But we can ask the minister about that. We can hope that the necessary resources will be made available at an early date, or that they may already be in place. We do not know exactly what the mechanics of that will be, but the minister may be able to tell us.

The legislation is not to come into force until October 31, 1988, as Senator Robertson said, unless proclaimed sooner. That is made clear in clause 58 of the bill. The other place agreed to pass the bill through all its stages in a single day. So we hope that all honourable senators will not make workers wait for over a year for the protection this bill would grant them. I think Senator Robertson would agree that they have waited quite some time already.

Provision has been made in clause 57 of the bill for a review by a parliamentary committee on the expiration of two years after the coming into force of clause 12 of the Hazardous Products Act. Clause 12 outlines the exclusions or restrictions on the applications of the bill about the sale or importation of certain products. What are those products? One example is explosives within the meaning of the Explosives Act. Another is cosmetics, devices, drugs or food within the meaning of the Food and Drugs Act. Another is controlled products within the meaning of the Pest Control Act. Apparently these items will be considered for possible future inclusion in the WHMIS program, after further consultation with the departments and the implicated crown corporations. We can ask the minister about that as well.

An important feature of this bill, as I believe Senator Robertson has emphasized, is uniformity. Let us hope for the uniform application of the legislation by these various agencies, since uniformity is one of the important objectives of the bill, as it was the objective of the previous government.

One added and perhaps predictable footnote, coming from me, has to do with another subclause of clause 12 of the bill; that is, the clause which includes tobacco and tobacco products as items not covered by the disclosure provisions of the bill.

Senator Haidasz: Shame!

Senator Frith: There will be no requirement for suppliers to list the ingredients of these products. One might understand why the government decided to exempt tobacco products in a bill dealing with workplace hazards because of other legislation seeking the same objective. It is, nevertheless, true that these are dangerous products when used as intended. I can only hope that one day we will see legislation before us—we have already had some from our colleague, Senator Haidasz—requiring manufacturers to list all ingredients found in cigarettes and so to inform people of the numerous toxic chemicals that are regularly found in tobacco products.

Honourable senators, that is all I have to say on the subject of this bill. I don't imagine we will have to detain the minister long, but I have a couple of questions for him and other senators might have some as well. I think it is advisable when dealing with a bill of this kind at this late stage to resolve ourselves into a Committee of the Whole for further study.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the bill be referred to Committee of the Whole, and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker: It is moved by the Honourable Senator Doody, seconded by the Honourable Senator MacDonald (Halifax), that this bill be referred to Committee of the Whole.

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

Hon. Senators: Agreed.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Jean-Maurice Simard in the Chair.

[*Translation*]

Senator Murray: Mr. Chairman, with your leave, I will now go and get the Minister of Consumer and Corporate Affairs, the Honourable Harvie Andre, who is waiting outside the Senate Chamber.

• (1950)

[*English*]

Honourable senators, I want to welcome to the Committee of the Whole Senate for the first time the Minister of Consumer and Corporate Affairs, the Honourable Harvie Andre. Mr. Andre has been a member of the House of Commons since 1972 for the constituency of Calgary Centre, and since 1984 has successively and successfully held the portfolios of Minister of Supply and Services, Associate Minister of National Defence and, for the past year, Minister of Consumer and Corporate Affairs. He is accompanied by Mr. Morris Rosenberg, General Counsel in the department, and Dr. André Lachance, Director, Product Safety Branch, Bureau of Consumer Affairs, in the department.

As usual, I presume that if the minister wishes to refer particular questions to his officials, that would be acceptable. I do not know whether or not the minister has an opening statement, but, in any case, he is here to reply to questions.

The Honourable Harvie Andre, Minister of Consumer and Corporate Affairs: I am prepared to reply to questions. I do not have an opening statement. I was listening to some of the debate and I believe that senators are aware of the contents of the bill.

Senator Frith: I welcome the minister. I have three or four questions which essentially are for information. The bill has been a legislative concept for some time. It started under the previous government, I believe, and it was continued by your government. It required a good deal of cooperation, because its principle is uniformity among all of the provincial governments and the territorial governments. That consensus has now been obtained.

Since it has taken some time, can you tell us whether the cooperating partners have the resources to enforce the legislation and to put it into operation immediately? Also, are there any cooperative or other mechanisms in place to ensure that they do have the resources to put it into effect?

Mr. Andre: Let me say by way of preamble that you are right, it has been under discussion for a long time—for four years, as a matter of fact. I believe it is the first time in Canadian history that this kind of uniformity and unanimity has taken place among such a diverse group as the CLC, the Canadian Manufacturers' Association, the Canadian Chemical Producers, the ten provincial governments, the two territorial governments and the federal government. So it is a unique accomplishment in that regard.

In terms of policing, all jurisdictions—provincial, territorial and the federal government—do have existing occupational safety and health standards covered by legislation that exists on their books. So the additional responsibility, if you will, of policing the provisions of this legislation can quite easily be handled by the inspectors provided for in that legislation. So we do not view that as being a particularly difficult problem.

Senator Frith: My next question arises from clause 58. Can you explain why the bill is not to come into force until October 31, 1988—more than a year from now?

Mr. Andre: That is to allow industry the time required to make all of the accommodations that it is required to make. It has to set up education programs, to prepare all of the material safety data sheets, to do the labelling on the materials—all of which requires a fair amount of time. Indeed, there was some concern that if we were not able to get this legislation through by June of this year, the target of October 1988 could not be met.

There is quite a bit of effort required in the start-up period for industry in particular. We are confident that it is not asking for excessive time; that there is legitimate work to fill all of that intervening time.

Senator Frith: Clause 12 provides that:

> This Part does not apply in respect of the sale or importation of any

And it then lists the following:

> (*a*) explosive within the meaning of the Explosives Act;
>
> (*b*) cosmetic, device, drug or food within the meaning of the Food and Drugs Act;
>
> (*c*) control product within the meaning of the Pest Control Products Act;
>
> (*d*) prescribed substance within the meaning of the Atomic Energy Control Act;
>
> (*e*) hazardous waste;
>
> (*f*) product, material or substance included in Part II of Schedule I and packaged as a consumer product;
>
> (*g*) wood or product made of wood;
>
> (*h*) tobacco or product made of tobacco; or
>
> (*i*) manufactured article.

I note that the last one is singular. If it were "manufactured articles," that would cover quite a lot of ground. There are quite a few restrictions on or exemptions from the application of the legislation. Is there a story behind that? Can you explain why? Perhaps you would deal with "(*i*)" first. What is meant by "manufactured article"? Surely not all manufactured articles—

Mr. Andre: It has to be read in terms of the leading sentence:

> This Part does not apply in respect of the sale or importation of any

manufactured article. Under the definition clause it says:

> "Manufactured article" means any article that is formed to a specific shape or design during manufacture, the intended use of which when in that form is dependent in whole or in part on its shape or design, and that, under normal conditions of use, will not release or otherwise cause a person to be exposed to a controlled product;

Senator Frith: Can you give us an example?

Mr. Andre: For example, let us take a toy. Under the Hazardous Products Act there is the requirement that the paint must be of a quality that should someone chew on it it will not poison him or her. Last Christmas, because of the barium content in a number of toys from the Tonka Company, there was a massive drawback. So there are existing laws which protect the public in terms of manufactured articles that might be made or imported.

Senator Frith: The idea of this essentially is to protect employees.

Mr. Andre: Exactly.

Senator Frith: So, if it is covered in other legislation, they are still protected, because they are members of the public; is that the idea?

Mr. Andre: That's right.

Senator Frith: Is that the rationale behind all of these exemptions, namely, that they are otherwise covered, and employees and members of the public are otherwise protected?

Mr. Andre: In part, senator, but not totally. Each of those acts does have within it the provision to protect those who might use it, and so on; but it is the intent to bring those within this ambit over the course of the next two, three or four years. It took four years to accomplish the consensus in terms of the products that are now included, and to have tried to accomplish each one of these at this stage would, in the view of officials who were working with it, have simply delayed introduction of this legislation for another year or two. So, part of the legislative review is, in fact, an examination to see how much progress has been made in bringing all of these materials within the ambit of this act.

Senator Frith: "Tobacco or product made of tobacco": Is that because of other legislation?

Mr. Andre: That's right.

Senator Frith: What is the rationale for "wood or product made of wood"? Would employees who were not protected from that be covered by something else?

• (2000)

I can appreciate that in some cases it may be just negotiating problems. Can you tell us the reason behind that measure?

Mr. Andre: In wood or wood products, it is a question of familiarity, because you are dealing with furniture, such as chairs, two-by-fours, and so on. That category simply does not apply to hazardous products in the same sense as chemicals.

Senator Frith: With regard to hazardous waste, are people otherwise protected?

Mr. Andre: Yes, it is dealt with in environmental legislation.

Senator Frith: Sufficiently to protect employees?

Mr. Andre: Yes.

[Mr. Andre.]

Senator Frith: And is it the same with regard to atomic energy control?

Mr. Andre: Yes. The Atomic Energy Control Board has the mandate to ensure that radiation levels, and so on, in any workplace are below acceptable limits. In any case, that is one of the substances, if you wish, on which efforts will be made to include it in due course.

Senator Frith: With regard to pest control products, are employees protected under other legislation?

Mr. Andre: Yes. The Departments of Health and Welfare and Agriculture have pretty stringent control systems in place now. Again, it is the intent to include this area in the future.

Senator Frith: And are explosives and food and drug chemicals covered otherwise?

Mr. Andre: It is the same situation, yes.

Senator LeBlanc (Beauséjour): Upon reviewing clauses 12 and 57 I realized that within two years clause 12 would be subject to review by a parliamentary committee of the House of Commons and the Senate. I found with interest that we are talking about a rather disciplined and rather well organized milieu, which is the industrial use of hazardous products. Some of us think that pest control products are very dangerous substances and that they are being utilized without a great deal of training and expertise on the part of people, who merely go to the local Co-op or hardware store, buy the product, and spray it around. I wonder whether or not more urgency should have been attached to the Pest Control Products Act than even Agriculture Canada seems to attach to it.

Mr. Andre: I am not sure that I am qualified to comment on the adequacy of the tests, conditions, and so on, that Agriculture Canada imposes upon importers or manufacturers of pest control chemicals. Certainly it is our view, or the view of the drafters here, that the more urgent problem—because heretofore there really has not been adequate protection for workers in the workplace dealing with dangerous chemicals, and some of the statistics about lost time, and so on, are quite amazing—is addressing the particular situation where you have workers dealing with dangerous chemicals, not knowing what they are, and the high rate of lost time due to accidents. The larger problem of chemical use after it leaves the factory, whether it be by farmers, hobby gardeners or whomever, as applied to pest control chemicals, is really beyond the scope of the work that was undertaken to develop this legislation.

Senator LeBlanc (Beauséjour): I can understand that participants, the trade unions and others would not have had this measure as a high priority, but I find it difficult to understand why a department such as the minister's would not have considered whether or not consumer protection should be enhanced.

Mr. Andre: Ironically, from strictly a consumer's point of view, we have been getting complaints that the checks, tests and safety mechanisms Agriculture Canada has in place preclude the entry into the marketplace of competitive chemicals and, as a result, the price of these agricultural chemicals in

particular are rather high. The view of some, as a result of the fairly rigorous tests Agriculture Canada has in place, is that it makes it very expensive for competitors to enter the marketplace. So, there is that balance. In any case, I should go back to my first remark and say again that when talking about the Agriculture approved programs we are getting into an area that is really beyond my expertise.

Senator Haidasz: With regard to clause 12, would the minister expound on whether the word "sale" also includes the manufacture of and exportation of?

Mr. Andre: No, it does not.

Senator Haidasz: In other words, some hazardous products can be manufactured, but not exported.

Mr. Andre: I am informed, for example, in terms of manufactured explosives, that that area currently falls within provincial jurisdiction, the normal Occupational Safety and Health, or so-called OSH, regulations.

Senator Haidasz: With regard to subclause 12(*h*), it has been reported by the press that the organization calling themselves Physicians for a Smoke Free Canada has filed an application with your department to declare tobacco and tobacco products hazardous under the Hazardous Products Act. Has the minister replied to that application in any way?

Mr. Andre: The press story was inaccurate in the sense that there is no automatic trigger for an investigation as to applicability within the Hazardous Products Act. In fact, that particular group filed a statement of claim before the Federal Court claiming that by not responding to their request for an investigation we were not fulfilling our duty. A motion to strike that statement will be laid before the court soon. However, the real answer to the physicians was and remains that my colleague, the Minister of National Health and Welfare, the Honourable Jake Epp, has brought in a total package dealing with tobacco use, and that it would have been redundant for our department to be using this legislation for the same purpose.

Senator Haisdasz: I presume the minister is referring to Bill C-51.

Mr. Andre: I believe that that is the number.

Senator Haidasz: But nowhere in that bill is it stated that tobacco is a hazardous product.

Mr. Andre: No, but the object of the bill is to make it less attractive for people to use tobacco or tobacco products. The mere statment of tobacco being a hazardous product, injurious to health, and so on, is found on the package. So the Hazardous Products Act really deals with labelling, and I think the label is there now.

• (2010)

Senator Sinclair: Mr. Minister, who determines whether an alleged offence will be prosecuted by way of information or indictment?

Mr. Andre: I will ask legal counsel to advise me. I am told that the Attorney General would make that determination.

Senator Sinclair: The Attorney General of any province?

Mr. Andre: Yes, the Attorney General of any province, or the Attorney General at the federal level, if it is within that jurisdiction.

Senator Sinclair: Whether it is by way of information or indictment, why is there not a full delineation of the charge?

Mr. Andre: I am not sure what you mean, senator?

Senator Sinclair: What I have in mind is that statutory defences are not delineated.

Mr. Andre: I am afraid neither I nor counsel is quite sure of what you mean, senator.

Senator Sinclair: There are certain exceptions provided to an alleged offence, but under this statute there is a reverse onus. Why is that?

Mr. Morris Rosenberg, Legal Counsel: Senator, are you referring to clause 29, subclause (2)?

Senator Sinclair: I am afraid I do not know what the clause is. You are more familiar with the bill than I am since I saw it for the first time tonight. Unfortunately, that is one of the difficulties of being a senator. You have these bills thrown at you at the last moment while you, as counsel, have spent years, perhaps, reviewing them.

Senator Murray: It was ever thus.

Senator Sinclair: That does not make it any better, senator.

Mr. Rosenberg: Senator, I think you are referring to clause 29, subclause (2), which says:

> In any prosecution for an offence mentioned in subsection (1), the burden of proving that an exception, exemption, excuse or qualification prescribed by law operates in favour of the accused is on the accused and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, excuse or qualification does not operate in favour of the accused . . .

Senator, that is a provision that is found in many federal statutes. I think it simply recognizes the fact that it is often impossible for the prosecutor to know what is in the mind of the accused with respect to the existence of any particular exception or exemption. It is for the accused to bring that before the court.

Senator Sinclair: Are you saying that a general charge is all that is needed?

Mr. Rosenberg: Yes.

Senator Sinclair: Are you saying that that is normal, something that can result in an indictment, putting a chief executive officer in jail for six months?

Mr. Rosenberg: I believe so, senator. The charge would have enough particularity to allow the company, the CEO or the individual to know what matter he is charged with so that he can answer the charge as a matter of general law.

Senator Sinclair: Have you had motions for greater particularity?

Mr. Rosenberg: I beg your pardon, senator?

Senator Sinclair: When charges of this kind have been laid, have you had motions for greater particularity in the indictment?

Mr. Rosenberg: Senator, there can be motions for greater particularity, yes, and if the charge is vague enough, it can be dismissed by the court. Presumably the charge will be framed in such a way as to allow the accused to know the matter with which he is charged, and to make a full answer to the charge.

Senator Sinclair: Mr. Minister, in dealing with the various consultations that took place, was there any question raised with you by corporations as to this matter?

Mr. Andre: No, there was not any raised with me. However, the consultations were pretty intense, and there were senior people from the Canadian Chemical Producers' Association and the Canadian Manufacturers Association involved at every step of the way. By the time we finally closed this final package, I can assure you that there had been many phone calls over a "the" and a "but", and so on, in an attempt to have wording in the bill that was acceptable to all parties.

Senator Robertson: Mr. Minister, I have no question. I just wanted to come back to something that Senator LeBlanc mentioned to you relative to the Pest Control Products Act, which I know is not currently within your ambit, in that there are difficulties because there is a broad interpretation of the application. However, I do not want to lose this opportunity of mentioning to you, sir, that that registration division of the Department of Agriculture comes under a great deal of fire. There is a lot of difficulty in getting information about the products that are registered there, and there is a feeling amongst a number of governments and other people that that registration process should not go on in the user department; it should go on in the control department, such as your own and the Department of the Environment. Mr. Minister, I want to tell you that there are a great many problems there, and I hope you will look at that matter very soon.

Mr. Andre: Senator, we are aware of those concerns and we are attempting to address them, because, as I indicated earlier in more detail, there are all kinds of difficulties and a genuine feeling on the part of many—and one which I would not dispute—that the consumer may well be paying more than is necessary because of the regulatory structure we have in place, which makes it very difficult for competitors to come on to the market.

Senator Robertson: I apologize, Mr. Minister, for not having sufficient information about the product abused.

Senator Haidasz: Mr. Minister, as hazardous products may have deleterious effects upon the health of people, is there anything in this bill which would force the manufacturer to disclose all ingredients of a hazardous product for the information of a physician treating an injured worker?

[Mr. Rosenberg.]

Mr. Andre: Yes, very definitely. That is specifically provided for in the bill, that the information must be made available by the employer to the physician. There is a second level of information that the supplier must also make available. Therefore, it is specifically stated in the bill that physicians will have the necessary information to treat anyone who may be injured as a result of contact with a dangerous material.

Senator Haidasz: If so, how is the patentholder of a product protected as far as it relates to disclosure of all the ingredients in a product?

Mr. Andre: Senator, that comes under the trade secrets protection mechanism. If the patentholder feels that certain chemicals or materials cannot be disclosed for trade secret purposes, he must convince a commission to that effect. In turn, the commission's decision is appealable to an appeals structure composed of representatives from labour, government and the manufacturers' association.

The trickiest part of this whole operation was putting in place that trade secrets mechanism. We now have a mechanism that labour is satisfied will look after their interests, and business is satisfied will be able to protect their trade secrets.

However, the information with respect to the chemical will be made available to the physician in the event that it is required for the treatment of someone who has been injured.

Senator Frith: In spite of the trade secret?

Mr. Andre: In spite of the trade secret.

[*Translation*]

The Chairman: Honourable senators, since there are no more senators who intend to put questions to the minister, I would now like to thank the Minister of Consumer and Corporate Affairs for having agreed to this exercise. I am sure that your answers will give us a better appreciation and understanding of Bill C-70. Thank you sir, and thank you, honourable senators.

Honourable senators, would you have me call clause by clause or, since we have had quite a few discussions on a number of clauses—

[*English*]

Honourable senators, is it your intention that I call the bill clause by clause?

Hon. Senators: No.

The Chairman: Honourable senators, is it your wish that I report the bill without amendment?

Hon. Senators: Agreed.

• (2020)

Senator Frith: Mr. Chairman, I believe we have to carry the clauses and the title of the bill. However, we do not have to do that clause by clause.

[*Translation*]

The Chairman: Are clauses 1 to 58 to be reported as having been adopted?

Hon. Senators: Agreed.

The Chairman: Agreed. Is the title of Bill C-70 agreed to?

Hon. Senators: Agreed.

[*English*]

Senator Doody: I move that the committee rise and report the bill without amendment.

The Chairman: Honourable senators, is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

[*Translation*]

REPORT OF COMMITTEE OF THE WHOLE

Hon. Jean-Maurice Simard: Honourable senators, the Committee of the Whole to which was referred Bill C-70, to amend the Hazardous Products Act and the Canada Labour Code, to enact the Hazardous Materials Information Review Act and to amend other Acts in relation thereto, has examined the bill and asked me to report the bill without amendment.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall the bill be read the third time?

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

QUESTION PERIOD

[*English*]

FURTHER DELAYED ANSWERS TO ORAL QUESTIONS

Leave having been given to revert to Question Period:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, as I mentioned earlier today, I have six further delayed answers, and I ask that they be taken as read.

Hon. Royce Frith: Do you have subject matters?

Senator Doody: On May 27, 1987, there was a question by the Honourable Philippe Deane Gigantès, regarding Senate Reform—Appointments—Submission of Names to Prime Minister.

On the same date there was a question by the Honourable Jerahmiel S. Grafstein, regarding First Ministers' Accord-Funding for Cultural Institutions—Ability of Quebec to Opt Out.

On June 11, 1987, there was a question by the Honourable Joseph-Philippe Guay, regarding Transport—Winnipeg International Airport—Public Parking.

On June 22, 1987, there was a question by the Honourable Dan Hays, regarding Agriculture—Special Grains Program—Request for Expediting of Payments.

On the same date there was a question by the Honourable John B. Stewart, regarding Agriculture—Special Grains Program—Request for Expediting of Payments.

On June 29, 1987, there was a question by the Honourable H.A. Olson and the Honourable Hazen Argue regarding relocation of CN offices to Montreal.

I can read any or all of the answers senators may wish; otherwise, I ask that they be printed as part of today's proceedings.

Senator Frith: Agreed.

SENATE REFORM

APPOINTMENTS—SUBMISSION OF NAMES TO PRIME MINISTER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on May 27, 1987, by the Honourable Philippe Deane Gigantès, suggesting that a province may wish to elect its list of Senate nominees.

(*The answer follows:*)

> The Constitutional Accord of June 3, 1987 ensures that Senate reform will be given the highest priority at annual First Ministers' Conferences on the Constitution. Until further Senate reform is achieved, it has been agreed that the Government of Canada will appoint Senators from among persons whose names are submitted by the government of the province to which the vacancy relates.
>
> The specific question of electing the provincial Senate nominees is hypothetical, as it has not yet been raised by the government of any province. It is to be noted that the Accord provides for the participation of both levels of government in the selection process, in that names of persons must first be submitted by the provincial government, whereupon the Government of Canada appoints a Senator acceptable to it from among those names.

THE CONSTITUTION

FIRST MINISTERS' ACCORD—FUNDING FOR CULTURAL INSTITUTIONS—ABILITY OF QUEBEC TO OPT OUT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a

question raised in the Senate on May 27, 1987, by the Honourable Jerahmiel S. Grafstein, regarding funding for cultural institutions and the ability of Quebec to opt out under the provisions of the constitutional agreement.

(*The answer follows:*)

The spending power provision of the Constitutional Accord of June 3, 1987 is limited to new national shared-cost programs in areas of exclusive provincial jurisdiction. It accordingly has no application to cultural institutions that are funded exclusively by the Government of Canada, and the issue of compensating a non-participating province is not germane.

TRANSPORT

WINNIPEG INTERNATIONAL AIRPORT—PUBLIC PARKING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 11, 1987, by the Honourable Joseph-Philippe Guay, regarding Transport—Winnipeg International Airport—Public Parking.

(*The answer follows:*)

The number of metered parking spaces available at the airport for use by the general public has not changed. There has, however, been a change in the allocation of these parking spaces, in order to provide a balance of available spaces for the general public as well as for the users of vehicle rentals. Vehicle rentals are used by a large segment of the travelling public and, therefore, the pick-up and drop-off areas for these vehicles must be visible and convenient. The consolidation of the vehicle rental parking spaces thus improves the ground transportation system at the airport by removing an element of confusion for travellers using these vehicles. It also lessens the likelihood of vehicles being parked indiscriminately and blocking the flow of traffic in front of the terminal building and public parking areas. The public parking revenues for the metered areas are $190/metered stall per month with the same number of metered parking spots (176) available today as there was prior to the car rental reallocation. In comparison, the car rental companies generate $678/stall per month in airport revenue.

There is a project under way to realign the street structure at the airport and double the amount of short-term metered parking lots. On completion of the project to realign the street structure, the area where the rental vehicles are now parked will be converted back to meters. The vehicle rental parking will be moved into a new area which will be adjacent to the current vehicle rental parking area. This project is expected to be completed by the summer of 1988.

The metered parking areas as well as the car rental areas of the airport are well marked and proper signage is in place designating each area. In addition to the short-term parking, the airport has a public parking lot that is not used to maximum capacity and is located well within Transport Canada prescribed walking distance of the Air Terminal Building. The long term parking presently does not have excess parking spots available and is not, at this time, a viable option for relocation of the car rental vehicles. There are car rental personnel used to shuttle cars from a service centre to a designated parking stall. There is *no* available linear curb space in front of the Air Terminal Building for car rental vehicles to be dropped off for customers.

AGRICULTURE

SPECIAL GRAINS PROGRAM—REQUEST FOR EXPEDITING OF PAYMENTS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 22, 1987, by the Honourable John B. Stewart, regarding Agriculture—Special Grains Program—Request for Expediting of Payments.

(*The answer follows:*)

Below are the dates of major payouts to farmers made under the Appropriation Act approved before the end of March;

$1.3 M was paid on April 17, 1987, covering interim payments under the Special Canadian Grains Program to 2,835 producers.

191,850 cheques for final payment were issued June 11, 1987.

A further 2,749 cheques (11.7 M) were released June 29, 1987.

The remaining cheques will be issued as quickly as possible over the next 4-8 weeks.

AGRICULTURE

SPECIAL GRAINS PROGRAM—REQUEST FOR EXPEDITING OF PAYMENTS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 22, 1987, by the Honourable Daniel Hays, regarding Agriculture—Special Grains Program—Request for Expediting of Payments.

(*The answer follows:*)

The representations made by Senator Hays have been brought to the attention of the Minister of Agriculture. Senator Hays may be interested in the following update with regard to the Special Canadian Grains Program;

As of June 23, over 190,000 final cheques worth $917.9 million have been issued. This includes an additional 2,749 cheques totalling $11.7 M which were released June 29, 1987.

The balance of payments for unresolved claims, multiple eligibility and additional payments for irrigated acreage in risk areas 1, 2, 3, 5, and 12, in Alberta and

12 and parts of 13 in Saskatchewan are expected to be issued over the next six to eight weeks.

Arrangements have been made to process all outstanding claims as quickly as possible. This includes provisions for overtime if required.

CANADIAN NATIONAL RAILWAYS

RELOCATION OF EXECUTIVE OFFICES FROM EDMONTON TO MONTREAL

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on June 29, 1987, by Senator Olson and Senator Argue, regarding relocation of CN offices to Montreal.

(*The answer follows:*)

In a press release issued on Sunday, June 28th, the President and Chief Executive Officer of Canadian National, Ron Lawless, said regional offices in Moncton, Montreal, Toronto, Winnipeg, and Edmonton will remain. "Nor will there be relocation of company personnel, including senior executive officers, from the regions to corporate headquarters in Montreal", he said.

"On the contrary, CN will maintain—and in some respects likely enhance—its regional presence, particularly in Western Canada where 70 per cent of our business is generated," he said. "One way to achieve this would be to establish marketing activity closer to our customers," he added.

ENERGY

DOME PETROLEUM-AMOCO CANADA TRANSACTION—CURRENT SITUATION

Hon. Ian Sinclair: Honourable senators, earlier today a delayed answer was given by the Deputy Leader of the Government. I notice that Senator Murray is now in the chamber. I would like to ask him a question in relation to the delayed answer.

Today is June 30, double doomsday for Dome Petroleum, unless certain actions were taken. Can the Honourable Leader of the Government in the Senate assist us with any further advice as to the situation in that very important matter of Dome Petroleum?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my colleague, the Minister of Energy, Mines and Resources, has issued a statement today pointing out that in the circumstances to which Senator Sinclair refers, Dome and its creditors will revert to the financing arrangements for Dome that were in place before the Memorandum of Understanding. Mr. Masse reiterates the government's position that the Dome issue should be resolved by the private parties involved within the established framework of government laws and policies.

While the lapsing of the Memorandum of Understanding brings an element of some uncertainty, Mr. Masse underlines the interest of all parties in proceeding responsibly to a satisfactory resolution. The government is monitoring the issues through regular contact with the parties.

Senator Sinclair: Honourable senators, as I recollect the Memorandum of Agreement between Amoco and Dome, there was a further period of 45 days beyond the double doomsday date of June 30. Is the government following that, and are they in contact with any of the parties?

There are literally thousands of people whose employment and continued employment is based on the continuation of Dome Petroleum, and that is the reason I ask the question.

Senator Murray: I appreciate the point made by the honourable senator. The information I have, as the honourable senator knows, is that Dome has not won the approval of its creditors for the proposal of Amoco Canada to purchase the company but that Dome is still pursuing that option. Dome has not concluded new financing arrangements with its creditors.

I do not have information on the further period that is allowed for in the arrangements to which the senator refers.

Senator Sinclair: Honourable senators, I have one further question with regard to this matter. In the delayed answer, the answer provided that in considering what was for the benefit of Canada it was not open to Investment Canada to consider an alternative bid. It was stated that that was beyond their mandate.

While I can understand that answer in part, I would like to ask how you can determine what is for the benefit of Canada if you do not look at the lock-in or lock-out provisions of a bid.

Senator Murray: Honourable senators, the act provides for consideration by Investment Canada of such matters as Canadian participation, investment, employment, and so forth.

• (2030)

We are aware that other companies had indicated an interest in Dome and that Dome's chairman has underlined his fiduciary responsibility to consider any and all offers made for the company—whether by Amoco or any other company.

Senator Sinclair: I am sorry, but could you assist me by saying whether there is anything in the Investment Canada Act that precludes looking at provisions in a bid that prevents subsequent action by other parties that did not take part in the bidding process in determining what is for the benefit of Canada?

Senator Murray: I am not aware of any such provision that would preclude Investment Canada from looking at that sort of thing. I was chairman of the Standing Senate Committee on Banking, Trade and Commerce, and the honourable senator was a member of it, when the Investment Canada Act went through.

The question really is how far Investment Canada should be authorized to look at all of these factors and how far they should be authorized to go in looking behind a particular takeover proposal that had been accepted by the shareholders

of a private company. How far back does the honourable senator think that Investment Canada should go—how many generations, and into what detail?

The act provides that under certain circumstances, Investment Canada would review the takeover of a company that had been approved by the shareholders of that company.

Senator Sinclair: Honourable senators, my question arises because of the terminology of the answer that was given today. The government has not received a copy of the bidding rules. I am not asking about the bids per se—I understand that completely—but the bidding rules certainly must have some effect on what we look at as being for the general benefit of Canada, which I understand is a criterion that must be taken into account by Investment Canada. Otherwise, you could set up bidding rules that were so structured as to preclude something that was for the benefit of Canada.

Senator Murray: Well, honourable senators, I am not sure that a lot of that information is not already in the public domain, frankly.

Senator Sinclair: No, not this. With all due respect—

Senator Murray: Honourable senators have had a further opportunity to discuss the matter in the Energy Committee, and have had the chairman and people from the companies present and have examined them, I gather, in some detail on all of these matters.

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would like to place the adjournment motion, and, following that, we can move directly to Royal Assent, if it is the wish of the Senate. The representative of the Governor General and the representative of the government are both with us and ready to proceed.

Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Monday next, July 6, 1987, at two o'clock in the afternoon.

Senator Haidasz: Explain!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, could I ask Senator Doody two questions? First, why Monday rather than the usual Tuesday; and, second, what business will be before us when we come back on the Monday or the Tuesday? What business will the government be presenting to us?

Senator Doody: The answer to the first question, of course, is that it is not a usual week, because it is usual to adjourn at just about the same time as the House of Commons does. To say that next week is a usual week would not be to state the case quite correctly.

As to what work we have to do, we have the Committee of the Whole—that can be carried on with—and I am sure that there are many other items on this order paper that can be dealt with and looked after.

In any event, we have several committees that are anxious to get working on bills which the government is quite anxious to get, and I think that our being here might help to expedite that matter.

Senator Haidasz: Is the House sitting—the other house?

Senator MacEachen: It is nice that you became interested in the Committee of the Whole.

Senator Doody: Touché!

Senator Frith: Especially when you have been totally opposed to it. A bit of Damascus, there!

Senator Doody: I have tried my best to expedite the wishes of the Senate—always.

Senator Frith: Keep it up!

Hon. Eymard G. Corbin: Am I to understand, Senator Doody, that work on the stairwells will not begin next week and I will not have to move my office? Is that the implication of your motion?

Senator Doody: I am told by the whip that the work on the staircases will not start until the Senate adjourns, so I cannot comment further on the honourable senator's moving plans.

Senator Corbin: It is important that I know, because, in anticipation of the move, I would like to pack up a day ahead of time so as not to delay anyone.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I believe that we are faced with an unusual situation but one that is not unusual for the reasons that the Deputy Leader of the Government has stated.

The situation at the present time is that today and yesterday the Senate passed a large number of bills in an effort to accommodate the wishes of the government. We have waived all the rules for several days in order to facilitate government business. All of the business that the government wished to put before the House of Commons has been dealt with. Now it has come to the Senate, and it has been dealt with by the Senate.

There is a particular situation with respect to Bill C-22 and two transport bills. These bills have been, by order of the Senate, sent to committee after second reading. The committees have met and have established a work program to deal with the references that they have.

While I have only been in the Senate for a relatively short time in comparison with many others, I have observed that committees have had an unusual degree of autonomy in establishing their work programs. I have never observed the Senate itself instructing a committee as to how it should conduct its work program.

In this particular case the Deputy Leader of the Government has told us that we are to be brought back, so to speak, as a "guard of honour" for the committees, or as "sentinels," to wait in the Senate chamber while the committees are doing their work and while the government is asking us to call for business that has been put on the order paper by the opposition.

An Hon. Senator: Hear, hear!

Senator MacEachen: It is very clear—and I have no intention of opposing the motion—that its acceptance and our return next week will reveal fully the absurdity of the situation—

An Hon. Senator: Right on!

Senator MacEachen: —and the absurdity of the motion that is being put tonight. The government has no more business—

Senator Frith: We have done it all!

Senator MacEachen: —to put before the Senate; we have cooperated 100 per cent in cleaning up all of the government business. It will have no new business to put before us next week, and the business that it has, namely, the three bills I have mentioned, has been sent to two committees. These committees will report in the usual way, and I believe will do their work properly.

• (2040)

We now find ourselves in a rather absurd situation. I believe that we have to come to the conclusion that the Senate will not always be able to complete its work in unison with the House of Commons. That reality flows inexorably from the fact that this is a second chamber, it is a chamber of sober second thought, whose purpose is to examine legislation when the examination in the House of Commons has been completed. That is when we begin our work. It was never intended that the Senate should do its work simultaneously with the House of Commons, because by following such a course of action the Senate would lose its rationale.

I believe that in the case of the three bills which have been referred to committee, all three are very important and that they require further study. I believe the committees will deal with them in that way and will have them ready, certainly for the House of Commons when it returns, or even earlier. It is expected that the House of Commons will adjourn until the Monday following Labour Day, and certainly the Senate will have the legislation available at least on that date or earlier.

I believe that we must come to an understanding that it will not always be possible to complete our work in unison with the House of Commons, and that this conclusion will lead to two consequences that I wish to mention. One consequence is that committees may have to do some work during the summer adjournment; and the second consequence is that the Senate may have to return earlier than the House of Commons in the fall in order to have its legislation completed so that it can be dealt with by the House of Commons.

I find the situation quite healthy, that is, that the Senate is saying that we need to take a little more time; that we will have these bills ready for the House of Commons when it returns.

It may be that someone will question why these bills will not be passed by the end of July or the first week in August. If there is an argument to the effect that it is crucial and urgent to have the transport bills dealt with in mid-August rather than mid-September, then we would listen to that. The same situation would apply if there were a crucial argument as to why something critical hangs on passing the drug patent bill or dealing with it in the Senate by the middle of July or the middle of August rather than the first of September. I have not heard any such arguments, but I do say—and I want to make it clear for the benefit of the government, because I think the government is entitled to be told at least what our intentions are—that, certainly, it is our intention to have these bills available for the House of Commons no later than the return of the House of Commons in the fall, and possibly earlier than that.

Honourable senators, I am making these points because we are faced with a rather bizarre situation, namely, that because the Senate, in its wisdom, has decided to send three bills to committee for study, the government has decided to bring us back as a punishment. It has no other purpose. If the government could tell us, "We have several important bills for you on Monday," of course, it would make sense.

I simply point out these facts, honourable senators, not to oppose the motion but to reveal the absurdity of the situation which the government is promoting by making a motion to bring us back, with no government business for us to deal with.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): There is nothing that so excites honourable senators opposite than the prospect of a holiday delayed.

Some Hon. Senators: Oh, oh!

Some Hon. Senators: Shame!

Senator Frith: We are here and we will be here.

Senator Murray: Senator Hicks tells us that he is as willing to work as we are or as anyone else is, so he will have that opportunity.

Senator Frith: Start again.

Senator Murray: Honourable senators, the situation we are in is as follows: There are three government bills which the government hoped and expected—and had every reason to hope and expect—would have been disposed of by Parliament before the summer adjournment. These bills have been referred to by the Honourable Leader of the Opposition. They are Bills C-18, C-19 and C-22.

Her Majesty's Loyal Opposition in this place has refused to dispose of them one way or the other.

Senator Frith: Is a motion that they be referred to committee not disposing of a bill any more?

Senator Murray: No, that is not disposing of a bill.

Senator Frith: Rubber stamping?

Senator MacEachen: Perhaps defeating it?

Senator Murray: My honourable friends could have defeated the bill if they had so wished. They have that right.

They make no arrangement as to when the bills might be disposed of beyond saying that it will be, certainly, by Labour Day, if not sooner.

It is the judgment of the government, which has considered this matter today, that the public interest is so engaged in these matters that Parliament ought not to take a summer holiday until the matters are disposed of.

My colleague, the Deputy Prime Minister, the government leader in the other place, tells me that in the circumstances the government will be seeking to have the House of Commons called back into session next week. Those arrangements can be made under the rules of that place. It is his intention to have the House of Commons brought back to await the pleasure of honourable senators opposite on these three bills. I assume, since members of the other place will not wish to be idle, that they will be dealing with government business, of which there is plenty, which might have been undertaken in the fall, but can be dealt with now, so there is no reason to believe that we will be totally idle either.

The fact of the matter is that we will be sitting until those bills are disposed of, one way or another, by the Senate.

I think I should take advantage of this opportunity to say a word or two about the bills in question, not about the substance of the bills but the process that we have followed.

All of these bills have been around for some considerable time.

Senator Frith: In the House of Commons.

Senator Murray: As I said, the public interest is engaged in the delay and the obstruction that has taken place by honourable senators opposite.

The government is seriously concerned, and I can tell honourable senators that that concern is shared by, among many others, the Government of Quebec. This delay is going to cost the country, the Province of Quebec and the private sector investment in research and in the industry in that province and elsewhere. That is one of the reasons why the government wishes to get this bill through before Parliament takes any summer holidays.

With regard to the two transport bills, these, too, have been around for some considerable time. Mr. Crosbie has spoken to me about them. In my travels last week in the maritime provinces, I was, to my considerable astonishment, waited on by a number of people who are in the shipping business, and so forth, who wanted to know what in the name of goodness was going on in the Senate and why the Senate was holding up this legislation and why the Senate could not deal with it. I was not able to enlighten them, except to suggest that they make representations to the opposition members to see whether they could talk some sense into them.

[Senator Murray.]

• (2050)

With regard to Bill C-22, this bill has been in the public domain for over a year. It was introduced in the House of Commons on November 7, 1986, after which 87 hours were spent debating it. After second reading, the bill was sent to the legislative committee in the other place, which heard 96 witnesses representing 46 organizations. The legislative committee held 65 hours of hearings on the bill. Meanwhile, on a number of occasions we on this side proposed to the leadership on the other side that a pre-study of that bill commence. We knew that the bill was politically contentious. On every occasion that we proposed a pre-study—and there was plenty of time available for such a pre-study—our proposal was rejected.

Finally, when the bill received first reading here, it went to a special committee. The Special Committee of the Senate was set up, by the way, with instructions to report by a certain date. It was a bit late, I believe, for reasons that we are aware of. In any case, during its deliberations it had eight meetings in Ottawa, hearing witnesses, and ten meetings on the road. I would estimate that something like 75 hours were spent by the Special Committee, which received 130 briefs.

I do not wish to be controversial at this point, but I do want to say that in my humble opinion the work of that committee did not represent many of the finer hours of the Senate. There was an enormous amount of repetition and time-wasting and an enormous amount of taxpayers' money spent in an exercise which, frankly, has not produced very much.

The committee went around the country and heard witnesses that had appeared before the committee of the other place. The Special Committee heard from the Consumers' Association of Canada in Ottawa and then, in every province to which it travelled, it heard from the provincial branch of that association. The Special Committee heard from the Canadian Labour Congress before it went on the road and then, in every province, it heard from the provincial branch of the Labour Congress. And all of this at a cost of something like $300,000 or $350,000 of a total Senate committee budget that was already badly overspent.

Of course, they could not find time to go to Montreal, where there is some economic interest in this bill and in seeing this bill passed. The committee did, however, get to Quebec City, where it heard from the Government of Quebec, represented by the Minister of Industry and Commerce, surrounded by faculty deans and senior Quebec science authorities. The committee finally got the Montreal Board of Trade to appear before it, as well as the Chambre de Commerce, the Conférence des Maires de Banlieus, and the Montreal Urban Communities Economic Development office.

Honourable senators will be aware that we have had resolutions passed by the National Assembly of Quebec, by the city council of Montreal and by many other bodies seeking to have this bill passed. There is, frankly, no justification in the world—no justification in the world—except mischief and partisan politics on the part of honourable senators opposite

for delaying this bill further. I challenge them, if they do not want the bill, to defeat it.

Hon. Len Marchand: Will the honourable senator accept a question?

Senator Murray: I will accept a question when I am finished, but I will repeat that there is no justification in the world, except mischief and partisan politics, for delaying this bill any further.

Let me say a word about the transport bills. As I told honourable senators, I was waited on in my travels in the maritime provinces last week by people who have an interest in the industry and in seeing these bills dealt with. These people are very concerned about the reluctance of honourable senators to dispose of this legislation. These bills are based on a policy paper put out by Mr. Mazankowski when he was the Minister of Transport, which policy paper was called "Freedom to Move". That policy paper itself went to a committee of the other place that held 23 meetings in Ottawa over 39 hours and 31 minutes and seven meetings out of town over an additional 34 hours and 13 minutes, for a total time of 86 hours. There were 196 witnesses that appeared before it. When Bills C-18 and C-19 finally came to the house, the committee held 30 meetings over 77 hours and 20 minutes and 17 meetings out of town for a further 63 hours and 50 minutes to total 143 hours and 40 minutes. Meetings were held in Vancouver, Edmonton, Regina, Winnipeg, St. John's, Halifax, Moncton and Montreal. There were 409 witnesses that appeared.

There again, on numerous occasions during the winter and early spring we proposed to honourable senators opposite that those bills be pre-studied, and on each occasion our proposal was turned down. I think it is quite unreasonable.

Senator MacEachen: In light of the experience we had yesterday, the pre-study will become even more exceptional in the future. Take that as notice.

Senator Murray: That is a threat.

Senator MacEachen: That is not a threat.

Senator Frith: "Take your pre-study, or there is no chance at it"—yours was the threat, sir.

Senator Murray: We used to see how members opposite behaved when they had a majority in the other place, and even when they have a majority in this non-elected place they behave quite irresponsibly. That is what they are doing.

Senator MacEachen: You must have had a hard week in the maritimes!

Senator Murray: I had a very pleasant week in the maritimes, as a matter of fact.

Senator MacEachen: Well, it didn't do much for your temper.

Senator Murray: I am telling honourable senators that in the considered opinion of the government the public interest is at stake with respect to these bills. They are important bills. I concede readily what is obvious, that they are contentious bills, but honourable senators have a choice. They could vote against them. They do not need to prolong *ad infinitum* these so-called studies—

Senator Frith: So-called studies!

Senator Murray: —particularly in the case of the drug bill. I think that a committee has the duty to hear the various points of view, but every point of view that could possibly have been expressed has been heard, not once but scores of times.

Senator Frith: By another committee!

Senator Murray: No, no, by the Senate committee. When the Special Committee on Bill C-22 accepted a deadline to report, then went out and held all of the meetings to which I have referred, heard all of the witnesses and received all of the briefs to which I have referred, I think it is not unreasonable to expect that honourable senators would then have been in a position to have dealt with the bill after second reading in a more expeditious fashion. Instead, they have decided to prolong the agony—to go on all summer, notwithstanding the representations that are being made to them on all sides, not just by the government but by the private sector, and, if I am informed correctly, by many people in their own party to act responsibly and to deal with the bill.

• (2100)

There is really nothing more that I can say on the matter. Mr. Mazankowski, the President of the Privy Council, proposes under the circumstances to have the House of Commons recalled, because public interest is so engaged in these matters, and to have it recalled next week. In the absence of some acceptable arrangement for dealing with these bills, he feels—and the government agrees—that that is his only option; and we can do no less.

Senator Marchand: Would the Leader of the Government take a question?

Senator Murray: Yes.

Senator Marchand: First, I agree with him that there is considerable public interest in Bill C-22, and I note that when he spoke about provincial support in Quebec, or support by the Quebec government, he did not mention the representations from the other provinces. Perhaps he will tell honourable senators what was the stand taken by the other provinces, such as New Brunswick, Ontario—

Senator Guay: British Columbia.

Senator Marchand: The Province of British Columbia and others. The Leader of the Government should round out the record. I understand and recognize that the Province of Quebec is all for it; but if he will take a look at the poll, the result of which appeared in the *Toronto Star*, he will understand that the public of Quebec, the majority of the people in the province of Quebec, the consumers, the poor, and the aged are not in favour of Bill C-22, that they are very much opposed to it. We heard from many people across the country, particularly the consumer groups, the aged and the very poor. I would

like to see on the record the position of the provinces as it was represented to the government.

Senator Murray: Honourable senators, I should mention that it was under considerable duress that the committee agreed to hear La Fédération de l'Âge d'Or, which is the largest senior citizens organization in Quebec with 250,000 members, an organization that supports Bill C-22. I am sorry that the chairman of the committee is not present to hear me, because I would have liked to have said this in his presence. His conduct of that committee was not such as to bring much credit on the Senate, on the committee or on himself. The deck was stacked from the beginning, in terms of witnesses. The committee sidestepped Montreal, Calgary and Vancouver, where it might possibly have heard some support for the bill. It brought in organizations not once but twice; it heard from provincial branches of national organizations, and all the rest of it.

Of course there were concerns expressed by provinces and by a great many other people. The concerns were legitimate, were treated as such by the government, and were dealt with by government spokesmen, including the Minister of Consumer and Corporate Affairs who appeared on one occasion before the committee.

When, in what I thought was an act of cooperation with the Senate, the minister decided to send a legislative assistant with the committee, the chairman, Senator Bonnell, in one of the most ignoble and petty and miserable acts I have ever heard of, threw the legislative assistant off the committee's bus and would not allow her to travel with the committee.

This has been an exercise that has brought no credit upon the chairman of the committee, the committee or the Senate. It has been a frightful waste of $350,000 of taxpayers' money. I think the time has come for honourable senators to summon up their courage and to defeat the bill, if that is what they want to do.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, can we start by taking up the theme of "ignoble and petty behaviour"? We have now seen the contempt which the Leader of the Government in the Senate has for the Senate and its committees.

Some Hon. Senators: Shame!

Senator Frith: Let us look at what this transparent performance is based on. First, with regard to these bills, they have "been around" for quite a long time. "Around" means that they have been in the House of Commons. So, do we now have a principle that bills have been "around" Parliament for a long time because they have been in the House of Commons? "This delay is costing money."—

Senator Murray: Costing investment, costing jobs.

Senator Frith: Costing investment—and costing what else?

Senator Murray: Jobs.

Senator Frith: Jobs and investment. Did it cost jobs and investment during the year that it was in the other place, while it was "around" in the other place? It did not cost any jobs and investment then. But all of a sudden, once it gets to the Senate, it is starting to cost jobs and investment—but not when it is in the other place.

[Senator Marchand.]

Senator Murray: Which bill are you talking about?

Senator Frith: We are talking, I think, about Bills C-18, C-19 and C-22. We have had those bills since May, for Bill C-22; since June 17 for Bill C-18; and June 25 for Bill C-19.

Senator Barootes: It was months ago.

Senator Frith: We have not had those bills for that length of time. I am glad that we are getting a rise out of Senator Barootes. We now find that this just starts to cost money and investment, and the delay starts only when it comes to the Senate. That is what our colleague, Senator Murray, tells his fellow senators. I have never heard him stand in his place and complain about the delay that was taking place when these bills were in the other place. We are always lectured and told, "Why are you delaying this bill?" It is "delay" when it comes here. We hear about "the members opposite." Let us look at Bills C-18 and C-19—the "unjustifiable action" with regard to those bills by the committee wanting to study them; "unjustifiable action by the members opposite."

Well, the decision on Bills C-18 and C-19 was made by a committee—and we know the contempt that Senator Murray has for the committees. We have heard about that today. There were members from his side—not "members from the side opposite"—on that committee and who made the decision, with regard to Bills C-18 and C-19, knowing how big and important they were, to take briefs up to August 1 and to start their work after the first week in September. That decision was made by the committee on which there were members from the government side. In fact, they had a majority when the decision was made. There were only two Liberals and three Conservatives, and the three Conservatives voted for dealing with this bill in the fall. This is the "shameful activity" by which we are delaying this bill.

So the Leader of the Government not only has contempt for the committees but he has complete contempt for all of their members, I take it, including members from his side, who voted in favour of the procedure for Bills C-18 and C-19.

So that takes care of the "delaying action" on those bills. So far as Bill C-22 is concerned, that bill was the subject of pre-study. The committee reported, without recommendations, that it wanted to study it further. The committee's chairman reported that the committee required further study. He asked for the right to retain expert advice to do so, and the motion was put before the Senate. Senator Murray unfortunately was otherwise occupied; but that motion passed, not on division but unanimously, during his absence.

So much for those three bills. That is the kind of contempt that the Leader of the Government, our colleague in the Senate, has for the work of the Senate and its committees. It is transparent and it is shameful.

● (2110)

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Charles McElman: Not just yet!

Honourable senators, I have been in this chamber now for 21 years. This is the first time that I have heard the likes of what was said by the Leader of the Government.

Senator Guay: Shame!

Senator McElman: It was ungentlemanly.

Senator Murray: It was not that.

Senator McElman: It was contemptuous of the Senate itself. It showed a great sense of superiority on the part of the orator in dealing with one of our colleagues in particular.

Senator Murray: I regret he is not here, because I will say it to his face with considerable pleasure.

Senator Frith: That wouldn't make any difference.

Senator McElman: Whether he was here or not here does not change it in any sense. The honourable senator might want to take him out in the alley. I do not know. It makes no difference.

Senator Murray: His behaviour as chairman of that committee was shameful, and I will repeat it to his face.

Senator McElman: And in doing so the Honourable the Leader of the Government brings shame upon himself.

Senator Guay: Right on!

Senator McElman: He shows no regard for the rules of this place. He shows no regard for the rules and traditions of Parliament.

Senator Murray: What rules?

Senator McElman: What rules!

Senator Guay: He doesn't know them.

Senator Murray: What rules have I broken?

Senator McElman: It is against the rules to make disrespectful remarks about a colleague in either house.

Senator Murray: I have talked about his conduct of that committee, and I stand behind every word I said.

Senator McElman: And impute motives—

Senator Murray: Motives!

Senator McElman: —as the Honourable the Leader of the Government did with respect not only to the chairman of the committee, a respected Canadian—the honourable senator rolls his eyes. Some of us will soon be rolling our eyes about the quality of the leadership of the government in the Senate—

Senator Murray: Go ahead.

Senator McElman: —some of us who have had respect and warmth of friendship for that honourable gentleman. You have strained the bounds of everything this chamber stands for, my honourable colleague.

Senator Murray: I have not.

Senator McElman: This is the second day within the last ten days that you have done so. I, for one, as a person who has respected the honourable senator, caution him that if he wishes any respect in this chamber to gain control of himself.

Senator Murray: What is this lecture?

Senator McElman: You have been lecturing—

Senator Murray: Who is it coming from?

Senator McElman: You have been lecturing—

Senator Murray: I have accused honourable senators opposite of partisan mischief—

An Hon. Senator: Sit down!

An Hon. Senator: Order!

Senator Murray: I repeat it, and I point my finger.

An Hon. Senator: Order!

Senator Murray: And if you find that accusation too hard to take, then you shouldn't be here.

The Hon. the Speaker: Order, please!

Senator Corbin: You lectured us for 20 minutes, now sit down and listen.

Senator McElman: And now the Leader of the Government tells me that I should not be here.

Senator Murray: If you find that too hard to take, you shouldn't be here.

Senator McElman: So now we are establishing a new rule of the Senate.

Senator Lefebvre: A new order!

Senator McElman: A new rule of the Senate, that if we—

Senator Murray: If you can't take it, stay home!

Senator McElman: —do not satisfy the mood of the Leader of the Government, then we should not be here to be offensive to him. Let me tell the Honourable the Leader of the Government that he is not the ruler of this place simply because he is apparently the ruler of his forces. I find the information conveyed to us by the Leader of the Government in the Senate from his collegues in the government also a display of arrogance and contempt for Parliament. This is a House of Parliament. It causes one to wonder. There are some who propose or suggest that the Senate should be abolished. It causes one to wonder how Canada would get on with a uni-cameral system with a government such as this in office. One wonders if the very fact of the Senate being here, which I contend has been of great value to the Canadian people, has held this government back somewhat. One wonders what would happen if it were not here. Well, they are starting to act as if it were not here, as if it were a uni-cameral system, and as if the House of Commons and the government, with its over-weaning majority, can direct the other House of Parliament on what it should do and, now, can blackmail the Senate into doing its will.

I suggest to the honourable gentleman that there are those in this place who do have a respect for Parliament and who

will continue to have respect for it. If it means that we must sit here all summer, Saturdays or whatever the government may try to impose—if we were put in that position, we would carry on out of our respect for Parliament, but, and it is a big but, the government expects cooperation within a bi-cameral system. The Leader of the Government referred to us as being not elected. I have heard all of that nonsense I want to hear. Non-elected! So we are not, apparently, legitimate within the system. Well, we have a Constitution in this country and we are here under that Constitution. It says we have every right to be here.

Senator Murray: You can defeat the bill.

Senator Frith: And that is all?

Senator McElman: It gives to this side of Parliament, this House of Parliament, certain rights—

Senator Murray: Almost equal rights, if you want to exercise them.

Senator McElman: —certain privileges and certain responsibilities.

Senator Murray: And you can exercise them.

Senator Frith: Like studying bills.

Senator McElman: Now, the Senate is exercising its duties and its responsibilities. It can be held in contempt by the Leader of the Government and by his colleagues if they wish, but, nonetheless, we have a responsibility here. Senator Frith has pointed out how short a time has been involved with some of these bills as far as the Senate is concerned. The Leader of the Government speaks of cooperation. I wonder what he thinks has been happening over the last 48 hours.

Senator Frith: He wasn't here.

Senator McElman: Cooperation was very great.

Senator Guay: He wasn't here!

Senator Frith: And this is the thanks we get for it.

Senator McElman: We heard not one word from the Deputy Leader of the Government in the tone used by the Leader of the Government. He is a gentlman, who acted as such and treated his colleagues as people who are also gentlemen.

Let me get back to what is involved here and give the Leader of the Government an example that is very similar to what is taking place now. A number of years ago the government of the day brought forward the Maritime Code Act. I am sure that the leader has heard of it. The government said that it was a very important bill. They spent a lot of time on it.

Senator Murray: You have told this story so often, this story of the one great example of independence in the past 20 years.

Senator McElman: My, my, how you mumble. In any event, the government said it was very important and they wanted the bill. Well, they did not get it before the recess. They were told why they would not get it, because it was a very bad bill, as Bill C-22 is a very bad bill, in the opinion of many parliamentarians in both houses.

Senator Murray: Then defeat it!

• (2120)

Senator McElman: What happened on that occasion was that the Standing Senate Committee on Transport and Communications started taking the bill apart, and, as I recall, made some 130 amendments to the bill. Honourable senators, when did it do that? It did it during the summer recess. The government was anxious to have passage of the bill, but it did not call back the House of Commons; it did not try to interfere with the normal procedures of the Senate; it did not try to hold the Standing Senate Committee on Transport and Communications in contempt, as the honourable senator has tried to do with one of our committees this evening. It let things proceed, because it had some little respect, at least, for the Senate and for its proceedings.

Senator Murray: I was around the Senate in 1967.

Senator McElman: Yes, and I am the one who advised you not to leave politics and to come back. Then I found you down in New Brunswick and asked you what the hell you were doing there. I gave you good advice. Tonight I regret giving it to you.

In any event, the Standing Senate Committee on Transport and Communications did a superb job with that bill under the chairmanship of a senator who still sits here in the Senate. The committee virtually re-wrote the bill. That did not please the government, but it was a tremendously fine job done by a committee of the Senate and by the Senate itself.

I will give you another case in point: There was another Minister of Transport who brought in a bill to amend the Air Canada Act. There were several sections of that bill that were abusive to Parliament, in the opinion of several of us here in the Senate. We privately asked the Minister of Transport if he would accept amendments to the bill, and he refused. He was then told that if he was not prepared to accept amendments to the bill, which we put into the bill while it was referred to the Standing Senate Committee on Transport and Communications, that he would not get his bill. The government was very unhappy; they did not agree with the amendments proposed by the Senate and by its committee. However, when the Senate said: "These are essential to the passage of the bill," and the Senate passed those amendments, the government accepted them, and we got the Air Canada Act. Therefore, there was an element of cooperation and understanding of the role of the two houses. I must not go on too long, because I am boring the Leader of the Government in the Senate—

Senator Murray: That bill came back without recommendation.

Senator McElman: As I say, honourable senators, I am boring the Leader of the Government in the Senate, even though he does natter and yatter along and continues to interrupt, in contravention of the rules which he speaks of so often as not being observed in this chamber.

Some time ago, in the Standing Committee on Standing Rules and Orders, we had a reference asking us to look at all bills and, where they affected provinces, to ensure that the provinces had an opportunity to express their interest. This

was a natural outflow of the responsibilities of the Senate and the purpose for which it was formed; namely, to take into account the interests of the regions and the provinces.

In this case, five of the provinces made direct submissions that were opposed to this bill. Some of them said, "Kill it." Some of them—

Senator Murray: They have the votes.

Senator McElman: —said, "Amend it in accordance with the report that Parliament received," and all of them said it was going to cost them more money. Two more did not make formal presentations, but have since. That is seven out of ten provinces, representing far more than 50 per cent of the population. Does that ring any bells for the Honourable Leader of the Government? Seven out of ten provinces.

In the case of the Leader of the Government in the Senate, with his knowledge of why the Senate was formed and, being a martimer, of why the maritimes demanded its formation, one would think he would have some appreciation of the fact that when the provinces in such numbers and representing such an element of Canada put a point forward, the Government of Canada should be interested in what they put forward.

Senator Murray: The government is interested in the bill.

Senator McElman: The Government of Canada today says: "It does not matter what those provinces have to say; we stubborn people . . .", such as the Honourable Leader of the Government in the Senate, ". . . have made our stand and we will listen to no one, including the provincial governments." This is the same government which has now given every province a veto—or is attempting to give every province a veto. Honourable senators, I think that their chickens will come home to roost in a big way.

Senator Murray: You are against Meech Lake, too, are you?

Senator McElman: Honourable senators, it is the duty of this body to take into account the interests of the regions and the interests of the provinces. I hope that the Honourable Leader of the Government, if he has not already done so, will read the submission of the Province of New Brunswick; the province where he served as Deputy Minister to the Premier and where I served in a similar capacity. We both have a great interest in that province and great respect for that province. Theirs is a very concise and direct representation. I ask the Leader of the Government in the Senate to read that brief itself, if no other. It will not take him long. Thereafter, I would ask him to ponder as to whether or not he has some responsibility to react and to try to convince his colleagues in the government to react and to understand why the Senate and the committee is now preparing to listen further to the provinces. Honourable senators, there is nothing wrong with that.

Senator Murray: That is repetition and a waste of time.

Senator McElman: That is a waste of time, in your opinion.

Senator Murray: Repetition and waste of time. Just look at the record.

Senator McElman: It is waste of time in your opinion, and that is just one person's opinion. We have a duty here not only to respect but to show reaction to the interests of the provinces, and at least those on this side of the house appear to want to do that.

Senator Murray: Well, you have the numbers.

Senator McElman: Numbers, numbers, numbers. If that is all the Honourable Leader of the Government in the Senate can do is count numbers, God forbid the day you get control of both houses—if you ever do, which I doubt will happen.

Honourable senators, it is probably a useless proposition to try to talk to the honourable senator. There are many other aspects of this bill that I could talk about. I will not do so. I simply say to you that the contempt for this house and the contempt for Parliament and for individual senators that has been displayed by the Honourable Leader of the Government and the arrogance he has shown tonight is unseemly and does him no credit.

Senator Murray: I stand by every word that I have said tonight.

Some Hon. Senators: Oh, oh!

Hon. Finlay MacDonald: Honourable senators, I have just a very short question for the chairman of the Standing Senate Committee on Transport and Communications. As you know, that committee has had referred to it Bill C-18 and Bill C-19. Senator Frith would have this house believe that the "Conservative dominated committee" this morning was in some way further delaying the study of these bills.

Senator Frith: No, you did the right thing.

Senator MacDonald: Honourable senators, I want to put a question to the chairman. This morning the chairman presented us with what we considered to be a first-class work plan. We were trying to determine whether we were going to have to duplicate that which has been done by the Transport Committee in the other place, which is an awesome task. There was something like 600 witnesses. We do not know what is ahead of us. We suggested that we use 30 days in which to ask for written submissions, following which we would meet in the steering committee, determine how we were going to do it, start the hearings in Ottawa, and then determine if we had to go on the road to the places which had been ignored.

• (2130)

The question was to the chairman of the Transport Committee. I ask you, Mr. Chairman, if you know of any way in which we could proceed at a faster pace than that which you had suggested this morning, which we Conservatives thought was an excellent plan.

Hon. Léopold Langlois: Twelve applications have been received to be heard by the Transport Committee. This morning, when we had a meeting of the committee, I made the suggestion, in order not to unduly delay this bill, that we should ask those 12 applicants to send us their briefs. We would give them a deadline of July 31, and then we would send

a summary to all members of the committee, with the intent of resuming a study of the bill in the middle of September. I made that suggestion after having notified the members of the committee that I was in their hands and that I would accept what they would decide. The majority of the members present were Conservatives. There were two Liberals and three Conservatives present. They approved my suggestion unanimously.

Bill C-18 will come into force on January 1, 1988. I don't know what the rush is.

The Hon. the Speaker: Honourable senators, there is a motion on the floor. Is it your pleasure, honourable senators, to adopt Senator Doody's motion?

Some Hon. Senators: Yes, it is.

Motion agreed to.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA

30 June 1987

Sir,

I have the honour to inform you that the Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 30th day of June, 1987, at 9.45 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Léopold H. Amyot
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

The Senate adjourned during pleasure.

• (2140)

At 9.45 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Judges Act, the Federal Court Act and the Tax Court of Canada Act (*Bill C-41, Chapter 21, 1987*)

An Act to exempt certain shipping conference practices from the provisions of the Competition Act, to repeal the Shipping Conferences Exemption Act, 1979 and to amend other Acts in consequence thereof (*Bill C-21, Chapter 22, 1987*)

An Act respecting financial institutions and the deposit insurance system (*Bill C-42, Chapter 23, 1987*)

An Act to amend the Criminal Code and the Canada Evidence Act (*Bill C-15, Chapter 24, 1987*)

An Act to establish the Veterans Appeal Board and to amend other Acts in relation thereto (*Bill C-66, Chapter 25, 1987*)

An Act to amend certain Acts relating to financial institutions (*Bill C-56, Chapter 26, 1987*)

An Act relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and of the Islamic Republic of Mauritania and also to the former East African Community (*Bill C-62, Chapter 27, 1987*)

An Act to amend the Small Businesses Loans Act (*Bill C-63, Chapter 28, 1987*)

An Act to amend the Customs Tariff and the Duties Relief Act (*Bill C-69, Chapter 29, 1987*)

An Act to amend the Hazardous Products Act and the Canada Labour Code, to enact the Hazardous Materials Information Review Act and to amend other Acts in relation thereto (*Bill C-70, Chapter 30, 1987*)

An Act to increase the availability of loans for the purpose of the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations, to amend the Farm Improvement Loans Act and to amend certain other acts in consequence thereof (*Bill C-78, Chapter 31, 1987*)

An Act to amend the Customs Act (*Bill C-80, Chapter 32, 1987*)

An Act to amend the Food and Drugs Act (*Bill S-6, Chapter 33, 1987*)

An Act respecting the acquisition, operation and disposal of the Windsor-Detroit Tunnel by the City of Windsor (*Bill S-11*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Monday, July 6, 1987, at 2 p.m.

APPENDIX "A"

(*See p. 1333*)

PRESCRIPTION DRUG PRICES

EFFECT OF PROPOSED PATENT ACT AMENDMENT—PETITIONS

TO THE HONOURABLE THE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable House will therefore provide a remedy.

HUMBLY SHEWETH

WHEREAS, the proposed changes in Bill C-22 will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the cost, already high, of the provincial health-care programs and

WHEREAS the monopoly granted to innovative pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug cost and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and

WHEREAS the proposed changes are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your Petitioners humbly pray and call upon Parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your Petitioners will ever pray.

Date: May 15, 1987
(Signed):

Wilbert Graham, Montague, P.E.I.
Lloyd Reid, Montague, P.E.I.
Donald MacEachern, Morell, P.E.I.
Bernadette Scheller, Murray Harbour North, P.E.I.
David Graham, Murray Harbour North, P.E.I.
Albert Scheller, New Perth, P.E.I.
Shane Llewellyn, Montague, P.E.I.
Judy Llewellyn, Montague, P.E.I.
Gerald Graham, Montague, P.E.I.
Donna Graham, Annandale, Cardigan, P.E.I.
Stephen Howlett, Annandale, Cardigan, P.E.I.
Garfield Graham, Gaspereaux, P.E.I.
Harold Leeco, Point Pleasant, P.E.I.
Gary E. Harding, Caloden, Bell River, P.E.I.
Mae E. Graham, Montague, P.E.I.
Linda M. Murchison, Montague, P.E.I.
Andrea Murchison, Montague, P.E.I.
Darla Murchison, Montague, P.E.I.
Mary Lou Murchison, Montague, P.E.I.
Donna-Mae Murchison, Montague, P.E.I.
Betty McCarron, Montague, P.E.I.
Grant Seneabargh, Montague, P.E.I.
Joe Kearney, Montague, P.E.I.
Martha Graham, Montague, P.E.I.
Guy Graham, Montague, P.E.I.
Leon Clow, Montague, P.E.I.

TO THE HONOURABLE HOUSE OF COMMONS OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable House will therefore provide a remedy.

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the cost, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovative pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug cost and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession in the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 21, 1987
(Signed):

Lucille Hogg, Charlottetown, P.E.I.
Dorothy MacLeod, Charlottetown, P.E.I.
Zelda J. MacNevin, Murray River, P.E.I.

Ellen Cousins, Charlottetown, P.E.I.
Elaine Hammond, Charlottetown, P.E.I.
Doris M. Anderson, Charlottetown, P.E.I.
Ruth E. Boulé, Charlottetown, P.E.I.
Vaughn Jelliffe, New Glasgow, P.E.I.
Mildred Carr, Charlottetown, P.E.I.
Mildred MacDonald, Charlottetown, P.E.I.
Mildred Foster, Charlottetown, P.E.I.
C.J. Schaap, Charlottetown, P.E.I.
M.E. Palmer, Sherwood, P.E.I.
Yvonne Pigott, Brackley Beach, P.E.I.

TO THE HONOURABLE THE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable House will therefore provide a remedy.

HUMBLY SHEWETH

WHEREAS, the proposed changes in Bill C-22 will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the cost, already high, of the provincial health-care programs and

WHEREAS the monopoly granted to innovative pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug cost and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and

WHEREAS the proposed changes are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your Petitioners humbly pray and call upon Parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your Petitioners will ever pray.

Date: June 23, 1987
(Signed):

Barry Hicken, Gaspereaux, P.E.I.
Glenda Duncan, Flat River, P.E.I.
Stanley Bruce, Heatherdale, P.E.I.
Phyllis Arsenault, Winsloe, P.E.I.
Hazel Gallant, Charlottetown, P.E.I.
Ruth Freeman, Charlottetown, P.E.I.
Ron MacKinley, Charlottetown, P.E.I.
Arthur J. MacDonald, Lutte Pond, P.E.I.
Peggy Mahar, Gaspereaux, P.E.I.
Louise Hicken, Gaspereaux, P.E.I.
Carl B. Hicken, Sturgeon, P.E.I.
Cephenia McHerron, Gaspereaux, P.E.I.
David McGuigan, Gaspereaux, P.E.I.
Tracy Mahar, Gaspereaux, P.E.I.
Jarrod MacKay, Brudnell, P.E.I.
Ronald Graham, Gaspereaux, P.E.I.
Harold Hicken, Pembroke, P.E.I.
Reta Hicken, Pembroke, P.E.I.
Harvey Jamieson, Sturgeon, P.E.I.

TO THE HONOURABLE THE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable House will therefore provide a remedy.

HUMBLY SHEWETH

WHEREAS, the proposed changes in Bill C-22 will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the cost, already high, of the provincial health-care programs and

WHEREAS the monopoly granted to innovative pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug cost and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and

WHEREAS the proposed changes are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your Petitioners humbly pray and call upon Parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your Petitioners will ever pray.

Date: June 23, 1987
(Signed):

Floyd Jay, Mt. Stewart, P.E.I.
Irwin Jay, Mt. Stewart, P.E.I.
Lawrence MacAulay, St. Peters, P.E.I.
Betty Smith, Mt. Stewart, P.E.I.
Vernon MacDonald, Morell, P.E.I.
Pat O'Brien, Morell, P.E.I.
Don O'Brien, West Royalty, P.E.I.
Helen O'Brien, West Royalty, P.E.I.
Claude O'Brien, Mt. Stewart, P.E.I.
Edna O'Brien, Mt. Stewart, P.E.I.
Pearl Byrne, Morell, P.E.I.
Michael Byrne, Morell, P.E.I.
Rose Walsh, Morell East, P.E.I.
Agatha O'Brien, Morell River, P.E.I.
Hallie MacKinnon, Midgell, P.E.I.
Debbie MacKinnon, Midgell, P.E.I.

Shiela Sanderson, St. Peter's Bay, P.E.I.
Wendell Sanderson, St. Peter's Bay, P.E.I.
Louise Thompson, St. Peter's Bay, P.E.I.
Frankie Thompson, St. Peter's Bay, P.E.I.
Arthur Vorston, St. Peter's Bay, P.E.I.
Florence Perry, Morell, P.E.I.
Mary Palmer, St. Peters, P.E.I.
Norbert Palmer, St. Peter's Bay, P.E.I.
Raymond Wilson, St. Peter's Bay, P.E.I.
Anita Sinnott, Mt. Stewart, P.E.I.
Bernie Wilson, St. Peters, P.E.I.
Mona Matheson, St. Peter's Bay, P.E.I.
Marilyn Lewis, St. Peter's Bay, P.E.I.
Shirley M. MacDonald, St. Peter's Bay, P.E.I.
Alex MacKinnon, St. Peter's Bay, P.E.I.
David Pewi, St. Peter's Bay, P.E.I.
Pete F. MacAdam, Morell, P.E.I.
George Wilson, St. Peter's Bay, P.E.I.
Rusty MacSwain, Morell, P.E.I.
Mary MacSwain, Morell, P.E.I.
Agnes MacEwen, Morell, P.E.I.
Alden MacKenzie, Morell, P.E.I.
Cletus Phalen, Morell, P.E.I.
Virginia McEachern, Mt. Stewart, P.E.I.
Blanche MacEwen, Morell, P.E.I.
Roy H. MacEwen, Morell, P.E.I.
Linda Ronaghan, Bangor, P.E.I.
Kenneth Lutz, Bangor, P.E.I.
A.J. Gorman, Souris, P.E.I.
Ronald McInnis, Souris, P.E.I.
Tom Walker, Southport, P.E.I.
Beryl MacLeod, Morell, P.E.I.
Carol Yates, Sturgeon, P.E.I.
Art Fulton, St. Peters, P.E.I.
Lorina Fulton, St. Peters, P.E.I.
Allan Wood, St. Peters, P.E.I.
Edwina Wood, St. Peters, P.E.I.
Heather Wood, Farmington, P.E.I.
Blair Wood, Farmington, P.E.I.
Earlen J. Kiefe, Morell, P.E.I.
Kit Thompson, St. Peters, P.E.I.
Harold Thompson, St. Peters, P.E.I.
Leroy MacKenzie, St. Peters, P.E.I.
Shirley MacKenzie, St. Peters, P.E.I.
Gerald Rylne, Morell, P.E.I.
John Dunphy, York, P.E.I.
Stella Dunphy, P.E.I.
Don Larkin, Oakville, Ontario
Stella Dunphy, Peakes, P.E.I.
Joe MacKinnon, St. Peters, P.E.I.
Marion Dunphy, York, P.E.I.
Marjorie Hendricken, Fanning Brook, P.E.I.
Frank Hendricken, Fanning Brook, P.E.I.
Doris Trainor, Fanning Brook, P.E.I.
John Trainor, Fanning Brook, P.E.I.
Mary Wisener, Watervale, P.E.I.
Frances MacAulay, St. Peters, P.E.I.
Florence Bradley, St. Peters, P.E.I.
Chester Bradley, St. Peters, P.E.I.
Paul Wisener, Watervale, P.E.I.
Leona McAree, Baldwin, P.E.I.
Carolyn C. McAree, Baldwin, P.E.I.
Clive M. Jay, Perquid East, P.E.I.
Marjorie Rattray, Morell, P.E.I.
Harry Rattray, Morell, P.E.I.
Anna Rattray, St. Peter's Bay, P.E.I.
Thane Rattray, St. Peter's Bay, P.E.I.
Rosa Lourdes, Mt. Stewart, P.E.I.
Merlin Grant, Mt. Stewart, P.E.I.
Earl Magennis, Mt. Stewart, P.E.I.
John Trainor, Mt. Stewart, P.E.I.
Phyllis Coffin, Morell, P.E.I.
Preston Coffin, Morell, P.E.I.
John F.W. Beatherlyd, Greewich, P.E.I.
Leslie Myers, Mt. Stewart, P.E.I.
Ronald J. Myers, Mt. Stewart, P.E.I.
John Myers, Mt. Stewart, P.E.I.
Shirley Myers, Mt. Stewart, P.E.I.
Margaret Myers, Head of Hillsboro, P.E.I.
Isabel Myers, Head of Hillsboro, P.E.I.
Susan Myers, Head of Hillsboro, P.E.I.
George McFinn, St. Theresa, P.E.I.
Peggy Clowater, Morell, P.E.I.
Lois MacKinnon, St. Peter's Bay, P.E.I.
Eddie Smith, Peakes, P.E.I.
Betty Smith, Peakes, P.E.I.
Linda Squires, St. Peter's Bay, P.E.I.
Kier Squires, St. Peter's Bay, P.E.I.
Richard Palmer, St. Peter's Bay, P.E.I.
Debbie Palmer, St. Peter's Bay, P.E.I.
Claire MacKinnon, St. Peter's Bay, P.E.I.
Brendon MacKinnon, St. Peter's Bay, P.E.I.
Janet L. MacDonald, St. Peter's Bay, P.E.I.
Clarence MacDonald, St. Peter's Bay, P.E.I.
Elmer J. MacIntyre, St. Peter's Bay, P.E.I.
Zelda MacIntyre, St. Peter's Bay, P.E.I.
Jerry MacMillan, St. Peters, P.E.I.
Selina MacMillan, St. Peters, P.E.I.
Rita MacMillan, St. Peters, P.E.I.
William MacMillan, St. Peters, P.E.I.
Mary MacMillan, St. Peters, P.E.I.
Leonard McKenna, St. Peters, P.E.I.
Emmett McInnis, Morell, P.E.I.
Lorna McInnis, Morell, P.E.I.
Freeman Macdougall, Morell, P.E.I.
Joe MacPhee, Mt. Stewart, P.E.I.
Joyce O'Brien, Souris, P.E.I.
Anna M. Enslow, Souris, P.E.I.
Dean Lewis, St. Peters, P.E.I.
Raymond Fisher, Cardigan, P.E.I.
Willvenylor Johnstone, Cardigan, P.E.I.
Tom Dunphy, Little York, P.E.I.
Elinor Smith, St. Peters, P.E.I.

Alvira MacPherson, Belfast, P.E.I.
Verna Meesburg, Flat River, P.E.I.

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 15, 1987
(Signed):

Wendy Mothersole, Calgary, Alberta
Rosemary Trowhill, Calgary, Alberta
Laurie Pereles, Calgary, Alberta
Pat Raymaker, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 15, 1987
(Signed):

Jerry Pasternak, Edmonton, Alberta
Larry Corcoran, Edmonton, Alberta
Michael Ingram, Edmonton, Alberta
Edward Ernst, Edmonton, Alberta
Linda Myziuk, Leduc, Alberta
Tom Pierce, Edmonton, Alberta
Wayne Gilbey, Leduc, Alberta
Glenn King, Edmonton, Alberta
A. Dwain Swedberg, Millett, Alberta
Randy Reynak, Leduc, Alberta
R. Stroud, Leduc, Alberta
D. Vandekerkhove, Edmonton, Alberta
S. Tidman, Edmonton, Alberta
Philip G. Montgomery, Devon, Alberta
G. Hetchler, Edmonton, Alberta
J. Funk, Edmonton, Alberta
J. Delwo, Sherwood Park, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 15, 1987
(Signed):

Olga Strashok, Edmonton, Alberta
Katherine Martyn, Emdonton, Alberta
Anna Nay, Edmonton, Alberta
C. Bagan, Edmonton, Alberta
N. Kuziu, Edmonton, Alberta
Sophie Sywalos, Edmonton, Alberta
Jessie Kisilevich, Edmonton, Alberta
Mary Muzychka, Edmonton, Alberta
Victoria Kassian, Edmonton, Alberta
Pauline Driectreik, Edmonton, Alberta
Vera Lajezye, Edmonton, Alberta
Olga Dutchak, Edmonton, Alberta
Jillei Prystaure, Edmonton, Alberta
Don Evanchiev, Edmonton, Alberta
Nadia Hryriuk, Edmonton, Alberta
John C. Nay, Edmonton, Alberta
William M. Strashok, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 19, 1987
(Signed):

Louise Pickering, Sylvan Lake, Alberta
William Pickering, Sylvan Lake, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 19, 1987
(Signed):

The undersigned are all Senior Citizens of Beaver Dam Lodge, Calgary, Alberta.

Stuart McRae
Ruth McRae
Myrtle Armstrong
Edith Couillard
Vera Kinsel
Roberta de Jong
Mabel Andrews
Mrs. E. Warkentin
J.K. Eggenberger
Martha Eggenberger
Hilda Bodkin
Lilian Davies

Ketherine Marysiuki
Blanche Stryner
Mrs. Catharina et van Berkel
Mary A. Milligan
Sybil Coventry
C. Inverarity
G. Winter
F. Simmons
May Feeger
Gertie Olds
Annie Davis
Gladys Dunford
May Webster
Ethel Endicott
Mrs. Ida Ralston
Ruby J. Manson
Jennie Pettey

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 19, 1987
(Signed):

Larry Davidson, Edmonton, Alberta
Margaret Davidson, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 24, 1987
(Signed)

Eva Trivett, Edmonton, Alberta
L. May Gardner, Edmonton, Alberta
Anne Packer, Edmonton, Alberta
Betty Mackie, Edmonton, Alberta
Jack Forbes, Edmonton, Alberta
Ardiss Mackie, Edmonton, Alberta
D. Jenkins, Edmonton, Alberta
John C. Carr, Edmonton, Alberta
Karen Van der Meer, Edmonton, Alberta
James Doiron, Edmonton, Alberta
M.B. Knowles, Edmonton, Alberta
Shauna Senger, Edmonton, Alberta
Marnay St. Louis, Edmonton, Alberta
Christina Jones, Edmonton, Alberta
Maureen Elhatton, Edmonton, Alberta
Lorna Diggle, Rimbey, Alberta
Mel Cooke, Edmonton, Alberta
Lisa Duncan, Edmonton, Alberta
Annette Annicchianro, Edmonton, Alberta
Angela Vitale, Edmonton, Alberta
Donna Mackey, Edmonton, Alberta
Shauna McHarg, Edmonton, Alberta
Cydritre Corkong, Edmonton, Alberta
Jacqueline Danderleau, Edmonton, Alberta

Maureen Day, Edmonton, Alberta
Stacey Hutchinson, Edmonton, Alberta
Mart Fucls, Edmonton, Alberta
Laura Harreveld, Edmonton, Alberta
Jennifer Griffin, Edmonton, Alberta
Adriana Verzara, Edmonton, Alberta
Sandr Henriquez, Edmonton, Alberta
Marcia Ranest, Edmonton, Alberta
Stephanie Madill, Edmonton, Alberta
Kim Rozak, Edmonton, Alberta
B. McKinley, Edmonton, Alberta
Linda Slater, Edmonton, Alberta
Davis Baliz, Edmonton, Alberta
Hugo Henriquez, Edmonton, Alberta
Penny Johnson, Edmonton, Alberta
Dennis Eisenbath, Edmonton, Alberta
Marion Stark, Edmonton, Alberta
Stephen Phillips, Edmonton, Alberta
Lois Sorgen, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 24, 1987
(Signed):

H.M. Hueppelsheuser, Blackfalds, Alberta
Bertha Hueppelsheuser, Blackfalds, Alberta
Arthur E. Wigmore, Blackfalds, Alberta
Ruth E. Wigmore, Blackfalds, Alberta
G.A. Hueppelsheuser, Blackfalds, Alberta
David Hueppelsheuser, Blackfalds, Alberta
David Hueppelsheuser, Blackfalds, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 25, 1987
(Signed):

Deborah Russell, Calgary, Alberta
Anne M. Travis, Cochrane, Alberta
Theresa Los, Calgary, Alberta
Edith Shurnaik, Calgary, Alberta
Irene Altena, Calgary, Alberta
Margaret Reisinger, Calgary, Alberta
Donna Callbeck, Calgary, Alberta
Rome Carub, Calgary, Alberta
Phyllis Mussig, Calgary, Alberta
Norma B. Bejar, Calgary, Alberta
Janet Lehmann, Calgary, Alberta
Paula Williams, Calgary, Alberta
Perfectan Kintanar, Calgary, Alberta
Cecil Steed, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus

to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 25, 1987
(Signed):

Merry-Lee Millar, Calgary, Alberta
Leslie Antymis, Calgary, Alberta
Freda McLean, Calgary, Alberta
Norma Parsons, Calgary, Alberta
Jill Pearson, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Jean Payne, Edmonton, Alberta
Una Switzer, Edmonton, Alberta
Tim King, Edmonton, Alberta
Jean Duke, Edmonton, Alberta
Sharin Hartford, Edmonton, Alberta
Linda Lovatt, Edmonton, Alberta
Madge Redmond, Edmonton, Alberta
Rose Stewart, Edmonton, Alberta
D. Heine, Edmonton, Alberta
M. Livingston, Edmonton, Alberta
O. Harder, Edmonton, Alberta
D. Stoochnoff, Edmonton, Alberta
M. Underwood, Edmonton, Alberta
Les Royer, Edmonton, Alberta
L. Simons, Edmonton, Alberta
Ted E. Chmilar, Edmonton, Alberta
E. Nielsen, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Barb Strange, Calgary, Alberta
Mike Mearns, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Amy L. Maguire, Calgary, Alberta
Elma I. Ferguson, Calgary, Alberta
Sylvia M. Yates, Calgary, Alberta
Mary I. Cameron, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

D.P. McLeod, Jasper, Alberta
R.W. Netherton, Jasper, Alberta
Mary Porter, Jasper, Alberta
Elise Maltinsky, Jasper, Alberta
Jane Fitzpatrick, Jasper, Alberta
Janice Yeaman, Jasper, Alberta
J. Johnson, Jasper, Alberta
Barb Brooks, Jasper, Alberta
Johanna Karley, Jasper, Alberta
Mrs. L. Bree, Jasper, Alberta
Carol Gauzer, Jasper, Alberta
Cleone Todgham, Jasper, Alberta
E. Klopfemstein, Jasper, Alberta
Annette Henderson, Jasper, Alberta
Alexis Renhussier, Jasper, Alberta
Connie Sikkes, Jasper, Alberta
Carol Blake, Jasper, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and

prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Phyllis Meier, Hinton, Alberta
Freda Hubier, Hinton, Alberta
Rita Dempsey, Hinton, Alberta
Mrs. Donna Wilson, Hinton, Alberta
Corinne Audy, Hinton, Alberta
Helene Warawa, Hinton, Alberta
Tom Roycraft, Hinton, Alberta
Thelma Freng, Hinton, Alberta
Ralph Calvert, Grande Cache, Alberta
Mary-Ellen Robinson, Hinton, Alberta
Randy Lawrence, Hinton, Alberta
Claudette Hargreaves, Hinton, Alberta
Lori Bennette, Hinton, Alberta
Dr. Harold Pleckaitis, Hinton, Alberta
Doris Gosney, Hinton, Alberta
M.L. Pittman, Hinton, Alberta
Margerite Anderson, Hinton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

J.M. Tarington, Hinton, Alberta
E.A. Robb, Hinton, Alberta
Dorothy Sheppard, Hinton, Alberta
E.A. Sheppard, Hinton, Alberta
T. Skupur, Hinton, Alberta
Louise E. Karlowich, Hinton, Alberta
R.M. Fatyre, Hinton, Alberta
Laura Kennedy, Hinton, Alberta
B. Gosselin, Hinton, Alberta
Lilian Tomik, Hinton, Alberta
Jack Von Hasne, Hinton, Alberta
L.R. Kirkland-Routh, Hinton, Alberta
Cheryl Veinot, Hinton, Alberta
Rita Dempsey, Hinton, Alberta
Mithul Pokeck, Hinton, Alberta
Roxanne Ireland, Hinton, Alberta
Bessie Kru, Hinton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Dorothy I. Berry, Calgary, Alberta
Margaret F. Golightly, Calgary, Alberta
Maxine Laughlin, Calgary, Alberta
James Watmough, Calgary, Alberta
Marian Breeze, Calgary, Alberta
June Nickel, Calgary, Alberta
Ross Labadie, Calgary, Alberta
Wendy Peters, Calgary, Alberta
Lloyd Lovell, Calgary, Alberta
Marilyn Dyck, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Yvonne McLeod, Jasper, Alberta
Monika Schaefer, Jasper, Alberta
Kim Forster, Jasper, Alberta
L. Coleman-Bradford, Jasper Alberta
Louise Jarry, Jasper, Alberta
Carol Rickard, Jasper, Alberta
J. Larson, Jasper, Alberta
J. Brian, Jasper, Alberta
Hélène Tremblay, Jasper, Alberta
M. Ball, Jasper, Alberta
T. Bartlett, Jasper, Alberta
M. Ashby, Jasper, Alberta
A. Brooks, Jasper, Alberta
Merna Forster, Jasper, Alberta
Donna Tarr, Jasper, Alberta
Anne Dickinson, Jasper, Alberta
Steve Puks, Jasper, Alberta
Guy Gélanger, Jasper, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Roger Belanger, Edmonton, Alberta
David Allen, Edmonton, Alberta
Heather Smith, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 27, 1987
(Signed):

Valerie Thornton, Edmonton, Alberta
Anita Van Keimpema, Edmonton, Alberta
Tim Van Keimpema, Edmonton, Alberta
Jane Karlzen, Edmonton, Alberta
Phil Thornton, Edmonton, Alberta
Jim Poole, Edmonton, Alberta
Elsa Macqueen, Edmonton, Alberta
Lena Hrefnejk, Edmonton, Alberta
Joyce Dreutz, Edmonton, Alberta
Blanche Dakin, Edmonton, Alberta
Violete J. Frazier, Edmonton, Alberta
Helen C. Thurber, Edmonton, Alberta
Dora Bruneau, Edmonton, Alberta
Reg Hird, Edmonton, Alberta
Gisele Lucas, Edmonton, Alberta
D. Mackenzie, Edmonton, Alberta
Roger Coata, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 29, 1987
(Signed):

Gary D. Orsten, Calgary, Alberta
Lee F. Stowell, Calgary, Alberta
Melanie Caldwell, Calgary, Alberta
Barbara Lawson, Calgary, Alberta
Rosalie Kerr, Calgary, Alberta
Margaret Gaudet, Calgary, Alberta
Lesley Taylor, Calgary, Alberta
Terry Brow, Calgary, Alberta
Hynek Stupka, Calgary, Alberta
Donna Hodgson, Calgary, Alberta
Anne Beggar, Calgary, Alberta
Jean Walker, Calgary, Alberta
Sharon Stek, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 29, 1987
(Signed):

Frank Lawton, Calgary, Alberta
Dave Hieckar, Calgary, Alberta
Joe Read, Calgary, Alberta
Ronald Andreychuk, Calgary, Alberta
Ben Berg, Calgary, Alberta
Vince Bennici, Calgary, Alberta
Jacqueline Ogryzlo, Calgary, Alberta
Ray Ryan, Calgary, Alberta
John Sobkowich, Calgary, Alberta
H.P. Bob Ferguson, Calgary, Alberta
Pete Geurts, Calgary, Alberta
Jen Gulash, Calgary, Alberta
Olga Gryckiewicz, Calgary, Alberta
M. Kinney, Calgary, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 30, 1987
(Signed):

Fred Schroeder, Red Deer, Alberta
Mary Schroeder, Red Deer, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 30, 1987
(Signed):

Mrs. P. Thornton, Edmonton, Alberta
Mrs. V. Tront, Edmonton, Alberta
Wes Yaciuk, Edmonton, Alberta
Craig L. James, Edmonton, Alberta
Kim Kitura, Edmonton, Alberta
Lori Brayer, Edmonton, Alberta
Marg Lovett, Edmonton, Alberta
Larry Kegah, Edmonton, Alberta
D. Taube, Edmonton, Alberta
W. Neudorf, Edmonton, Alberta
Donna Rimbey, Edmonton, Alberta
Carl Cunningham, Edmonton, Alberta
Marcella Meheriuk, Edmonton, Alberta
Grant Pearce, Edmonton, Alberta
B. Popplesten, Edmonton, Alberta
Lyle Korber, Edmonton, Alberta
Jane Koyich, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus

to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 30, 1987
(Signed):

Zella Capito, Sherwood Park, Alberta
Barbara R. Kruger, Edmonton, Alberta
Margaret Malowaney, Edmonton, Alberta
Irene Gouin, Edmonton, Alberta
Cam Hale, Rosaline, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 30, 1987
(Signed):

Linda Leeks, Edmonton, Alberta
Adam Smith, Edmonton, Alberta
Peter Thornton, Edmonton, Alberta
M. Sharek, Edmonton, Alberta
L.J. Van Sickle, Edmonton, Alberta
J.B. Vallic, Edmonton, Alberta
B MacAckill, Edmonton, Alberta
Sonia Woloschuk, Edmonton, Alberta
Colette Jubinville, Edmonton, Alberta
Sheree Stewart, Edmonton, Alberta
Carol Shmilar, Edmonton, Alberta
Gloria Swain, Edmonton, Alberta
G. Towne, Edmonton, Alberta
Doug Stuart, Edmonton, Alberta
Penny Hui, Edmonton, Alberta
Anne Pennie, Edmonton, Alberta
Emilia Strasser, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 30, 1987
(Signed):

Michelle Bentt, Edmonton, Alberta
Sharon Henderson, Sherwood Park, Alberta
Susan Ruffo, Edmonton, Alberta
Donna Martyn, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: May 1987
(Signed):

Mildred Flanagan, Jasper, Alberta
Wendy Ashton, Jasper, Alberta
Warren Waxer, Jasper, Alberta
Kathleen Fish, Jasper, Alberta
Marilyn Stecyd, Jasper, Alberta
Debi Rexin, Jasper, Alberta
Marty Handlon, Jasper, Alberta
V. Wetmore, Jasper, Alberta
Ann Hatfield, Jasper, Alberta
Bill Johnston, Jasper, Alberta
Phyllis E. Lesiuk, Jasper, Alberta
Bernard Hughes, Jasper, Alberta
Grace Schmitke, Jasper, Alberta
E.R. Swanson, Jasper, Alberta
Kathy Fitzmaurice, Jasper, Alberta
Karen Doughty, Jasper, Alberta
Brenda Hill, Jasper, Alberta
Maureen Birks, Jasper, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: June 6, 1987
(Signed):

Ethel Schwindt, Edmonton, Alberta
Julianne Boyka, Edmonton, Alberta
Sally Matsui, Edmonton, Alberta
Eileen Mandryk, Edmonton, Alberta
Margaret Ethier, Sherwood Park, Alberta
Janet Klfofre, Edmonton, Alberta
Susan Macklon, Edmonton, Alberta
Roger Swan, Edmonton, Alberta
Gill Laudetie, Edmonton, Alberta

TO THE HONOURABLE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED

The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your Petitioners in the certain assurance that your honourable Senate will therefore provide a remedy,

HUMBLY SHEWETH

WHEREAS, the proposed changes to the Patent Act will affect directly all Canadians who are not protected by private or governmental medicare programs, and

WHEREAS the federal government's proposals will raise the costs, already high of the provincial health-care programs, and

WHEREAS the monopoly granted to innovate pharmaceutical companies will prevent competition from generic companies and will result in an increase of drug costs and prices and will severely restrict the ability of average Canadians to buy necessary prescription drugs, and,

WHEREAS the proposed changes to the Patent Act are another example of the Canadian government's concession to the Free Trade negotiations with the United States, at the expense of everyday Canadians.

WHEREFORE, the undersigned, your petitioners humbly pray and call upon parliament to reject these proposals which will increase prescription drug prices for Canadians.

And as in duty bound your petitioners will ever pray.

Date: June 8, 1987
(Signed):

Nellie Hunsperger, Olds, Alberta
Sylvia Wright, Olds, Alberta
Juanita St. Clair, Olds, Alberta
Ruth Hammer, Olds, Alberta
Hazel Wilson, Didsbury, Alberta
Roy F. Anderson, Bowden, Alberta
Lucy Sutherland, Olds, Alberta
Michelle Baber, Carstairs, Alberta
Reg Baber, Olds, Alberta
Pat Baber, Olds, Alberta
Dale Fagan, Bowden, Alberta
Helen Fagan, Bowden, Alberta
Joan Toone, Sundre, Alberta
Andrea Halwiuk, Olds, Alberta

APPENDIX "B"

(*See p. 1527*)

ENERGY AND NATURAL RESOURCES

SEVENTH REPORT OF COMMITTEE

TUESDAY, June 30, 1987

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on 12th May, 1987 and 23rd June, 1987 to study and report upon the proposed sale of Dome Petroleum Limited with particular reference to the impact of the sale on Canada, or any matter relating thereto, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

EARL A. HASTINGS
Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

APPLICATION FOR BUDGET AUTHORIZATION FOR THE PERIOD 1st APRIL 1987 TO 31st MARCH 1988

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, Ma. 12, 1987:

"With leave of the Senate,
The Honourable Senator Hastings moved, seconded by the Honourable Senator Stanbury:

That the Standing Senate Committee on Energy and Natural Resources be authorized to study and report upon the proposed sale of Dome Petroleum Limited with particular reference to the impact of the sale on Canada, or any matter relating thereto; and

That the Committee submit its report no later than 30th June, 1987.

The question being put on the motion, it was—
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate.

SUMMARY

Professional and Other Services	**$ 15,000**
TOTAL	**$ 15,000**

The foregoing budget was approved by the Committee on the 23rd day of June, 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

Earl A. Hastings
Chairman, Standing Committee on Energy and Natural Resources

Date: June 23, 1987

Approved by:
Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: June 26, 1987

APPENDIX (B) TO THE REPORT

TUESDAY, June 30, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Energy and Natural Resources for the proposed expenditures of the said Committee with respect to its study of the proposed sale of Dome Petroleum Limited, or any matter relating thereto, as authorized by the Senate on 12th May, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 15,000
	$ 15,000

Respectfully submitted,

GUY CHARBONNEAU
Chairman

APPENDIX "C"

(*See p. 1536*)

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

TWENTY-EIGHTH MEETING HELD AT VANCOUVER, BRITISH COLUMBIA—INTERIM REPORT

The Official Parliamentary delegation of the Canadian Section, Canada-U.S. Inter-Parliamentary Group which attended the 28th Annual Meeting of the Canada-U.S. Inter-Parliamentary Group in Vancouver, British Columbia from June 4 to 8, 1987 has the honour to present its

INTERIM REPORT

The Canadian Section's parliamentary delegation was led by the Honourable James Balfour, Co-Chairman from the Senate and Mr. Pat Nowlan, M.P., Co-Chairman from the House of Commons. The members of the two delegations were as follows:

THE CANADIAN DELEGATION

Senate

Hon. James Balfour
Co-Chairman
(Progressive Conservative—Saskatchewan)

Hon. E.W. Barootes
(Progressive Conservative—Saskatchewan)

Hon. C. William Doody
(Progressive Conservative—Newfoundland)

Hon. Jerahmiel S. Grafstein
(Liberal—Ontario)

Hon. Daniel Hays
(Liberal—Alberta)

Hon. Richard J. Stanbury
(Liberal—Ontario)

Hon. George C. van Roggen
(Liberal—British Columbia)

House of Commons

Mr. Pat Nowlan, M.P.
Co-Chairman
(Progressive Conservative—Nova Scotia)

Hon. Lloyd Axworthy, P.C., M.P.
(Liberal—Manitoba)

Mr. Ross Belsher, M.P.
(Progressive Conservative—British Columbia)

Mr. Bill Blaikie, M.P.
(New Democrat—Manitoba)

Mr. Jim Caldwell, M.P.
(Progressive Conservative—Ontario)

Mr. Stan Darling, M.P.
(Progressive Conservative—Ontario)

Mr. Sid Fraleigh, M.P.
(Progressive Conservative—Ontario)

Mr. Paul Gagnon, M.P.
(Progressive Conservative—Alberta)

Mr. George Henderson, M.P.
(Liberal—Prince Edward Island)

Mr. Ken James, M.P.
(Progressive Conservative—Ontario)

Mr. Bill Kempling, M.P.
(Progressive Conservative—Ontario)

Mr. Bill Lesick, M.P.
(Progressive Conservative—Alberta)

Mr. Fred McCain, M.P.
(Progressive Conservative—New Brunswick)

Mr. Guy Ricard, M.P.
(Progressive Conservative—Quebec)

Mrs. Barbara Sparrow, M.P.
(Progressive Conservative—Alberta)

Mr. Gordon Taylor, M.P.
(Progressive Conservative—Alberta)

Mr. Ian Waddell, M.P.
(New Democrat—British Columbia)

THE UNITED STATES DELEGATION

Senate

Hon. Wyche Fowler, Jr.
Chairman
(Democrat—Georgia)

Hon. Ted Stevens
Vice-Chairman
(Republican—Alaska)

Hon. James McClure
(Republican—Idaho)

Hon. Charles E. Grassley
(Republican—Iowa)

House of Representatives

Hon. Sam Gejdenson
Chairman
(Democrat—Connecticut)

Hon. Dante B. Fascell
Vice-Chairman
(Democrat—Florida)

Hon. Sam Gibbons
(Democrat—Florida)

Hon. Lee Hamilton
(Democrat—Indiana)

Hon. Jim Oberstar
(Democrat—Minnesota)

Hon. Les AuCoin
(Democrat—Oregon)

Hon. John LaFalce
(Democrat—New York)

Hon. Timothy Penny
(Democrat—Minnesota)

Hon. Peter de Fazio
(Democrat—Oregon)

Hon. William Broomfield
(Republican—Michigan)

Hon. Bill Frenzel
(Republican—Minnesota)

Hon. David O'B. Martin
(Republican—New York)

Hon. John Miller
(Republican—Washington)

Discussions at the Vancouver meeting took place in three Committees:

Committee I: Trade and Economic Issues

Committee II: Energy, Defence, Space and Multilateral Issues

Committee III: Environment, Transboundary & Fisheries Issues

The Canadians who co-chaired the Committee meetings with U.S. counterparts were: for Committee I, Mr. Pat Nowlan, M.P.; for Committee II, Mrs. Barbara Sparrow, M.P.; and for Committee III, Mr. Fred McCain, M.P.

The Agenda for this year's meeting was as follows:

COMMITTEE I: TRADE AND ECONOMICS

1. Assessment of international economic and monetary situation; issues of relevance to the United States and Canada.
2. The issue of subsidies and international agricultural trade; impact on Canada and the United States.
3. Proposed statutory changes to:
   1. United States—H.R. 3 including proposed revisions to countervail duty and dumping laws;
   2. Canada—draft legislation on pharmaceutical patents, copyright, film distribution and tax on softwood lumber.
4. Canada-U.S. free trade negotiations, including dispute settlement mechanism, subsidies and binding of provinces.
5. Specific bilateral trade issues:
   —steel
   —potash
   —U.S. vehicle tax
   —corn
   —wheat
   —shakes and shingles
   —softwood lumber
   —uranium

COMMITTEE II: ENERGY, DEFENCE, SPACE AND MULTILATERAL

Energy

- U.S. ruling on Canadian gas exports to the U.S.
- U.S. oil import tax
- Impact of cheap oil on North American exploration and production and Canada's $350 million program for the energy industry
- Bilateral electricity arrangements
- Superconducting Super Collider

Defence

- Security and sovereignty in the Arctic
- Reykjavik aftermath: arms control and disarmament
- Cruise missile testing
- Canadian defence spending commitments including Canada's Defence White Paper

Space

- U.S. space station—objectives, Canadian participation
- MSAT (Mobile satellite communications service)

COMMITTEE III: ENVIRONMENT, TRANSBOUNDARY & FISHERIES ISSUES

Environment

- Acid rain
- Toxic wastes
- Detroit incinerator
- Environmental relations in Alaska and the Yukon
  1. Energy development in the Arctic National Wildlife Refuge in Alaska
  2. Migratory Porcupine caribou herd
  3. The Amauligak project

Transboundary

- Great Lake levels
- Great Lakes Water Quality Agreement
- Canada-U.S. maritime boundaries

Fisheries

- Yukon salmon fishery
- Depletion of West Coast stocks

- East Coast fisheries; NAFO; access and management on Georges Bank
- Fisheries enforcement in Georges Bank and Dixon Entrance
- Composition of Pacific Salmon Commission

MULTILATERAL (in joint session with Committee II)

- Refugees
- Central America
- Terrorism
- Drugs

PLENARY (Committees I, II and III)

- Cultural sovereignty
- Bilateral trade negotiations

The following summary highlights issues discussed in Plenary and the three Committees. A final and much fuller report on discussions under each agenda item will be tabled subsequently.

Plenary

As usual, the plenary was reserved for discussion of a topic of particular importance. This year's plenary was devoted to bilateral free trade and cultural sovereignty. Canadian speakers led off on this topic, reporting on the approach adopted by the Canadian government—the desire for a comprehensive agreement, the need for securing the agreement of the provinces to any elements of an agreement falling within provincial jurisdiction and the importance of achieving a fair, impartial and binding method for resolving disputes under rules agreed to by both sides.

American speakers expressed some doubt that such a massive agreement could be negotiated by October 5. Some of them showed a willingness, if an agreement was close to completion, of extending the fast track authority through adding a clause to the Trade and International Economic Policy Act of 1987, (H.R. 3). However, U.S. Senators warned that Senate approval of any extension might be difficult to achieve.

The American participants asked if a special plenary session could be arranged to permit the Canadian side to explain the significance of the Meech Lake agreement. This was done and a lively discussion between Canadian participants ensued, which the Americans appeared to appreciate.

Committee I

Discussion in Committee I on trade and economic questions covered most of the current bilateral problems in this area. The Chairman of the House Ways & Means Sub-Committee on Trade explained the objectives of H.R. 3. He placed special emphasis on the attempt to develop a new definition of subsidies. When Canadian participants pointed out that this represented a unilateral action and that it would be preferable to proceed by international agreement in the GATT negotiations, he expressed dissatisfaction with the pace of these negotiations and preferred to seek de facto agreement or change by encouraging other countries to introduce mirror legislation.

Discussion on recent proposals regarding film distribution in Canada was quite vigorous. Canadian speakers explained why some action by Canada was necessary. All American speakers professed to understand the Canadian objectives, but they objected strongly to the means chosen which they described as "an import licensing system in restraint of trade and in violation of international agreements". They urged Canada to seek a resolution sanctioned by GATT and in particular suggested consideration of a quota.

Committee II

In response to arguments by Canadian delegates in Committee II urging U.S. support for Canada's claim of sovereignty over the internal waters of the Arctic archipelago, U.S. delegates argued that such recognition would create unacceptable precedents for free navigation in other international straits. Further, the immediate response of the U.S. spokesman was critical of the Canadian White Paper proposal to purchase and equip 10 nuclear-powered submarines for the Arctic. He doubted that the submarines would be effective in strengthening Canada's sovereignty claim, nor would they add to Arctic security since their mission was to monitor intruders rather than to attack. In his opinion, Canada could better use the huge sums of money involved to upgrade its defence commitments in Europe or to buy new frigates. Canadian participants emphasized that the new submarines would be used not only in the Arctic but in Pacific and Atlantic waters as well. In respect to the sovereignty aspect, the Canadian side stressed the unique character of the Arctic archipelago and reminded the U.S. delegates that Canada was prepared to submit the case for arbitration by the international Court of Justice.

In the energy field, U.S. delegates on Committee II could offer little but sympathy to Canadian spokesmen who complained about the recent FERC decision on natural gas billing prices which effectively disallows the pass-through to U.S. customers of some transmission costs in Canadian gas export rates. While noting that the FERC decision was open to a court challenge, a senior U.S. Senator said it was likely that Canadian exporters could lose their U.S. market if they failed to adjust their prices.

In respect to the proposed U.S. oil import tax, U.S. spokesmen said such a tax was a distinct possibility in this Congress due to the increased influence of Congressmen from oil-producing states, to U.S. concern for the security of its oil production and to the welcome revenue such a tax would produce. An exemption for Canada from this tax was unlikely.

Committee III

As in previous years, acid rain was the most intensely discussed environmental issue. Canadian delegates pointed out that for years the United States has been responding to criticism by telling Canada to put its own house in order and

Canada is now doing so. New, stricter auto emission standards, the clean-up of smelters and the federal-provincial agreement to reduce SO^2 emissions by 50 percent by 1994 were cited as examples of Canada's commitment to acid rain abatement. Meanwhile there has been U.S. progress on rhetoric and research but no commitment to a program of acid rain control, with targets and timetable. The American delegates expressed sympathy with the Canadian position but once more described the familiar political and economic roadblocks to action. A member of the House delegation reported on proposed legislation that would cut SO^2 emissions by about 30 percent in the next decade but a U.S. Senator expressed serious doubt that the bill would pass.

A number of fisheries issues occupied the greatest part of Committee III's agenda. There was an extended and pointed exchange on the membership of the Pacific Salmon Commission. The American spokesman expressed concern that Canada was appointing industry representatives instead of fisheries managers with negative consequences for conservation and enhancement of the salmon stock. They warned that if Canada persisted, the U.S. government would be pressured to do the same. Canadian members expressed full support for good management practices under the Pacific Salmon Treaty and insisted that the appointment of users to the Commission was consistent with that objective, but went on to say that Canada had been badly burned in past negotiations because users had been ignored. The two sides agreed there should be discussions aimed at harmonizing the two countries' approaches to the Commission.

Many issues concerning the east coast fishery were discussed but perhaps two stood out—U.S. membership in the Northwest Atlantic Fisheries Organization (NAFO) and the problems arising from expanding seal populations. Canadian delegates stressed the desirability of the United States joining NAFO both to strengthen its management of fish stocks beyond the 200 mile limit and to reassure Canadian fishermen angered by unregulated American fishing on the tail of the Grand Banks. American delegates reported that Congress had authorized U.S. membership in NAFO in 1983 but the hangup was the inability or unwillingness of NAFO members to provide a U.S. quota, which both sides agreed was a prerequisite.

The issue of the rapidly growing seal population was not a formal item on the agenda but it provoked lively discussion. Some American delegates were surprised by and keenly interested in Canadian reports of damage to the fish stock (by consumption and worm infestation) arising from the mushrooming grey seal population. West Coast American delegates reported similar damage being done to the salmon stock by seals and sea lions. Both sides agreed that a controlled cull of the seal population would be essential in future and that the subject should be on next year's Committee III agenda.

Respectfully submitted,

Senator James Balfour	Patrick Nowlan, M.P.
Co-Chairman	Co-Chairman

THE SENATE

Monday, July 6, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

PRESCRIPTION DRUG PRICES

EFFECT OF PROPOSED PATENT ACT AMENDMENT—PETITIONS TABLED

Hon. Joyce Fairbairn: Honourable senators, I have petitions that I would like to table today on the subject of Bill C-22, on which petitions there are 249 names of people from the province of Alberta who have all written to indicate their concern about that bill. They come from a number of cities, including: Edmonton, Calgary, Lethbridge, Taber, Medicine Hat, Red Deer, Redcliff, Bashaw, Edson, Cold Lake, Innisfail, Coaldale, Claresholm and Vegreville.

THE SENATE

REFERRAL OF SUBJECT MATTER OF GOVERNMENT BILLS TO COMMITTEES—NOTICE OF INQUIRY

Hon. Finlay MacDonald: Honourable senators, I give notice that on Thursday next, July 9, 1987, I will call the attention of the Senate to the practice of referring the subject matter of government bills to the appropriate Senate committees.

QUESTION PERIOD

VIA RAIL

RELOCATION OF MAINTENANCE CENTRE FROM WINNIPEG TO VANCOUVER—REQUEST FOR RECONSIDERATION

Hon. Joseph-Philippe Guay: Honourable senators, I would like to ask the Leader of the Government, as a member of the cabinet, if he would again make representations to the cabinet with regard to VIA Rail maintenance which is being moved out of Winnipeg to Vancouver. Mr. Leo Duguay, the MP representing my area, said in the Winnipeg *Free Press* on Saturday:

> If (Pawley)—

He means the provincial government.

> —has any proof that it makes better sense and can save taxpayers more money to leave it in Winnipeg then I'll take it to the minister and we'll change his mind.

That is a definite statement.

An Hon. Senator: Good luck!

Senator Guay: If he, as a backbench member of Parliament, can "change his mind," then surely the Leader of the Government in the Senate, being a member of the cabinet, can also change the mind of the minister.

I say that because it will cost the government $20 million for the new installation in Vancouver, and the funny part of it is that they will have to spend another $7 million in Winnipeg to build an additional station to service two area trains in Manitoba. So the total would be $27 million to save possibly $4 million to $10 million annually.

After the loss of personnel and wage earners from my area, and after losing the CF-18 contract, surely to goodness the government should leave something in Manitoba, which is the keystone province of this country. In my humble opinion, it would make sense to see VIA Rail retain its maintenance facilities at a central point in this country rather than having an installation on the west coast and another in Montreal. It seems to me that Winnipeg is the logical place to service those trains.

Therefore, I repeat my question: Will the Leader of the Government make an appropriate representation to cabinet to reconsider this important matter so that we in Manitoba can benefit from that decision?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will undertake to convey the honourable senator's representation to the minister who reports to Parliament for VIA Rail.

I may say that the explanation given by VIA Rail for its decision is that the new high-powered locomotives that are in service can go from Montreal or Toronto to Vancouver without the need of intermediate mechanical inspection in Winnipeg. Therefore, VIA Rail is establishing another facility, an equipment maintenance centre, in Winnipeg at a cost of approximately $7 million, as the honourable senator has pointed out.

The honourable senator may look upon this as a consolation prize, but I am sure he will agree that it would be pointless to subject locomotives, which do not require it, to intermediate mechanical inspection in Winnipeg.

Senator Guay: I do not agree with the Leader of the Government for the simple reason that it does not make sense. If a locomotive can go from Montreal to Vancouver, surely to goodness it can go from Winnipeg to Vancouver and back to Winnipeg. It is not a valid reason to say that a locomotive can go from Montreal to Vancouver, when it could go from Winnipeg to Vancouver and back to Winnipeg, and it would

not be necessary to change any of the services now in Winnipeg.

It always seems that when those decisions are taken we are on the losing end. I am trying to be nice about the whole thing, but it is becoming a painful thing to absorb all the time, when we are always on the losing end. For that reason I am saying to the Leader of the Government that surely to goodness, being a member of the cabinet, he can do a better job than Leo Duguay in making a good representation to the cabinet to reconsider the matter.

Senator Murray: Honourable senators, again, I will undertake to convey Senator Guay's representations to the government, but I simply make the point in concluding, I hope, that the convenience of the passengers and, therefore, the overall health of the VIA Rail service is something that has to be paramount in the minds of those who are making the decisions.

THE CONSTITUTION

FIRST MINISTERS' ACCORD—YUKON AND NORTHWEST TERRITORIES—METHOD OF APPOINTMENT OF SENATORS AND SUPREME COURT JUDGES

Hon. Paul Lucier: Honourable senators, I have a question for the Leader of the Government in the Senate. I am sure that given the time the leader has had to study the Meech Lake accord and considering that he was one of the authors of it, he can explain the situation with respect to the appointment of Supreme Court judges and senators from the Yukon and the Northwest Territories. Subsection 101C.(4) reads:

> Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province other than Quebec.

It seems to me that what we are saying is that senators and Supreme Court judges from the provinces will be appointed from a list supplied by premiers. It does not say that the Yukon or the Northwest Territories will have a different list. In fact, it says nothing about the two territories. Would the Leader of the Government explain to the Senate what the new procedure is for appointing senators and Supreme Court judges from the two territories, according to the new constitutional accord?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it is the same as the present procedure. In any case, the honourable senator will have an opportunity to explore this matter in more detail with me and with officials when we appear before the Committee of the Whole later in this session on this matter, or, indeed, before the Special Joint Committee of the Senate and the House of Commons which was recently set up.

Senator Lucier: Honourable senators, that answer is not quite good enough. We have already been told that we can ask all the questions we want, but the accord will not be changed. Nowhere does it say in the accord how senators and Supreme Court judges will be chosen. It outlines the procedure for the provinces, but it does not say what will be done in the territories. If the procedure is to remain the same as before, why was something to that effect not put in the accord?

Honourable senators, since the leader has not risen to reply, I just want to say that that is just about the answer I expected!

BUSINESS OF THE SENATE

TREATMENT OF LEGISLATION

Hon. Efstathios William Barootes: Honourable senators, I have a question for the Leader of the Government in the Senate. I and, I believe, other senators are concerned that an impasse seems to have arisen between the wishes of the government and this chamber in respect of legislation. I appreciate that there may also be division in this respect between members of one side of the Senate and the other. I ask the Leader of the Government in the Senate: Has he any new information or any information he can bring to our attention in this chamber as to how we will conduct procedure on this legislation and how we can overcome this unfortunate impasse?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not think I can add very much to what is already on the public record. As I indicated to the Senate on Tuesday evening, the Deputy Prime Minister requested of Mr. Speaker Fraser that the House of Commons be recalled. The honourable senator will be aware that Mr. Speaker Fraser has decided to defer a decision on that matter—

Senator Guay: He must have read the *Debates of the Senate*.

Senator Murray: —pending possible resolution of the issues between the government and the Senate. The government, through the deputy leader, Senator Doody, had proposed on Tuesday last that the Senate adjourn and that the committees have several weeks to continue their work on these bills, with the understanding that they would report and that the Senate would finally dispose of the matters sometime during the third week of July. That proposal was rejected by the opposition. I am sure that my friend heard the Leader of the Opposition say on Tuesday night that for their part they would have disposed of the bills sometime before the middle of September. Honourable senators, that is not soon enough for the government, so we are in what the honourable senator describes as an impasse.

• (1410)

The bills are now in committee, and the government would be prepared to have the responsible ministers appear before those committees today or tomorrow. Mr. Andre is in town, and I would need a little more notice to have Mr. Crosbie attend, but the responsible ministers could appear before those committees to try to persuade the committees of their own volition to compress their work into several weeks, and perhaps that would enable the Senate to adjourn and obviate the

necessity of calling back the House of Commons for the moment. It is, of course, understood that the House of Commons will have to come back, in any case, for Royal Assent, and possibly to deal with any amendments that the majority in the Senate might make to one or other of these bills.

Hon. Joseph-Philippe Guay: I have a supplementary question for the Honourable Leader of the Government in the Senate. I wonder if the honourable leader is aware that it was Senator Phillips who made the motion to send the bill to committee. The motion was not made by a senator on this side of the house; it was Senator Phillips who made the actual motion to send the matter to committee, and that is detailed in *Debates of the Senate.*

Senator Murray: There are three bills; I am not sure which bill the honourable senator is referring to.

Senator Guay: I am referring to Bill C-22.

Senator Murray: Bill C-22 has had 75 hours of hearing and pre-study by the special committee appointed for that purpose. As I recall, the special committee reported without recommendation. It is customary, even after a lengthy and exhaustive pre-study of that nature, to refer such a bill to the committee so that it can go over the bill clause by clause. Neither Senator Phillips nor anyone else on the government side anticipated that honourable senators opposite would propose to take the rest of the summer to complete the work.

Hon. Orville H. Phillips: May I also point out to Senator Guay that the motion establishing a special committee for Bill C-22 required that bill to be referred back to the Special Committee on Bill C-22.

Senator Guay: And that is why you did it?

Senator Phillips: That is why I did it, in an effort to speed things up.

Senator Guay: I am glad you are admitting it, anyway.

Senator Murray: I should also draw to the attention of honourable senators the fact that since last November the government has been trying to have the transport bills pre-studied and has met with no success in having that proposition accepted by the opposition.

Senator Guay: I would like to remind the Leader of the Government in the Senate that I was making reference only to Bill C-22. I am not talking about Bill C-259. If you would like me to discuss Bill C-259, I will take that up, too.

Hon. Eymard G. Corbin: Honourable senators, I would like to ask the Leader of the Government why it is that the government has taken the exceptional stand—and I say this in contrast with past practices of the government—of not introducing legislation in the Senate any more—or, to be fair, practically never.

It has been the practice of past governments to introduce major pieces of legislation in the Senate, allowing the Senate weeks, and sometimes months, to scrutinize its legislation, and then to have it forwarded, after disposal in this house, to the other place. Since this government has been in power, why is it that that practice has been abandoned? Why, in return, does it expect this house to jump at the sound of the gun every time somebody in the other place pulls a trigger? Are we not allowed to rethink and re-examine legislation passed in the other place? Is the honourable leader suggesting that pre-study is sufficient reason for the Senate not to re-examine legislation that is substantially amended in the other place before it gets here?

What about the tons and the truckloads of amendments made to legislation over there, which, most of the time, are not examined in pre-studies? Are we simply to discard those as not important, and jump at the sound of the gun? What is the purpose of this chamber of sober second thought if all we are expected to do is rubber-stamp and rubber-stamp? I would like a dissertation on that.

Senator Murray: Honourable senators, there are a number of questions raised by Senator Corbin.

The situation he describes with regard to truckloads of amendments being made in the other place does not apply to the bills in question. It certainly does not apply to Bill C-22.

The government is well aware of the constitutional role of the Senate and respects it as a chamber of "sober second thought". However, 75 hours of hearings on this bill by the Senate, on top of 87 hours of debate in the House of Commons and 63 hours in committee, seems to be quite a lot of sobriety.

Senator Corbin: It is not extraordinary.

Senator Murray: The honourable senator says it is not extraordinary. I think it is rather extraordinary for a bill of that kind. I pointed this out the other night, but I will underline it again for my honourable friend. In many cases, the witnesses heard by the Senate committee on Bill C-22 were the very same witnesses as had been heard by the House of Commons.

As I pointed out the other night, the Senate committee heard, for example, from the CLC. Fine. They then heard from the CLC in its various provincial emanations: Newfoundland, Nova Scotia, Alberta, Northwest Territories, Saskatchewan, Manitoba, and Ontario. The Senate committee heard from the national group of the Consumers' Association of Canada, and then proceeded to receive almost exactly the same brief from six provincial branches of the Consumers' Association of Canada.

Senator Frith: Isn't it a shame that you have to listen to those people. Imagine actually listening to what people have to say!

Senator Murray: This is a lot of sober second thought. There was a very great deal of repetition in the consideration of that bill. As I have pointed out, there was much opportunity for the Senate Transport Committee to have conducted a study into the transport bill.

With regard to the presentation of legislation in this place, my friend is aware that there is a problem with presenting money bills here. We cannot do it. So far as other bills are concerned, the tradition has been that complicated but non-

controversial legislation is frequently introduced in the Senate rather than in the other place. Unfortunately, much of the legislation has been complex, is also controversial, or is in the category of money bills. So, the government has chosen to proceed in the traditional way through the House of Commons first, and then in the Senate.

NATIONAL DEFENCE

FEASIBILITY STUDY OF "SNOWBIRDS" VISIT TO NATO ALLIES—REPORT OF SPECIAL COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. Paul C. Lafond: Honourable senators, the Special Committee on National Defence has the honour to present its third report, respecting the feasibility, logistics and merits of a visit by Canada's air demonstration team, the "Snowbirds", to our NATO allies in Europe in the near future. I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

• (1420)

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 1618.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Lafond: Honourable senators, as far as I am concerned, the report is self-explanatory and I have no further comment to make on it. However, since it is a report on a study resulting from a motion of Senator Bosa, perhaps it should be put on the Orders of the Day for the next sitting to give Senator Bosa an opportunity to offer his comments.

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

BUSINESS OF THE SENATE

Hon. Orville H. Phillips: Honourable senators, I move that the Senate do now adjourn.

Hon. Duff Roblin: Honourable senators, before the question is put, I rise on a point of order.

I am told that I am now to be a member of the Standing Senate Committee on Transport and Communications for a short time to replace one of my colleagues. I would like to address a question to the chairman of that committee, Senator Langlois.

When is it the intention of the honourable senator, who is chairman of the Transport Committee, to have that committee meet?

Hon. Léopold Langlois: The committee will probably meet tomorrow, but, as yet, a time has not been set.

Senator Roblin: Will we be given adequate notice of the time the committee is to meet?

Senator Langlois: Yes.

Senator Roblin: What does the honourable senator think will be on the agenda?

Senator Langlois: The committee will be dealing with Bills C-19 and C-18.

Senator Roblin: Are any witnesses to be called?

Senator Langlois: That is up to the committee.

Hon. Royce Frith (Deputy Leader of the Opposition): That committee has already unanimously approved a work program.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1617*)

NATIONAL DEFENCE

THIRD REPORT OF SPECIAL COMMITTEE

MONDAY, July 6, 1987

The Special Committee of the Senate on National Defence has the honour to present its

THIRD REPORT

Your Committee, which was authorized to examine the feasibility, logistics and merits of a visit by Canada's air demonstration team the "Snowbirds" to our NATO allies in Europe in the near future, has, in obedience to the Order of Reference of Wednesday, June 17, 1987, examined the matter and now reports as follows:

The Director of Air Doctrine and operations of Air Command appeared before your Committee on June 26th and presented a full briefing on the substance and conclusions of a feasibility study conducted by and for Air Command on a Snowbirds European Tour, which study was concluded and presented in December 1986.

The evidence established that:

(1) The aircraft currently used by the Snowbirds in their operation is incapable of self-displacement from Canada to Europe.

(2) Displacement by other means, sea or air, would incur considerable cost in carrier fees and man-hours in dismantling and reassembling, or crating. ($2-$3 million)

(3) While the performances of the snowbirds are scheduled in advance (2-3 years) in Canada and North America, the organization of a series of similar performances in Europe would require a similar period to arrange for suitable sites, suitable fuel availability, co-ordination of schedules with appropriate aeronautical events and sometimes liaison in unfamiliar language in host countries.

Your Committee agreed that no further testimony seemed to be required.

While agreeing fully with the merits of such an initiative from a public relations and goodwill aspect, in view of the pressures currently applied on DND funding and manpower, your Committee is of the view that it would be unwise to recommend or to pursue this undertaking at this time.

Should, however, at some point in the future, Canada's air display squadron operate aircraft capable of self-displacement across the Atlantic, the suggestion should be reviewed.

Respectfully submitted,

PAUL C. LAFOND
Chairman

APPENDIX "A"

List of witnesses

Friday, June 26, 1987

From the Department of National Defence:

Brigadier General Jean Véronneau,
Director General,
Air Doctrine and Operations;

Major Richard Cyr,
Directorate of Air Operations and Training.

THE SENATE

Tuesday, July 7, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

PATENT ACT

BILL TO AMEND—REPORT OF SPECIAL COMMITTEE PRESENTED AND ADOPTED

Hon. M. Lorne Bonnell, Chairman of the Special Committee of the Senate on Bill C-22, to amend the Patent Act, presented the following report:

Tuesday, July 7, 1987

The Special Committee of the Senate on the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, (formerly entitled the Special Committee of the Senate on the subject-matter of the Bill C-22), has the honour to present its

FIFTH REPORT

Your Committee, to which was referred the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, reports that at its meeting of today, 7th July, 1987, the Committee resolved that it would report the Bill C-22 to the Senate no later than Monday, 10th August, 1987.

Respectfully submitted,

M. LORNE BONNELL
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Bonnell: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(*e*), I move that this report be taken into consideration now.

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

Hon. Senators: Agreed.

Senator Bonnell: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I ask permission to say a few words at this time concerning this motion.

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

Hon. Senators: Agreed.

Senator Bonnell: Honourable senators—

Some Hon. Senators: Hear, hear!

Senator Bonnell: —Bill C-22 seems to have caught the eye of the Canadian people. It seems, finally, to have caught the eye of Senator Flynn.

Senator Flynn: You have for a long time.

Some Hon. Senators: Hear, hear!

Senator Buckwold: That is only when he opens them.

Senator Bonnell: I would be more than pleased if, during my few remarks this afternoon, Senator Flynn would restrain himself in order to hear me out.

An Hon. Senator: He cannot do it.

Senator Barootes: Forget the personal remarks and get on with it.

Senator Bonnell: If Senator Barootes wishes to say a few words, he can adjourn the debate.

In the meantime, honourable senators, I would like to say that just this morning the Special Committee on Bill C-22 studied this bill during an *in camera* meeting. After discussion, it was unanimously decided to report the bill no later than August 10. Honourable senators, that will mean that we will have to work many hours during the next several weeks. Members of this committee have said that they are prepared to do so to try to facilitate the passage, the rejection or the amendment of this bill.

We have been told by the leadership of this house that it is important that the bill pass quickly. We have yet to hear the reason why, but we have invited the minister and his staff to appear before the committee when the Senate rises today. We will ask the minister that question this afternoon.

Let me tell honourable senators that in the view of the committee there are several aspects of this bill that need further study. I will list some of those things that we think are important. First, we have not as yet done a clause-by-clause study of this bill. We would like to do such a study and look into the detailed meaning of each clause of the bill and how it will affect the price of drugs for the consumer, how it will affect research in this country, how it will affect the development of the drug industry in this country, and how it will affect costs to the provinces. The committee is very interested in the cost of this legislation to the consumer. We have found in our hearings that the bill will cost the Province of Ontario, for example, $1 billion over the next ten years. If that is the case, they do not really know where they will find those funds. We heard from the generic drug people that the cost of this bill to the consumers could be exorbitant. We heard from Dr. Eastman that the cost was up to $211 million in 1985. What

will be the cost in 1987, when the new generic drugs have come on to the market? What will happen when the 40 new drugs from the pipeline come onto the market? How many millions of dollars will that cost the Canadian consumer?

We have heard that many drugs come into Canada and, because of the Health Protection Branch study, which I think most members of the committee felt was important, that it takes four to six years for the department to put its approval on these drugs. We would like to hear from the department why it takes so long in Canada to put a stamp of approval on some of these drugs. The committee was also told by many groups across the country that the Price Review Board is unconstitutional, that the federal government has no jurisdiction to put price controls on these drugs, as it would do under the terms of Bill C-22. We have received letters from people who understand the law better than I do to the effect that there is a possibility that this legislation could be constitutionally *ultra vires* as far as the Price Review Board is concerned. We have been told by many groups across the country that the Price Review Board has no teeth. Therefore, in the committee's opinion, we should see whether the board has any teeth, and we should look into the possiblity of strengthening the powers of the board.

There are many things about this bill that, in the view of the committee, need further study. However, the committee felt it was not necessary to travel to Calgary, Montreal or Vancouver, as was suggested by the Leader of the Government the other day. So, we had not made that decision to travel outside of Ottawa.

● (1410)

Let me say that one of the major concerns of the committee is the cost that will be imposed on the provinces, and the cost to the provinces of those pipeline drugs when they are taken off the market. Another concern is related to the retroactivity aspect of this legislation. Certain drugs would have to come off the market, because the legislation is retroactive to, I believe, June 1986. The fact that the legislation is retroactive is of concern to some of us; but there does not appear to be any real need to rush the passing of this legislation, because it is retroactive anyway.

For example, let me tell honourable senators some of the concerns of the Province of Prince Edward Island. The government believes that Bill C-22 may not be the right answer. It is its opinion that a better balance should be found. The Province is of the view that the bill would lead to higher drug costs, which could have a dramatic and adverse effect on programs which serve senior citizens.

The Government of Prince Edward Island felt that increased drug costs would also affect health care costs in general and would produce additional cost pressures which it could ill afford. Prince Edward Island noted that the existence of the $100,000 transitional fund is Ottawa's recognition of the inevitability of increased drug costs.

The Government of Newfoundland and Labrador expects that the bill will result in higher drug prices. It concluded that the net effect of the bill would be higher drug prices for all consumers.

[Senator Bonnell.]

Hon. Jacques Flynn: That is not something new. That is not something that you did not tell us in your report, when you completed your travel across the country. You are repeating, for the hundredth time—

Senator Hastings: Listen!

Senator Flynn: Honourable senators, I rise on a point of order—

Senator Hastings: You did not say that.

Senator Guay: What is your point of order?

Senator Flynn: I did not say that, but it was quite obvious. I am asking whether he is dealing with the report of his special, his very special committee made to the Senate some two weeks ago. That is what he is repeating.

Senator Guay: It is nice to hear it.

Senator Hastings: It bears repeating.

Senator Flynn: You would like to hear it again?

Senator Guay: Certainly.

Senator Flynn: I don't know why they did not put Senator Guay on that committee. You would have been a great asset. You are pretty good.

Senator Guay: Will you repeat it, please? I can't hear you.

Senator Bonnell: Honourable senators—

Senator Flynn: I have not got your voice.

Senator Guay: You haven't got a voice.

Senator Bonnell: Honourable senators, I am afraid that Senator Flynn did not hear my request at the beginning. Will he please sit in his seat and listen?

Senator Flynn: I rise on a point of order.

Senator Bonnell: What is your point of order?

Senator Flynn: Will you accept that you are dealing with something that we have dealt with before, and that the present report deals only with the time limit that the committee has accepted to report the bill?

Senator Guay: It is for those who were not here.

Senator Flynn: Senator Guay, you are certainly not going to repeat everything for senators who do not attend.

Senator Guay: I can hear you loud and clear.

Senator Flynn: You are very noisy.

Hon. L. Norbert Thériault: Honourable senators—

Senator Flynn: We know where you stand, Senator Thériault. You have been against the bill since the beginning. You want to delay and delay. But that's all right; I don't mind that.

Some Hon. Senators: Order!

Senator Flynn: I did not intervene. Senator Thériault intervened.

Senator Thériault: Honourable senators, on a point of order, was Senator Flynn not in the house earlier when my colleague, Senator Bonnell, asked for unanimous consent to speak?

Senator Flynn: Yes, to deal with today's report, not the report of two weeks ago.

Senator Thériault: You could not take it then.

Senator Flynn: Don't be stupid.

Senator Thériault: I would be like you if I were.

Senator Flynn: I am satisfied that you are not like me.

Senator Bonnell: Honourable senators, I cannot understand my honourable friend, Senator Flynn.

Senator Guay: Nor can anyone else!

Senator Flynn: Certainly not you.

Senator Bonnell: I have presented a very important report, and I am trying to tell honourable senators that we are trying to rush this study—

Senator Flynn: We have heard that before.

Senator Bonnell: —the issues that have come before the committee and the concerns of the committee.

One of the issues is cost, and different groups have presented to us their concerns in this area. One of the areas involving cost that has been presented to us is cost to the provinces. If Senator Flynn has no concern for the provinces—

Senator Flynn: Come on!

Senator Bonnell: —that is up to him, but I can tell you that the committee is concerned, as I am concerned—

Senator Flynn: I know what your concern is!

Senator Bonnell: As I say, the committee is concerned. Members of the committee listened very attentively, as we travelled across the land. The Government of Newfoundland and Labrador expects the bill to result in higher drug prices. They concluded that the net effect of the bill would be "higher prices for drugs to all consumers, higher premiums for those enrolled in drug programs, and no significant development or increase of pharmaceutical-related manufacturing and/or research work for Newfoundland and Labrador." Any changes to the compulsory licensing system should take the Eastman report recommendations into account. The Yukon government appeared before us, and they feel that the bill is not "in the best economic or health interest of Canadians." They questioned why health care dollars should go to support already profitable multinational drug companies, and in its view serious consideration should be given to adopting the Eastman report or limiting exclusivity to those companies which are carrying out the synthesis, manufacture and compounding of drug products in Canada. The Yukon government noted that it would not benefit from the PMACs research and development commitments.

The Government of New Brunswick, in commenting on the current Patent Act, asked, "Why change a system that works so well?" It also noted that the Canadian system is viewed by many in the United States as a model to emulate. New Brunswick estimates that the bill would add $2 million annually to its drug expenditures. The effectiveness of the Drug Prices Review Board was also questioned by New Brunswick. That the board does not have the authority to investigate and control the prices of generic drugs was viewed as a major weakness in the board's powers. The province was particularly concerned that "generic manufacturers may attempt to rectify lost future anticipated revenue due to the delayed entry of new generic products by increasing prices substantially." The Government of Ontario believes—

Senator Barootes: You have missed out Quebec as you come west.

Senator Bonnell: I am coming to Quebec.

An Hon. Senator: You shouldn't have said that.

Senator Bonnell: The Government of Ontario believes that Bill C-22 could increase Ontario Drug Benefit Plan costs "to the point where this important health care benefit in Ontario could become financially untenable." That is the word they used, "untenable." The total cost of this bill to taxpayers might reach "$1 billion over ten years."

Senator Flynn: Or over 50 years.

Senator Bonnell: Ontario also noted that the bill is expected to add to the costs in other less obvious ways, such as increased cost to provinces to monitor drug prices, to make submissions to the board and to challenge and defend board decisions.

• (1420)

Ontario also questioned the quality of the promised R&D expenditures. In Ontario's evaluation, the federal government has overestimated the benefits of Bill C-22 and, to a great extent, underestimated the bill's associated costs.

With respect to Manitoba, the Manitoba government believes that Bill C-22 will result in, and I quote:

> . . . a substantial increase in the cost of drugs to Canadian consumers and provincial treasuries.

To Manitoba the bill penalizes the:

> . . . generic drug industry and rewards foreign owned manufacturers.

With respect to PMAC's R&D commitment, Manitoba said:

> We do not see any guarantees . . .

In 1986 Manitobans saved $14 million by using generic drugs. The Manitoba government has calculated possible price increases resulting from Bill C-22 of over 400 per cent in the next ten years, and the cost of delaying generic drug production at over $1 billion.

Honourable senators, let me tell you now about British Columbia. I received a letter dated June 17, 1986, from Mr. Stephen Rogers, Minister of Intergovernmental Relations, which said:

> The Government of British Columbia continues to be of the view that the concerns it raised earlier have not been satisfactorily addressed in Bill C-22.

Therefore, honourable senators, let me tell you what concerns they raised earlier. In a letter addressed to the minister, Mr. Andre, and signed by the Minister of Health for British Columbia, it says:

> The proposed amendments are of significant importance for British Columbia with respect to pharmaceutical costs and pharmaceutical research and development.
>
> I still have some serious concerns with respect to increased pharmaceutical costs, Federal compensation, and the amount and locale of increased investment in pharmaceutical research and development. Therefore, I would appreciate the opportunity for further consultation and further information with respect to these matters. Accordingly, I am hopeful that I will have the opportunity of discussing the proposed amendments to the *Patent Act* with your Colleague . . .

There was also a letter from the former British Columbia Minister of Health saying:

> I am also concerned that proposed federal compensation would not be adequate. It is my view that the present compulsory licensing provisions of the *Patent Act* are effective in moderating pharmaceutical prices and ought to be retained.

Honourable senators, that is British Columbia.

With respect to the other provinces, let me say that we wrote to each province and each territory and invited them to appear before our committee. The provinces from whose opinions I quoted either appeared before the committee, sent briefs to the committee or sent letters. Only one of those provinces appeared before the House of Commons, and that was the Province of Manitoba.

The other day, I understand, in my absence, the Leader of the Government in the Senate said that the Province of Quebec appeared before the committee. To the best of my knowledge, honourable senators, the Province of Quebec never appeared before our committee, and neither did the Province of Saskatchewan nor did the Province of Alberta.

Senator Barootes: Didn't the Director of the Drug Committee from Saskatchewan appear before the committee?

Senator Bonnell: The Director of the Drug Committee might well have appeared, but was he representing the Government of Saskatchewan? As far as I understand it, if he was from the Drug Committee, he was not supporting the bill. As I understand it, none of those provinces sent a government representative to the committee.

Senator Barootes: Whom did you think he was representing, then?

Senator Bonnell: Do you think he was representing the Government of Saskatchewan by himself?

Senator Barootes: He was representing their viewpoint.

Senator Bonnell: If that is the case then the Province of Saskatchewan is against the bill.

Senator Barootes: That is not so.

[Senator Bonnell.]

Senator Bonnell: Let me say that to my knowledge no province appeared to support this legislation; not even the Province of Quebec.

Some Hon. Senators: Oh, oh!

Senator Flynn: Come on!

An Hon. Senator: Tell the truth!

Hon. Michel Cogger: Would the honourable senator respond to a question?

Senator Bonnell: Yes, I will permit a question.

Senator Cogger: Would Senator Bonnell not agree that when we were sitting in Quebec City, on June 12, the Minister of Industry and Commerce, the Honourable Daniel Johnson, held a press conference urging the Senate to go ahead with this legislation? His communiqué, issued at his press conference, was later filed with the workings of the committee. That is part of the record, senator, do you not agree?

An Hon. Senator: They did not appear.

Senator Phillips: You were on the bus, then!

Senator Bonnell: Honourable senators, I do not disagree with that. If the premier, or the minister, or someone held a press conference and disagreed—that is possible.

Senator Flynn: Of course it was before the committee in Quebec City!

Senator Bonnell: If they filed their report with the committee, that is true, it is tabled. But there was no one there on behalf of the government, as I understand it, to present a brief or to—

An Hon. Senator: Be fair!

Senator Bonnell: —or to table a brief themselves.

Senator Flynn: He hears only what he wants to!

An Hon. Senator: He hears reform; he wants reform!

Senator Bonnell: Honourable senators, let me tell you—

Senator Nurgitz: Very judicious!

Senator Bonnell: —that this piece of legislation that is before us today—

An Hon. Senator: What is that word?

Senator Bonnell: —is of great concern to our Canadian people; there is concern expressed by many groups.

I will not take any longer on this debate, because I know that we want to get on with other motions, but, if you wish, I can take longer. In fact, if you want me to, since Senator Flynn likes to hear more—

Senator Flynn: No I don't! I stand on a point of order again. I will ask the Chair to rule on the irrelevancy of your speech.

Some Hon. Senators: Oh!

Senator Flynn: If the Chair says that it is relevant, you will hear something from our side.

Senator Bonnell: Honourable senators, I am trying to tell you the importance of—

Senator Flynn: Yes, you are trying to, but you are not succeeding!

Senator Bonnell: Well, I did not succeed with you, I will admit, but I have been trying for years to tell you something.

Senator Flynn: You succeed with those who will applaud anything, like Senator Stollery, for instance, who finds you interesting, but not other people.

Senator Bonnell: That is good; I will read some more, then.

Senator Stollery: Yes, I do—very informative!

An Hon. Senator: Keep it going, Senator Bonnell!

Senator Bonnell: Let me read to you, honourable senators, what I have received over the weekend. First, there is a telegram which was forwarded to me by the Honourable Guy Charbonneau, Speaker of the Senate. It states:

> We urge that any changes to the Drug Patent Act result in lower, not higher, drug prices.
>
> Margaret Mitchell, President, Vancouver and District Public Housing Tenants Association.

I will read the next one to you, just to show you the concern of people. It states:

> In light of the delay to make a decision on the Drug Patent Act please let us encourage you to reject Bill C-22 as a regressive step—

Senator Flynn: Make up your mind!

Senator Bonnell: It goes on:

> —for our three million members leading to higher drug prices and serious loss of Canadian jobs.
>
> Edith Johnston, Chairperson, Ontario Health Coalition, 1901 Yonge Street, Toronto, Ontario.

Let me read the next one to you. It states:

> 650 member Prince Edward Island Nurses Union strongly opposed to Bill C-22, An Act to amend the Patent Act (1969).
>
> Urges Senate Committee and Senate of Canada to take necessary action to assure its defeat.
>
> PEI Nurses Union President Sandra MacLean, Box 1284, Charlottetown, P.E.I.

Let me read the next one to you, Senator Flynn.

Senator Flynn: Of course I know what you are saying. Come on!

Senator Bonnell: It states:

> The Special Committee of the Senate on Bill C-22 is to be congratulated on the hearings which allowed so many individuals and organizations to be heard on this important subject. We urge you, at second reading of this bill, to support amendments along the lines recommended by the Eastman Commission. We believe such changes would be in the best interest of, and supported by, the majority of Canadians.
>
> Ross Chapman, Ottawa Representative, National Pensioners and Senior Citizens Federation.

• (1430)

Honourable senators, another telegram I received states:

> It has come to our attention that your committee is about to report on its public hearings across the country. Our organization wishes to reiterate our sentiments expressed in our submission regarding our opposition to the proposed amendments. We hope that your committee has the conviction and the resolve to oppose any change in the patented act which permits drug companies the exclusive right to produce drugs for the stated period. There is no public support for such a change in this legislature and we urge your committee to oppose any shift in the present legislature.
>
> Wm A Parsons President, Newfoundland and Labrador Federation Labour

A further telegram states:

> Seniors citizens feel that it is imperative that we amend Bill C-22 in favour of generic drugs. With 2,300 members in our affiliation of PEI we strongly support the Senate committee in their efforts to revoke Bill C-22. We also feel that the Senate committee should not feel pressurized by government in this movement.
>
> Respectfully submitted,
>
> PEI Senior Citizens Federation
>
> Per Mary Sutherland President, 30 Lincolnwood Dr., Charlottetown P.E.I.

Senator Flynn: Honourable senators, I think that what Senator Bonnell is doing now goes beyond the debate. We are dealing only with the report of the committee, which indicates that it will report the bill no later than August 10.

Senator Bonnell is now dealing with the bill itself, and he is contradicting himself all the time, which is not new. I suggest that reading these telegrams, which express views opposing the bill, is completely outside the issue at hand. It is unfair, and it is boring on top of that.

Some Hon. Senators: Oh, oh!

Senator Guay: For you it is.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if Senator Flynn is insisting on the question of relevancy, the issue really is whether or not it is relevant for the chairman of a committee—while speaking to a report in which the committee has decided on a work schedule and work plan and a date by which it will complete its work and report to the Senate—to explain what it is that requires this additional work in terms of the concern in the country for its work.

I can understand Senator Flynn's point, but there is another side to it. It is not simply a matter of stating that there is nothing for the chairman of the committee to say in speaking relevantly to a report of this kind except comments that do not include representations that the committee has received. I do

not really think it is quite as open and shut as Senator Flynn would like to think.

Some Hon. Senators: Hear, hear!

Senator Bonnell: Honourable senators, I appreciate Senator Flynn because he always keeps a little life in the place. However, I have received these telegrams all in support of the work that the committee is doing and encouraging the Senate to stand up and give sober second thought to this bill.

Nonetheless, I will take my honourable friend's advice, and not continue to read them into the record, and conclude my remarks, hoping that honourable senators will adopt the report today so that the committee can report not later than August 10.

I might point out, honourable senators, that our committee will continue its hard work and will report back not later than August 10.

Some Hon. Senators: Hear, hear!

Hon. Efstathios William Barootes: Honourable senators, I rise more in sadness—

Hon. Senators: Oh, oh!

Senator Frith: I never seem to have my violin just when I need it.

Senator Barootes: With your mellifluous voice you can sing a tune.

Senator Frith: I might hum in the background.

Senator Barootes: Honourable senators, my problem is this: We are doing in the Senate, virtually as a Committee of the Whole, the work that I thought was designed for this special committee. We are sitting in here discussing the pros and cons, listening to the submissions, and so on, that I thought our committee would be undertaking in its study. It is only through the benevolence of my friend, Dr. Bonnell, that we are able to hear all these reports again in this chamber.

I would have thought that some of the questions he has raised would be questions for the special committee. For example, I want to point out a couple of things about the urgency of this bill which have been raised over and over again both in committee and here. The question is asked: What is the urgency in regard to this bill? Honourable senators, I am going to read some comments taken from the *Debates of the Senate* whereby, going back to December 1986, it was suggested in this chamber by the leadership on this side that perhaps a pre-study of Bill C-22—obviously a politically controversial bill and one that was going to lead to considerable conjecture and presentations both to the House of Commons and to the Senate itself—would be appropriate. I am reading from page 1584 where Senator Murray stated:

> On every occasion that we proposed a pre-study—and there was plenty of time available for such a pre-study—our proposal was rejected.

Later, Senator Murray stated:

> . . . on numerous occasions . . . we proposed to honourable senators opposite that those bills be pre-studied, and on each occasion our proposal was turned down. I think it is quite unreasonable.

The response from the Leader of the Opposition in the Senate was as follows:

> In the light of the experience we had yesterday, the pre-study will become even more exceptional in the future. Take that as notice.

Honourable senators, it bothers me somewhat that we had six months in which we could have done all the thorough studies that are said to be needed, and, instead, we frittered away our time and waited until the end of May before the special committee undertook its task. I am not suggesting that that special committee has not been doing its job. It has been doing it diligently, and perhaps at times, as they say, it has been overdoing it.

We were assured by the chairman of the committee—and I do not say this in a critical manner—that he was only trying to expedite the work of the government by having the bill studied and reported. Indeed, we have not found that to be the case. Instead, we have seen what has been referred to as "delay, delay, delay."

Honourable senators, I have no quarrel with that. It is the right of this chamber to delay if it feels that is the right thing to do. I have no objections to this committee re-chewing the whole situation again after the hundreds of hours and the hundreds of representations that have been made to us and to the committee of the House of Commons. I have no objection to that being done and, indeed, we have agreed to it. We have agreed to all these items that have been listed by my honourable friend, and I agree that we should be able to undertake further studies—not that I do not have rebuttals for some of those situations, which I have written down, but I dare bore you only with a couple.

One item that was mentioned was the delay that is encountered by drug companies in the Health Protection Branch as they test these drugs before they are licensed to be marketed. Indeed, this is true, it is a delay. But, he suggested, the delay is greater than that which occurs in other countries. The fact is that the Health Protection Branch of the Department of National Health and Welfare in Canada is no slower than those of most other countries and, in fact, in some instances is considerably more rapid. In recent years it has been faster. The four years that it now takes applies not just to generic drugs, as he would imply, but to all drugs, whether they come from a Canadian company, a British, a French, a Swiss or an American company. So, the delay is universal.

● (1440)

But there is something on the safety aspect that should also be said—and, as a doctor, a practising physician, Senator Bonnell should be aware of this—and that is the fact that we in this world have had some very nasty experiences with drugs that are brought on a little too hastily, with laboratory, animal and human tests that have not gone as far as they ought to have gone. Think of the thalidomide situation. This is why

governments and health protection branches are somewhat careful before they allow the marketing of such drugs.

The chairman of the committee also raises the matter of the pipeline drugs being taken off the list. Indeed, they have not been taken off the list. To my knowledge there is only one drug that is available as a generic substitute that has been taken off the list. These are going through the normal procedure that is permissible under the previous act or will be permissible under Bill C-22 if it becomes law.

There are big concerns about dollars, and the honourable senator has quoted all sorts of organizations who fear—and I share their fear—that there may be a rise in the costs of some drugs in the future. As a practising physician, he, of course, is concerned about this. He relates this to health care costs. He relates this to the fact that the rising costs of drugs will affect health care programs in other areas—medical care, hospital care, and so on. We must point out that drug costs in the health field seldom exceed 5 per cent of the total cost. It is not a major item. It is of some concern, but it is not the major item. Hospital costs and doctors' costs are the two largest cost items. However, we agree that these studies should be undertaken—we have agreed and we shall proceed with them.

We request that senators look at the effects that may come about by a delay in the passage of this bill—the effects upon the immediate and long-term future of research and development. I refer to research and development being undertaken by scientists in Canada not only in the pharmacological field but also in the pharmacological departments of the universities, in our hospitals, in our medical colleges and elsewhere. It has been promised and undertaken that research and development in Canada will go from approximately 4 to 5 per cent up to 10 per cent of the gross expenditure of these pharmaceutical companies. I do not care whether they are Japanese, Chinese, Swiss, French or American—I want that kind of research and that sort of scientific work to be carried out by a cadre of scientists in Canada rather than having them educated here and being exported to these other countries. That has been the phenomenon we have been observing in Canada for many years, involving the best brains that we have ever educated. These things trouble me as well.

Let me go on—

Hon. Philippe Deane Gigantès: Would Senator Barootes permit a question?

Senator Barootes: In a moment, sir.

Senator Gigantès: In a moment.

Senator Barootes: I want to know what will happen to the $800 million that has already been pledged—and I use the word "pledged" in its proper meaning—towards the expansion of this kind of work, and I want us to look at what is going to happen to jobs in Canada. Are we going to export them to Pennsylvania and to Johns Hopkins, or are we going to keep some of these people here? Perhaps it would be wise for us to examine things from that viewpoint. Perhaps we could also study that aspect of the matter as well as the other subjects which Senator Bonnell has so excellently pointed out.

Today in our *in camera* meeting a decision was made and we have reported it. I want to tell honourable senators that in a conciliatory move—always being one who is willing to give, willing to be defeated, willing to look at the common good instead of what I can wreak out of a situation as a political gain—I, with the permission of some of my confrères, suggested that we study all of these things, even though some of them are ethereal, esoteric, academic and Cartesian in nature. Even though I think they are not the subject of major, relevant notice, I suggest that we do it all. Let us do everything, if that is the wish of senators, and even add a couple of subjects on the other side of the ledger, but, please, would it be possible for us to contract our work schedule? Would it be possible to work five days a week in this committee, morning, afternoon and evening if necessary? I am willing to do this for the good of this important and complex bill, but I would ask that we do it continuously and see whether in 60 sessions—60 sessions, that is what was suggested—we can go through until July 20 or 24 and report our findings. Whether we reject the bill, suggest amendments or report the bill without amendment, let us do it as people who are really interested in this subject and let us get on with it. Let us contract the time period. I am not suggesting that we omit any of the questions raised by honourable senators and by testimony given to us. I was quite willing to accept the day that has been accepted here of August 10, adding two to three weeks to the time needed. We are there to expedite, to assist the committee, not to obstruct or to delay. That is not our attitude. Let us get the work done.

All sorts of problems have been raised in committee and in this chamber. It bothers me to hear somebody say that although some 3,000 jobs have been promised, and I forget the total sum of money, I think it is well over $1 billion that has been pledged by the pharmaceutical industry for research and development, "there is no guarantee." Honourable senators, there is no guarantee that the end of the world won't come tomorrow—

An Hon. Senator: If you don't sit down, it might!

Senator Barootes: Who guarantees things like that? We must accept the word of somebody. The only things in this world that are guaranteed, to me, are taxes and death. As far as I am concerned, I am quite willing, as Senator Buckwold has mentioned on numerous occasions, to accept the word of rather worthy, well known international or national organizations who say they are prepared to do this. People who pledge that kind of an undertaking usually satisfy it.

As for compulsory licensing and the report of the ex-minister of British Columbia, let me say to my dear friend that nobody in this committee, in this house or in this bill has suggested that compulsory licensing, or, if you will, generic drugs, will be done away with. Compulsory licensing is going to continue, and generic drugs will continue to come on to the market—albeit there may be a short period of delay when this bill is first instituted. But there is no doubt, as that ex-minister of B.C. suggested, about our retaining compulsory licensing. Of course it is being retained.

• (1450)

Honourable senators, I am saying this not in a spirit of refuting or rejecting the statements; nor are my comments of an argumentative nature. I am simply saying that we have a job to do. Cannot we sit down and do it as quickly and as expeditiously as we can—get it done with, and then let us go home and enjoy at least part of the summer as a summer holiday?

Senator Gigantès: Honourable senators, Senator Barootes says that we should trust the word of those who promise that they will invest a certain amount.

Senator Haidasz: Never.

Senator Gigantès: I would like to remind honourable senators that the initial manufacturer of the CF-18 promised a certain level of investment and a certain level of contracts that were going to be given to the province of Quebec—and that level was never attained. The same thing happened with Bell-helicopter. They were talking of three times as many jobs as in reality it turned out they were going to produce.

All it takes for a firm to break its promises is to change its board or its ownership. There should be some provision in the law that would oblige those firms to keep their promises of increasing their expenditure for research from 5 per cent to 10 per cent. Let the 3,000 jobs form part of the legislation. All they have to do is change their board, or be bought out by someone else in a merger, and they do not keep their promise. What is there in the law that will enable us to impose some sanctions to ensure that a new board in one of those companies will keep its word?

Hon. Sidney L. Buckwold: Honourable senators, I have listened with great patience to my honourable friend from our native province. I must admit that we have long winters there and we have nothing much to do except to listen to people like Senator Barootes go on and on, repeating themselves. It sort of helps pass the time of day.

An Hon. Senator: Careful! We'll send you Bonnell!

Senator Buckwold: That would be a pleasure. Senator Barootes started out very vigorously and gradually wound down, as he put most of us to sleep by giving us a long diatribe that we heard time and time again as we sat through the committee hearings. As a matter of fact, I would suggest to Senator Barootes that he does not have to come here any more. I will give his speech, because I know it by heart.

Let us look at the facts. We are now talking about the report of the committee on August 10—which, by the way, we have agreed to unanimously. First, I would like to know what is the urgency on the part of the government. Why has it threatened to bring back the House of Commons and have the members sit there while the Senate deals with this bill—at a cost of literally tens of thousands of dollars? I would like to ask what it costs to bring back the Senate today—and some honourable senators are complaining about the cost of the committee!

It comes down not to the timetable—because if, by coincidence, we had not entered the summer recess at this point, and Parliament went home for a well deserved rest, this debate would have gone on. One or two months would not make any difference. Drug companies will not walk out of Canada over those two months; 3,000 jobs will not be created, because it is a ten-year program; the $1.4 billion of research and development will wait. I am willing to take the word of the companies. I give them the benefit of the doubt. It is not really very much when we look at it over a ten-year period, keeping in mind that 50 per cent of that R&D is paid for by the Canadian government through income tax deductions.

So, when we look at the other side of the coin, what do we get? We get an immense burden on those people who can least afford to pay for those drugs so as to support more R&D, despite the fact that we were told by Eastman that it is not likely that we will have important R&D in this country. I have to add to the statement of my honourable colleague that R&D in Canada is not going to be any less. It was 4.5 per cent before 1969 and it is still 4.5 per cent of sales, because it is there mostly because of the law. Companies have to test certain drugs. They have to go through clinical testing and research. They are not going to pull out. I would like to see that expanded. As I have said before in this chamber, I would also like to see them increase that so-called 10 per cent to what they spend on entertainment and promotion and advertising—namely, according to Eastman, 21 per cent of their sales. If they did that, perhaps we might see some real results.

What I am really saying is that the government has made an issue of this particular bill, trying to use the Senate as a scapegoat—and that bothers me—that we are putting people out of work, that we are delaying the manufacture of new drugs, that suddenly the health of the world will be at ransom because the Senate is still in session trying to do its job.

What we are really looking at is a struggle of a government that is shaky and nervous, concerned about public opinion, and wanting to maintain its authority over Parliament. That is really what we are looking at in this whole debate. They say, "The Senate can't do that to us."

Senator Flynn: A Liberal Senate!

Senator Buckwold: "A Liberal Senate can't do that to us," when all we are doing is trying to maintain the constitutional responsibility which is given to us.

Senator Flynn: I don't believe that.

Senator Buckwold: You don't believe anything—that is by unanimous consent. So, I say to honourable senators, let our committee do its work. Let it go on—because, quite frankly, I think the government has had the biggest break that it has had in a long time, and it does not deserve it. If I had had my way on the committee—and my fellow members are aware of it—I would have brought in amendments long ago. This way the government at least has a fighting chance that maybe something will happen. I would have brought in amendments to one of the worst pieces of legislation that I have seen in a long time.

Some Hon. Senators: Hear, hear!

Senator Guay: Right on!

Senator Buckwold: What I am saying is that what we are looking at is not the smokescreen that we read in the press, of factories pulling out of Canada, of the pharmaceutical people cancelling their plans, and that 3,000 jobs will be lost. That is nonsense. We know it is nonsense and you know it is nonsense. It is a long way down the road. On the other side of the coin, we do not hear what is going to happen to the generic industry, which is a rapidly growing industry, employing many people, with major capital expenditure—and prices, naturally, that are low.

While I was in Saskatchewan over the weekend I received a phone call. On July 1 our Conservative government in Saskatchewan eliminated its present plan for drug care—our pharmaceutical plan. It was a very generous plan. They have done that in order to save money. An individual telephoned me and said, "I really did not know how much drugs cost, because we paid only $3.95, whatever the prescription was, if it was an approved drug, and the government paid the rest." The provincial government has now changed that plan, and one has to pay for drugs up to $125. You then send in your receipts, if you can find them, and they will pay you 80 per cent. The individual who phoned me said to me, "I suddenly realized that the drug I was buying, which was a patent drug, cost $40 per prescription. I can't afford to pay $40. I found out that I could have got another drug at about $20 or $25, which was a generic drug, and I have now asked my doctor for that; but even now I have to pay $20 or $25." He said to me, "Please, go back to the Senate and beg them, plead with them"—as my colleague said earlier—"to hold down the price of drugs." These people are senior citizens, and they are the least able to afford these higher prices. This occurred right in Senator Barootes' area, which is going through an exercise in program slashing at this very moment and where the province still expresses concern about the health of its people. Yet, the provincial government is saying, "Support this bill, because it may bring in a small factory." That is the most shortsighted thinking that I have heard of by a province.

• (1500)

Before I sit down, may I refer to a gentleman whom I have honoured and respected for a long time, Senator Murray. I was not here on Friday when an attack was made—

Senator Murray: Tuesday.

Senator Guay: Tuesday.

Senator Buckwold: Was it Tuesday? Anyway, it was June 30. I had to leave early that day. I am referring to *Hansard* of June 30.

Senator Guay: He had not been in the chamber for a couple of days.

Senator Buckwold: When I read *Hansard*, I could not believe that a gentleman of the nature of Senator Murray would stoop to what I thought was one of the most scurrilous kinds of attack—

Senator Guay: Shame!

Senator Buckwold: —on a committee chairman, as was recorded in *Debates of the Senate*. He indicated that Senator Bonnell was involved in one of the most ignoble, petty and miserable acts because, according to the record, a legislative assistant was thrown off the bus. I do not know of anybody being thrown off the bus, and I really do not like having my chairman referred to in those terms. Nor do I like such statements as "His conduct of that committee was not such as to bring much credit on the Senate or on the committee or on himself."

Senator Bonnell has not said a word about these statements. That is the kind of gentleman he is, but I am not a gentleman, and I do not like to take those kind of quips. I really do not like it, and I think an apology is due to the fine person who is chairman of our committee and who, even in the words of Senator Barootes, did a very good job going across the country, working assiduously and trying to hear the points of view of citizens of this nation. I find the whole matter very disconcerting. To me it is almost like the snarling of a politician at bay when suddenly, I presume, colleagues in the cabinet are saying, "What's the matter, leader? Are you not able to control your Senate?" I do not think that it is the kind of thing that Senator Murray would be proud of. I am sure that it is not. I hope that an apology will be made in the spirit of this house to a committee chairman who has worked very hard—

Senator Flynn: He has done a very good job of stalling, you mean.

Senator Buckwold: —to bring in a committee report on a very important subject to the Senate.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall not delay the Senate more than 60 seconds, in response to the invitation of the Honourable Senator Buckwold, to say that what I had to say on Tuesday evening was stated not in any personal animus toward the chairman of that committee, because I bear neither him nor anyone else here any personal animus, but I take the strongest objection to the way in which the business of that committee was conducted under his chairmanship for the reasons I outlined in my speech on Tuesday evening.

Senator Guay: That only makes it worse.

Motion agreed to and report adopted.

TRANSPORT AND COMMUNICATIONS

SEVENTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Léopold Langlois, Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, July 7, 1987

The Standing Senate Committee on Transport and Communications has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred the Bills C-18, An Act respecting national transportation, and C-19, Motor Vehicle Transport Act 1986, reports that it believes it can accelerate its work so as to be able to report Bills C-18 and C-19 on Monday, August 10, 1987.

Respectfully submitted,

LÉOPOLD LANGLOIS
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

DISPOSITION OF BILLS C-18, C-19 AND C-22—INSTRUCTIONS TO COMMITTEES—ADJOURNMENT

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, under the rubric of Notices of Motions, I wish to inform the Senate that, pursuant to the deliberations of the Special Committee on Bill C-22 this morning and of the Standing Committee on Transport and Communications, consultations were held between the two parties represented in the Senate. The undertaking that was given by the Opposition is to the effect that, on the understanding the committees will have reported on August 10, the bills involved would be completed in all their stages by the end of that week—that is to say, by 5 p.m. on Friday, August 14.

Senator Frith: What do you mean by "the Opposition"? I thought they were unanimous decisions.

Senator Murray: That was the proposal that was made and accepted. Accordingly, I move, with leave of the Senate and notwithstanding any rule of the Senate:

> That the reports of the Standing Senate Committee on Transport and Communications and of the Special Committee of the Senate on Bill C-22, undertaking to report Bills C-18 and C-19 and Bill C-22, respectively, to the Senate not later than August 10, 1987, and adopted by the Senate this day, constitute an instruction by the Senate to the said Committees to report accordingly;
>
> That not later than 5:00 p.m. on Friday, August 14, 1987, every question necessary to dispose of the remaining stages of the Bills, shall be put forthwith and successively, without further debate; and
>
> That, notwithstanding Rule 45, when the Senate adjourns following the adoption of this Order, it shall stand adjourned until August 10, 1987.

[Senator Langlois.]

Senator Guay: At 2 o'clock?

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

Hon. Senators: Agreed.

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

• (1510)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I will not delay the proceedings of the Senate for very long by my comments. I want to reiterate what Senator Murray has stated, namely, that this motion, which I support, embodies a proposal which I made earlier in the day to Senator Murray and which he accepted. As was pointed out also by Senator Murray, this motion is made possible by the reports from the committees, which we have now adopted and which were adopted in the committees unanimously. We have, therefore, concluded what might have been a disagreeable episode with an accommodation that has met the requirements, certainly, of the Senate and of the government.

I was struck by one sentence in the letter sent by the Honourable John A. Fraser, Speaker of the House of Commons, to the Deputy Prime Minister. The sentence which caught my attention is as follows:

> I hope that further negotiations will result in an agreement which satisfies the constitutional requirements of Senate consideration of the bills in question and the Government's concern that it is in the public interest to proceed without undue delay.

Certainly, I was struck by the emphasis which the Speaker of the House of Commons put on the constitutional requirements of Senate consideration of the bills in question. I believe that is a helpful comment to be made with respect to the Senate. It certainly underlines the constitutional role of the Senate.

Also, I accept, of course, the additional comment made by the Honourable John Fraser, namely, that the government does have a responsibility to proceed with its legislative program. Certainly, it was never my intention, nor was it the intention of the Senate itself, to disregard the requirements of the government to proceed without undue delay.

Honourable senators, I will not proceed further, because we are concluding in a spirit of accommodation, except to say that the Senate itself has unanimously established in this instance its own legislative timetable, and I think that is important. I also want to add that the Senate itself has underlined the legitimacy of its role in the legislative process.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I believe that that is important, and that we have concluded altogether—and unanimously—a timetable which is our timetable and which I hope will be

noticed in the country, in the press and in the councils of the government.

Hon. Orville H. Phillips: Honourable senators, if I may, I would point out two things. First, the August 10 date for reporting does not imply that the committees must continue sitting until August 10. They can complete their work earlier if the committees so wish.

Second, the House of Commons will have to be recalled either to deal with amendments or, in any event, with Royal Assent. Perhaps in our consideration on third reading of these bills we might bear in mind that possibility and avoid that process taking place on a Saturday or on a weekend in Ottawa. I am sure honourable senators will extend to the House of Commons every consideration.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO STUDY DOCUMENT ENTITLED "IMPLEMENTATION OF THE 1985 CHANGES TO THE INDIAN ACT"

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report upon the document entitled: Implementation of the 1985 Changes to the *Indian Act*, tabled in the Senate on 29th June, 1987 (Sessional Paper No. 332-452).

Motion agreed to.

QUESTION PERIOD

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Orville H. Phillips: Honourable senators, I have delayed answers to the following questions: On March 10, 1987, a question by the Honourable Sidney L. Buckwold regarding Canada-United States relations; on April 2, 1987, by the Honourable Allan J. MacEachen regarding the Canada-France Fisheries and Boundaries Dispute; and on June 29, 1987, by the Honourable Lorna Marsden regarding Tax Reform—White Paper.

CANADA-FRANCE FISHERIES AND BOUNDARIES DISPUTE

SENATE REPRESENTATION AT NEGOTIATIONS

Hon. Allan J. MacEachen (Leader of the Opposition): I wonder if Senator Phillips would read the answer on the Canada-France fisheries dispute.

Senator Phillips: Certainly.

> Two government members of the House of Commons were included as observers at the fisheries negotiations between Canada and France because of the very special situation. Participation was broadened to ensure that representatives of the fishing interests, both the fishermen and the industry, as well as Members of Parliament who have shown an unusual interest in the question were included.

CANADA-UNITED STATES RELATIONS

CANADIAN STANCE ON ACID RAIN—COMMENTS BY U.S. INTERIOR SECRETARY

Hon. Sidney L. Buckwold: Honourable senators, I wonder whether Senator Phillips would read the response to the question I asked. I presume any question I would ask on U.S.-Canada relations would relate to potash, if I am correct.

Senator Phillips: The answer to Senator Buckwold's question is approximately a page in length and relates to Canada-United States Relations—Canadian Stance on Acid Rain.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the problem is that, according to the order we just accepted, we will not be back in this chamber until August. Recently we have established the principle of having these answers appear in the *Debates of the Senate* and then the senator concerned can read it and raise the matter again the next day if he wishes. However, the next day in this case is many days hence, so perhaps Senator Phillips would read all of the answers. He has read one of them; perhaps he would read the other two, even the answer to Senator Marsden's question, since she is not here right now, in case that gives rise to some interest by senators who are present.

Senator Phillips: I will be happy to read the reply to Senator Buckwold's question.

Senator Buckwold: I must say that I do not recall asking any question on acid rain.

Senator Frith: That is what happens when it takes so long to get an answer.

Senator Buckwold: It may be that it will interest someone else, and I am glad to get the publicity.

Senator Phillips: On the other hand, if you have forgotten about it, I am sure it can wait until August.

Senator Frith: But other senators might be interested in it. Perhaps you will read it.

Senator Phillips: Very well, I will read it.

> The U.S. does not have the principle of Cabinet solidarity, therefore, Cabinet members often give opinions in public that are only individual opinions, not those of the Administration as a whole. Canada will take its lead from President Reagan on acid rain.

● (1520)

> We welcome the announcement made by the President on March 18, confirming a commitment of $2.5 billion

over five years to fund innovative emission control projects and establishing an advisory panel, including Canadian participation, to advise the Secretary of Energy on funding and selection of those projects. In addition, the Presidential Task Force will review federal and state economic and regulatory programs to identify opportunities for addressing environmental concerns under existing laws.

What the Prime Minister has proposed to President Reagan is a bilateral accord with specific targets and specific schedules to reduce the transboundary flow of sulphur dioxide emissions into eastern Canada by 2 million tonnes.

During the recent Summit, President Reagan acknowledged, for the first time, in one of his sessions with the Prime Minister, that 50 per cent of the acid rain falling in Canada originates in the U.S. President Reagan said in his address in the other place that "The Prime Minister and I agreed to consider the Prime Minister's proposal for a bilateral accord on acid rain, building on the tradition of agreements to control pollution of our shared international waters".

It was agreed between the two countries that we would begin immediately to discuss the possibility of a bilateral accord that would address the question of specific acid rain causing emission reductions on both sides of the border. We are going to proceed with dispatch and follow whatever progress is possible between two countries in the spirit of co-operation.

Honourable senators, I hope that reply revives the memory of Senator Buckwold.

Hon. Henry D. Hicks: May I ask a supplementary question as a result of that reply? Is it not true that the United States Congress already reduced the $2.5 billion, which is the amount the reply refers to President Reagan as having mentioned, to something like $300 million?

Senator Phillips: I do not have access to the American budget, but I will make inquiries for the honourable senator.

TAX REFORM

WHITE PAPER—TWENTY CONSULTANTS—FEMALE REPRESENTATION

Hon. Orville H. Phillips: Honourable senators, I have a delayed answer to a question raised in the Senate on June 29, 1987, by the Honourable Lorna Marsden, regarding Tax Reform—White Paper—Twenty Consultants—Female Representation.

Hon. Royce Frith (Deputy Leader of the Opposition): Can we hear the answer to Senator Marsden's question, please?

Senator Phillips: Senator Marsden is correct—chalk one mark up for her!

One of the members of the Tax Reform Income Tax Panel was Irene David of Clarkson Gordon. Eleanore Richardson, the other name mentioned by Senator Marsden, is frequently in contact with the Department of Finance, however, she was not a member of either of the Tax Reform Panels.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

CONSIDERATION OF THIRD REPORT—DEBATE CONTINUED

On the Order:

Resuming the debate on the consideration of the Third Report of the Special Committee of the Senate on the Subject Matter of Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, tabled in the Senate on 23 June, 1987.—(*Honourable Senator Bonnell*).

Hon. M. Lorne Bonnell: Honourable senators, some days ago I adjourned the debate on Bill C-22. Perhaps we should now proceed with that debate to get the item off the order paper. I had hoped that the Leader of the Government in the Senate might have stayed in his seat so that I could answer some of his questions of Tuesday last, when he made some remarks in my absence which did not sound becoming, particularly from the Leader of the Government, a man whom I respected; a man who I thought was a maritimer; a man who I thought had feelings for people; a man who I thought understood the needs of consumers; a man who I thought had respect for senior citizens; a man who I thought felt for the aged, the disabled and the crippled; a man who I thought was really concerned about the people of Canada; a man who I thought was concerned about Parliament; a man who I thought was concerned about the procedures of the Senate and its committees; a man who I thought had some respect for his fellow man; and a man who I thought had respect for his fellow parliamentarians. Since he is not present today, I will not reply in kind. I will not say anything bad about him, because it does not behoove me to condemn anyone. However, I must say that I found out that he did not quite merit the respect that I always thought was his due.

Let me say to you, honourable senators—and you will notice that I did not rise on a question of privilege, because I have no desire to debate questions of privilege about my character or about his character; whether I am ignoble, or whether I merit other terms that might be used by some people—that I have put it all down to Senator Murray's being under a great deal of pressure from the government of the day—a great deal of pressure which he is not used to; a great deal of pressure which, as a member who was never elected to a house to represent the people, as such, he has never had to take in the pros and cons of debate. Rather, he has been working with government in premiers' offices and as an adviser to leaders—outside the actual elected body—and he is perhaps not particularly used to the fray of political in-fighting back and forth. So, I am prepared to accept without any rancour the things that he has said about me, if it does his soul good to say those things about a fellow man. But let me correct for the record

some of the things that he said and put on the record the other day.

I hope that the record is correct. He said:

> The Special Committee of the Senate was set up, by the way, with instructions to report by a certain date. It was a bit late,—

Let me take that statement first, honourable senators. The Special Committee of the Senate was set up, but there was no instruction given by the Senate that we had to report by any special date. However, in committee the committee decided that we should try to report by June 16. That was a committee decision, not an instruction of the Senate, as such. I am aware that many such motions of the Senate contain an instruction to report by a certain day. I, as the chairman of that committee, put forward that view, namely, that we should try to report by June 16. But if you remember, honourable senators, when I had the ads ready to publish respecting our travel to the eastern part of this great country of ours, I was delayed because of questions about my budget raised by my good friend from Prince Edward Island. This was not because he was against the committee's going to the great province of Prince Edward Island. In fact, he was there himself. He, as Leader of the Government, had a job to do that day, and he did his job well. I do not bear any grudge against him for that. He adjourned that debate for a week and that held up the budget. Honourable senators, that meant that I had to cancel my hotel reservations, and we had to postpone putting advertisements in the papers for another week. It slowed us down so that we could not hold all the hearings we wanted to in a short period of time.

• (1530)

In order to assist, the committee did not travel to Whitehorse and Yellowknife. We heard the representatives from the territories in Victoria and in Edmonton. We did this to try, to the best of our ability as a committee, to report back to the Senate as close as possible to June 16.

Those of you who are here will remember that on June 16 I did bring in a progress report of the committee. I brought in the final report the following week, on June 23.

Honourable senators, just to keep the record straight, the assertion that the Special Senate Committee was set up with instructions to report by a certain date is not correct. That committee had no instructions from the Senate to report by a certain date.

Honourable senators, on June 30, in the Senate chamber, the Leader of the Government stated:

> I do not wish to be controversial at this point, but I do want to say that in my humble opinion the work of that committee did not represent many of the finer hours of the Senate. There was an enormous amount of repetition and time-wasting and an enormous amount of taxpayers' money spent in an exercise which, frankly, has not produced very much.

Honourable senators, as chairman of that committee, which worked very hard, let me tell you that in almost every city we went to we heard nothing but praise for our committee. We were told by many of our witnesses that our committee was to be congratulated on coming to hear the concerns of the provinces, and that our committee had given them a much better hearing than they had ever been given by the House of Commons. Many of the witnesses said that they could not be heard by the House of Commons, and they were pleased that we had taken the time to give them an opportunity to be heard. If you had travelled with us, honourable senators, you would have been proud of your senators on that committee—of both political persuasions—in the way that they conducted themselves, in the way they represented the Senate, and in the way they listened to the concerns of the people. They listened to consumers' groups, representatives of industry and universities, researchers and others. I am quite sure that if other committees did as much good work as that committee did across the country, we, as senators, could be proud of our committees.

The Leader of the Government went on to state:

> Of course, they could not find time to go to Montreal, where there is some economic interest in this bill and in seeing this bill passed. The committee did, however, get to Quebec City, where it heard from the Government of Quebec, represented by the Minister of Industry and Commerce . . .

Honourable senators, it is quite correct that we did not go to Montreal, but the reason we did not go to Montreal is because we did not go anywhere except to the capital city of each province. Apparently, we are condemned by the Leader of the Government because we did not go to Vancouver, Calgary or Montreal. Honourable senators, if we had gone to cities other than the capital cities where the government of the province and the government of the region was located then why wouldn't we have gone to Saskatoon, Summerside or Victoria, Prince Edward Island? Why wouldn't we have gone to Moncton, Sydney, Corner Brook or Come-By-Chance? Honourable senators, the committee, not I, made the decision to go to the capital cities of the provinces, and that is why we did not go to Montreal, Vancouver, Calgary, Saskatoon or some of the other cities.

Senator Guay: You have forgotten Brandon!

Senator Bonnell: To condemn our committee, which worked diligently and prepared an extensive report, because it did not go to some of the cities of Canada I do not think was a fair judgment by the Leader of the Government. It is unfair to say that we did not do justice to our mandate and that we should not be proud of our committee.

We heard from the Government of Quebec in Quebec City. It is my understanding that the minister of the Quebec government had a press conference somewhere else in town, and that someone on his behalf presented the committee with a brief which was tabled by our committee.

An Hon. Senator: Shame!

Senator Bonnell: The Leader of the Government went on to state:

> Honourable senators, I should mention that it was under considerable duress that the committee agreed to hear La Fédération de l'Âge d'Or, which is the largest senior citizens organization in Quebec with 250,000 members—

Let me say that that organization was given an opportunity to appear, but their representatives did not show up.

Senator Phillips: No confidence.

Senator Bonnell: I do not know why they did not appear, but they did not. It was not because they did not have an opportunity, they had that, but they did not take it.

The Leader of the Government went on to state:

> I am sorry that the chairman of the committee is not present to hear me, because I would have liked to have said this in his presence. His conduct of that committee was not such as to bring much credit on the Senate, on the committee or on himself. The deck was stacked from the beginning, in terms of witnesses. The committee sidestepped Montreal, Calgary and Vancouver, where it might possibly have heard some support for the bill.

Honourable senators, I am just a little old Prince Edward Island medical doctor, and I do not speak French; I do not understand it very well; and I speak better Gaelic. When the committee arrived in La Belle Province of Quebec, I turned the chairmanship over to my good friend and colleague, Senator Cogger. Therefore, if Senator Murray is finding fault in terms of the chairmanship in the province of Quebec, he had better find that fault with his own Senator Cogger.

Some Hon. Senators: Hear, hear!

Senator Frith: We support you, Senator Cogger, not the criticism.

Senator Bonnell: Honourable senators, I never asked a question of a witness in the province of Quebec, I merely welcomed them and turned the gavel over to my colleague. I thought he did a wonderful job.

Senator Guay: The best choice!

Senator Bonnell: He gave all of the witnesses from the province of Quebec an opportunity to be heard. On this occasion the Leader of the Government condemned the wrong man.

Some Hon. Senators: Shame!

Senator Bonnell: Honourable senators, the Leader of the Government said that the deck was stacked from the beginning in terms of witnesses. I would point out that we heard each and every group that wanted to appear before us except for a few who were heard by the House of Commons committee.

Yes, I admit that we heard consumers in Ottawa, we heard consumers in Alberta and we heard consumers in Prince Edward Island. Let me tell honourable senators that these consumers are citizens of this country and they are citizens who are concerned about this bill. These consumers are the people that we went out to hear. It was the people of Canada that we went out to hear in the first place. If I said to those consumers, "I'm sorry, the Leader of the Government in the Senate has said that since we heard from your main office in Ottawa, we do not have to hear from the branch office in Prince Edward Island," I would have to leave the province. I am telling senators that these people are all consumers and that they all have a vote. They will know which way to vote next time if they are scratched off as not meriting to be heard by this government. Are they not to be heard just because they come from Alberta or just because they come from British Columbia? When they came from Quebec, they could come here and say, "Good-bye, Charlie Brown," and they were listened to.

• (1540)

Let me tell honourable senators that I have always had a reputation of listening to the concerns of people. All my life I have been serving the public one way or another. I have never been one of those who turned down senior citizens, the aged, the infirm or otherwise. That is why we heard them all in different areas. The people of Alberta could not come to Ottawa, so we went there. Why would we not hear them? But the Leader of the Government thinks that we should not have heard them. I am glad that he is not looking for any support in Alberta, Prince Edward Island or some of these other places.

Honourable senators, I quote again the Leader of the Government, who went on to say:

> . . . the chairman, Senator Bonnell, in one of the most ignoble and petty and miserable acts I have ever heard of, threw the legislative assistant off the committee's bus and would not allow her to travel with the committee.

Let me tell honourable senators that I have never thrown anybody off any bus, car, bicycle, truck or wagon. That statement is absolutely false. Let me say to honourable senators further that the committees' branch hired a bus for the senators and the staff to go from the airport to the committee meetings. On several occasions when we got on the bus at the airports, the general public thought that it was the limousine bus service to the hotel and came aboard. We would ask them whether they were with the committee, and they, in turn, would realize they had the wrong bus and would leave. I love them—I love people. But when it came to the minister's legislative assistant, she travelled on the bus on many occasions. She never asked me if she could, but she did. I never told her she couldn't, but I did suggest, since Senator Phillips was so concerned about the cost and about spending the people's money—

Some Hon. Senators: Oh! Oh!

Senator Bonnell: —that if the minister's staff wanted to travel with us, that was fine, but maybe they should pay their share of the travel expenses.

Senator Guay: Right on!

Senator Bonnell: There was nobody removed from the bus. That statement, again, is not fact.

Senator Murray went on to say:

> His behaviour as chairman of that committee was shameful, and I will repeat it to his face.

Honourable senators, I have been chairman of many committees and I would venture to say that there has been no fairer, no more unbiased chairman than I have been in my 37 years as a parliamentarian. I say to honourable senators that that was not a seemly remark to be made by someone who I thought was my friend and colleague. But I put his reaction and his statements down to pressure from the government, because the government leader was partially unable to get action where the government thought he should. As a result, he got carried away by his emotions and said things that need not have been said, that should not have been said. I am not going to ask him to apologize or retract, I am just going to let him take it with him. I am quite sure that as time goes on he will understand that that is not the way to act among his confrères in this chamber.

Senator Guay: Especially when they are not here.

Senator Flynn: You are out of order.

Senator Bonnell: Honourable senators, if Senator Flynn would either get up and make a speech or sit down and be quiet, I could continue with my speech.

Senator Flynn: You are still out of order. You don't understand what is relevant.

Senator Bonnell: I understand what is relevant. If you would just sit still and listen for a while, you would understand that I am talking about what is in this report, what is in the report of *Hansard*, what is in Bill C-22, and what the leader of your party said here in my absence. Many statements made by him were not founded on fact.

Honourable senators, in concluding my remarks, I would like to mention some of the concerns that we heard expressed by our witnesses. I think these concerns are important enough to have justified our travels so that we might bring them back to parliamentarians. The National Pensioners and Senior Citizens Federation of Canada stated:

> It is the belief that many seniors will, in the future if the bill becomes law, have to pay much higher prices for all new drugs.

The Royal Canadian Legion, one of the most respected organizations in this country, said:

> All consumers, including the elderly, the sick and the poor, are bound to suffer financially from the enactment of Bill C-22.

The Manitoba Anti-Poverty Organization stated:

> If Bill C-22 is implemented and the drug prices rise, the number of people who will forego necessary medication in favour of other necessities will increase. When a single mother is confronted with the decision of either buying food for her young or medication for herself, the prescription often goes unfilled. Our health care system was founded on the principles of accessibility and universality and these principles should not be negotiated away in favour of higher profits for multinational drug companies.

Hon. Michel Cogger: Would Senator Bonnell entertain a question?

Senator Bonnell: Certainly.

• (1550)

Senator Cogger: Honourable senators, it seems to me that I have lived in Senator Bonnell's back pocket for the past three months. I did indeed travel with him to all those great places; but how is it, senator, that when you report back to this house there never appears to be one single solitary soul supporting the legislation? I was there and I heard it. I do not question the quotes that you have offered. I am not suggesting that those people have not been heard. I would remind the honourable senator of an incident. Do you recall, senator, when in Halifax, hearing from a young lady who, I believe, represented the Cystic Fibrosis Foundation? She gave one of the most moving testimonies that I believe the committee heard. She implored the Senate to pass the legislation promptly, because, as she pointed out to the committee, the only hope she had of her two children living beyond the age of 20 was to have more research and development and better drugs. It was a most moving testimony. What about the dozens of researchers, pharmacists, pharmacologists, doctors, university groups and others? How come that we do not hear about them?

Senator Bonnell: Honourable senators, my friend is correct.

Senator Flynn: About time!

Senator Bonnell: If you had only waited long enough. I am coming to that.

Senator Flynn: It will be the first time.

Senator Bonnell: He got there a little ahead of me. What he said is true. That little girl did come to Halifax and she did tell us about the Cystic Fibrosis Foundation. But she spoke alone. The people I am talking about are those who represented hundreds of thousands of people, groups and organizations.

We heard also from the Consumers Association of Canada, which represents a lot of people. They said that the 1969 amendments had been a success, and the Canadian Consumers Association would prefer to see no change, no increase in drug prices. It said:

> The more we check, the more we find Bill C-22 harms consumers.

In Manitoba the Society for Seniors stated:

> It is imperative that drugs in Canada continue to be subject to a market in which competition keeps prices reasonable. We are concerned that the health services will be jeopardized and in future will ensure multinational companies excessive profits. Generic drugs have saved Canadians millions of dollars and have been part of a sound plan to keep health costs from skyrocketing.

Let me say further that when we went to Quebec City the support for the bill was overwhelming.

Senator Flynn: I was there.

Senator Bonnell: There was strong support except for the consumers organization. In Edmonton we had support from

the universities and researchers—the same as in Saskatchewan. In Halifax, Nova Scotia, we heard from professors who supported the bill as well as from those in research. In Fredericton, New Brunswick, we heard from pharmacists who supported the bill. We heard from many individuals who supported the bill. I believe that most of those who supported the bill did so for one good reason: they wanted what they thought would be more research in Canada; and I believe that the committee, as a whole, felt they had a good viewpoint. I did not hear one of our committee members find any fault with what those witnesses, who were supporting the bill because of research, were saying. Members of the committee said that they, too, supported the research and that there should be more research done in Canada. I believe that all members of the committee, regardless of their political persuasion, supported that view.

Yes, there is that concern, but very few of the people who were involved with research showed their concern about the effect on drug prices. I would not say that they were not concerned, but they did not show their concern so much about the increase in the price of drugs.

Senator Flynn: The buck came very soon.

Senator Bonnell: Honourable senators, I received a brief from the Province of New Brunswick containing some recommendations, which I would like to place on the record. The Province of New Brunswick suggests, first, that the period of exclusivity granted should not exceed four or five years; second, that the patent protection should be linked to a provision requiring Canadian sources of active ingredients; third, that the Price Review Board have no jurisdictional power over generic drugs. This should be addressed. Generic manufacturers may attempt to compensate for lost future anticipated revenue due to delayed entry of new generic products by increasing prices substantially; fourth, the amendments will result in higher costs to provincial drug plans. The provision of compensation to the provinces is inadequate, and no provision is made to compensate after four years; five, there should be a pricing policy for the multinationals' innovative drugs that do not constitute therapeutic advances—commonly known as "me too" drugs—that is 20 per cent below the originator's product.

There is one final comment which may be of interest. The American Association of Retired Persons was invited to make a presentation before the Waxman Subcommittee on Health and the Environment hearings on drug prices held in Washington, D.C., on April 21, 1987. The AARP, the American Association of Retired Persons, is a membership organization representing 25 million Americans aged 50 and over. Reading from the summary of the presentations and questions, it says:

> It was recommended that the United States adopt the Canadian compulsory licensing model as a market-orientated solution to the lack of competition and that medicaid be available to more people.
>
> It was also proposed that medicare be expanded to include prescription drugs in order to accomplish coverage similar to the Canadian system.

That is from an organization representing 25 million Americans.

Honourable senators, I know that you do not want to hear what has happened, but I have all these telegrams from people across Canada supporting this committee of the Senate and telling me what a great job the committee did, despite the fact that the Leader of the Government said that we did not add any honour to ourselves or to the Senate. I have been here now for 16 years, and there has never been a piece of legislation that I know of that has come before this august body that has brought so many letters and telegrams saying, "Keep up the good work. You are our last hope. We depend on you." This is where the Senate is needed and required at a time when we have a large majority of one party in the House of Commons. This is where a sound second chamber is needed, one that represents the regions and the provinces, one that can listen to their concerns and, in turn, can make its own voice heard.

● (1600)

I would like to read all these telegrams, but maybe I can, just for the record, read where they are from and leave out the good things or bad things that they have said. They are all in favour of what we are doing, what the Senate is doing.

Senator Flynn: What are you doing?

Senator Bonnell: We are giving them an opportunity to be heard.

Senator Flynn: Ha!

Senator Bonnell: Giving them an opportunity to be heard, that is what we are doing.

Senator Flynn: You are a joker.

Senator Bonnell: We travelled across this country and we gave the people of Canada an opportunity to be heard in their regions.

Honourable senators, Senator Flynn says that we are joking. Let me tell you that a very important process has been started. It is something that we should do more often when it comes to matters that affect the regions or the provinces. I think we should stand up stronger when it comes to legislation or other government action that affects the regions of this country. What is happening in many cases is that the weaker parts of the country are becoming weaker and the stronger parts are becoming stronger. So, if we do not use our united strength here, as representatives of the regions, and if we do not give them an opportunity, at least, to be heard, then I do not think we are carrying out our mandate of sober second thought in representing the regions of this country.

Senator Flynn: Sober second thought! You have been dead set against this bill since—

Senator Bonnell: I have a telegram here from Robert White, President of the Canadian Auto Workers Union. It says, in part, "I urge you to block the passage of Bill C-22—." Here is

one from Sally Hall on behalf of the Consumers' Association of Canada. She says something to the effect of "congratulations on your excellent work here." Here is another one from Theodora Caroll Foster representing EDPRA Consulting Inc.

Senator Phillips: You should have read it before—

Senator Bonnell: I did not read it before.

Senator Flynn: He only reads the ones that suit him.

Senator Bonnell: She said in her telegram:

> We hope that when submitting your report to the Senate you will convey to the other members of the Senate our opposition to proposed changes in the Patent Act—

Here is one signed by Katherine Shaw.

Senator Macquarrie: What did Ms. Foster say?

Senator Bonnell: Here is one from Sandra Drake, Member, Board of Directors, The Council of Canadians, and it is against this bill. Here is one from Stan Sugarbroad, President, Ontario Coalition of Senior Citizens Organizations, and representing over 300,000 senior citizens of Ontario.

Senator Flynn: If you add them all up, you will probably find that it is more than the population of Canada.

Senator Bonnell: There is one here from Luciano Calenti, Chairman, Canadian Drug Manufacturers' Association. There is one here from Canadian Churches for Global Justice. Here is one from Leslie Dan, President, Novopharm Ltd.

Senator Barootes: Is he for or against it?

Senator Bonnell: The telegram reads:

> We sincerely believe that Bill C-22 in its current form will not achieve significant industrial benefits for Canada and further that it will be harmful to consumers.

Senator Barootes: Does he have a vested interest?

Senator Bonnell: He did not say whether he did or did not. I simply read his name out.

I have one here from William J. Mullen, National Secretary Treasurer, Federal Superannuates National Association. I have one here from Fred Hannington, Dominion Secretary, Royal Canadian Legion. I have one here from W. Hastings, Vancouver, President, Consumers Association of Canada, B.C. branch. This one is from Wayne Easter, President, National Farmers Union.

Senator Phillips: It costs a lot for those telegrams.

Senator Bonnell: I know it does. They spent a lot of money. Here is one from Bernard C. Sherman, President of Apotex. Here is one from Ross Chapman, National Pensioners and Senior Citizens. This one is from Marguerite Chown. Let me read what she had to say to honourable senators so you will know what we heard throughout the country:

> On behalf of the Manitoba Society of Seniors Inc. I wish, again, to thank you and your fellow members of the Special Committee of the Senate for the opportunity on June 5, 1987 to present our brief in protest against Bill C-22.
>
> We appreciate, most sincerely, the courtesy and graciousness with which we were received and the generous amount of time which we were allowed. We are indebted to you because we feel that we have benefitted from your implementations of the democratic process which is giving Canadian citizens a voice in this controversial matter.
>
> We would like to express our concern about the ill-considered dispatch by which Bill C-22 was disposed of in the House of Commons.

That is just one piece of evidence on some of the things we heard. I have more telegrams here, and I could go on.

However, I would like to say a few words about the prices of these drugs. I have here some statistics on the different prices of drugs which were presented to our committee. For example, for the drug Naproxen in 250 milligram capsules, the Canadian generic drug costs $13, the Canadian brand name costs $30 and the U.S. brand name costs $55.20. One hundred tablets of the 4 milligram size of Salbutamol in the generic form costs $8.80, the Canadian brand name costs $13.95, and the U.S. brand name costs $29.31. Those statistics show that because of competition in Canada, even the innovative drugs are cheaper. We have statistics on other drugs such as Cimetidine. One hundred of 200 milligram tablets cost $6.30 for the generic product, $27.54 for the Canadian brand name and $50.87 for the U.S. brand name. Honourable senators, these statistics show the price differential which the provincial governments of Canada are worried about.

● (1610)

Another typical example is a drug called Zantac, which is one of the largest-selling prescription drugs in Canada today. Its sales are around $50 million. There is a generic drug available at the present time called Ranitidine, which is now being prescribed. However, because Ranitidine came on the market since June of 1986, if Bill C-22 passes, this drug will have to be removed from the market. The result of that one drug alone being taken off the market will cost the Province of New Brunswick $1.6 million.

There is another group of drugs, which are called "pipeline drugs", which should come on the market soon. However, because of this legislation, they will be held up for several years. They are drugs such as Tenormin, Trandate, Anaprox, Ceclor, Adalat, Cardizem, Xanax, and others. Those are all drugs that have been used fairly exclusively by a great many patients in Canada.

There is another list of approximately 30 possible generic drugs available such as Halcion, Corgard, Clinoril, Visken, Viskazide, Vibramycin, Voltaren, Orudis, Canesten, Minipress, Sinequin, Monistat, Dalacin C, Beclovent, Beconase, Timoptic, Blocadren, Restoril, and many more.

Honourable senators, one of the things that we heard several times as we travelled around the country appeared also in a letter from Mr. Joseph Ivan, 9 Garrick Road, Scarborough, Ontario. Mr. Ivan apparently wrote to the Minister of Consumer and Corporate Affairs and said:

> I am very disgusted to read in the newspaper that you have THREATENED the Senate "with being in jeopardy" if they veto or delay this so called DRUG LEGISLATION.

We have heard different comments made by different witnesses regarding the disrespect that the minister had for the Senate when he made that statement. However, the minister indicated that he did not mean what he said, and that he had said it with tongue in cheek. Honourable senators, I am inclined to believe the minister when he says that he did not really mean what he said.

Honourable senators, with these few remarks on my part, I move the adoption of this report.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I simply want to say that in all my twenty-five years here in the Senate, I have never seen such abuse of position by a committee chairman.

The bill, as we know, would normally have been referred to the Standing Senate Committee on Banking, Trade and Commerce. However, the Opposition was afraid of the committee's objectivity, and people were selected who were known to be opposed to the bill. We could not have found anyone more determined in this respect than Senator Bonnell, who had been tabling petition upon petition.

Senator Guay: That is not true.

Senator Flynn: Not true? You don't know what you're saying, Senator Guay. Petitions against this bill were tabled here in this chamber by Senator Bonnell. You know that perfectly well. You should have the decency—

Senator Guay: You cannot prejudge the members of the committee, even if you are Senator Flynn.

Senator Flynn: I am talking about Senator Bonnell. He was opposed to the bill to start with, and that is why he was chosen. Today, he is tabling reports on behalf of the committee, reports that are biased, prejudiced and totally lacking in objectivity. That Senator Bonnell should act objectively is absolutely irreconcilable with the position he has taken and the comments he has been making these many months. If he is consistent, he cannot support this legislation. He has to vote against it, instead of pretending to want to consider this bill. He is abusing his position. A person who lacks objectivity to that degree should not accept the duties of chairman of the committee. At this stage, Senator Bonnell should simply resign.

I move the adjournment of the debate.

[*English*]

Hon. Orville H. Phillips: Honourable senators, before the debate is adjourned, Senator Bonnell made reference to the cost of transporting the legislative assistant to the Minister of Consumer and Corporate Affairs. I would like to advise Senator Bonnell that if he, as chairman of the Special Committee on Bill C-22, were to advise the minister of the additional cost, the minister would be happy to pay the bus transportation for that person, including the unfortunate occasion when Senator Bonnell asked the young lady to leave the bus.

[Senator Bonnell.]

Senator Bonnell: Honourable senators, on a point of order, I never asked the young lady to leave the bus. That is not correct.

Hon. Efstathios William Barootes: Honourable senators, before the debate is adjourned, I rise to point out a couple of things that I know my honourable friend, Senator Bonnell, would not want to remain on the record, since they are incorrect or inaccurate. The young lady to whom he referred earlier as a secretary to the minister is, in fact, the minister's legislative assistant. Perhaps Senator Bonnell would like to have that corrected for the record.

I do want to point out that it was one of the officials of our committee who requested that the lady leave the bus, but I believe that she was under instruction from the chairman to do so, and perhaps Senator Bonnell could clarify that for us.

I also want to point out, in the matter of the numerous witnesses to whom Senator Bonnell made reference, that the Special Committee on Bill C-22 heard 130 witnesses in total. Eighty of those witnesses were opposed to the bill in its present form and 50 were supportive. Of the 80 who were against the bill, 32 of those were organizations which had spoken centrally, and then repeated their views at hearings in different provincial capitals. I will not mention them, because Senator Bonnell has brought them to your attention. However, I do want to emphasize that 32 of those 80 who were opposed to the bill were duplications or provincial chapters of federal organizations.

I would also like the record to show that 19 of the people we heard were duplications of national organizations which had previously given evidence to the House of Commons committee. In fact, to be more accurate, 19 of those witnesses were major national organizations, some of whom supported the bill and some of whom wanted amendments made to the bill. However, in our committee we heard those people again giving virtually the same information and being asked, I presume, fresh questions.

In the legislative committee of the House of Commons 46 groups and 98 individuals were heard. The total time spent on the bill was 32 hours in the House of Commons and 87 hours of legislative committee hearings.

We have spent adequate time today in the Senate on Bill C-22. As I have said before, it is virtually a Committee of the Whole, and perhaps we do not need the Special Committee if we are going to do it all in this house. However, in the Senate committee we have spent over 80 hours hearing witnesses, separate from the discussion that has been held on second reading. I plead again that if we are to debate all of this in the Senate and also in committee, one of the two areas of discussion be eliminated. I am not against full and total discussion, but at the right time and at the right place.

• (1620)

I want to point out a discourtesy which I have noticed—and, Lord knows, we have been, back and forth, somewhat less than courteous to each other. In the last few days we have been anxious to find out what the urgency of passing this bill is. It

has been pointed out to us that the minister in charge of this bill has been made available to us repeatedly to come and talk to our committee, yet, we seem to have rebuffed him. Today was the—what shall I say—epitome of discourtesy, as we had the minister waiting outside our committee room, where we were meeting *in camera*, like an anxious bride awaiting the nuptials, and we did not invite him in to hear us. I felt that the least we could have done was point out to him that we were still in committee and we would call him. But, then, when we did go out to see him to make our apologies to him, since he had waited for a considerable period of time—

Senator Guay: He was gone!

Senator Barootes: —the minister had left. I felt that that was unbecoming of us, as a Senate group and as a committee, not to have paid some courtesy to our minister, from whom we expect explanations.

Maybe I am too sensitive about this, as I am sensitive about other things that occur in this chamber, but I do not think that it is necessary for us to criticize the minister, and not even ask him for his opinion when he has made himself available—as Senator Murray pointed out a few days ago and again today—on five minutes' notice.

I understand that we may be seeing him at the close of the hearings today, and I think that that is right and proper if the committee meets after the Senate rises. Am I correct that we intend to have a meeting of the Special Committee now?

Senator Cogger: When the Senate rises.

Senator Barootes: I made some remarks earlier—

Hon. Charles McElman: Would you permit a question at this point to clear something up? Were you speaking of this morning that the minister was not heard, and he was in the hallway?

Senator Guay: Were you aware of it?

Senator McElman: Was it this morning that you were speaking of?

Senator Barootes: Yes, senator, I think he made himself available and was in the hallway, opposite Room 256, this morning awaiting—

Senator Guay: Were you aware of it yourself?

Senator Barootes: Yes.

Senator Guay: Why did you not tell the chairman?

Senator Phillips: I did.

Senator Barootes: The chairman was made aware of it.

Senator Guay: If you were aware of it, why did not you tell the chairman so that he might invite him in?

Senator Barootes: Thank you, Senator Guay. I think that we mentioned it in the committee, but by the time the committee or Senator Bonnell suggested that we ask him in it was just past noon, and he had left by then.

Senator McElman: Are you not aware that the committee was not advised that the minister was there—

Senator Guay: That's right!

Senator McElman: —and that as quickly as it was known that he was there, Senator Buckwold immediately advised the chairman that he was there and suggested that he be asked in. The committee agreed and someone went to bring him in, but he had held his press conference in the hallway and left.

Senator Guay: Right on!

Senator Frith: That is what happened. You are away off base on this one!

Senator Barootes: Senator McElman, I accept that explanation.

Senator Frith: It is not an explanation; that is what happened.

Senator Barootes: Those are the facts, as you say, but I say that he was in the hall. I do not know whether he waited half an hour, an hour or 20 minutes, but he thought that he was going to be called in—

Senator Frith: So, who are you blaming?

Senator Guay: Why did you not call him in?

Senator Barootes: —and he was not called in. I am not blaming anyone in particular, but I am saying that it was a discourtesy on our part.

Senator Frith: Well, then, why are you bringing it up? How can it be a discourtesy if no one knows that he is there? That is ridiculous!

Senator Cogger: Well, he is waiting right now.

An Hon. Senator: Had he been invited?

Hon. Joseph-Philippe Guay: Honourable senators, I feel that if the minister wanted to be heard, the least that he could have done—speaking about his executive assistant or secretaries, as you mentioned a while ago—he could have let it be known to the committee, which was getting together this morning on an organization matter. Why, then, did he not let it be known to you or to the committee immediately when he got there instead of holding a press conference in front of the door, and, as soon as he was through, walking away? Had he let it be known to the chairman or to someone in there, surely to goodness, as soon as he had arrived there, he would have been invited in.

Senator Frith: He was invited in as soon as they knew.

Senator Petten: As soon as they knew.

Senator Guay: Well, he was invited, I am told now, but he had already left.

Senator Marshall: I understand that he is waiting now. Let us adjourn the debate.

Senator Barootes: The fact is that he was not invited in, whether we knew or not.

Senator Frith: What is discourteous in that?

Some Hon. Senators: Oh, oh!

Senator Barootes: I did not expect his legislative assistant to come barging into the room and say, "The minister awaiteth without."

Senator Guay: May I let it be known to you that one of his assistants or one of his executive assistants could have easily let that message be known to the committee as a whole and the chairman thereof. That is the proper procedure for a minister, to let it be known when he wants to be heard. I happen to know, because I went through that and I know what it is like. Had a minister let it be known to any committee that he wanted to be heard then I am sure that he would have been heard—but he left immediately after holding his press conference.

Senator Barootes: He had made it known that he was available to our committee on several occasions, and we have not invited him.

Senator Guay: But not with authority.

Senator McElman: But not by standing in a hallway holding a press conference.

Hon. Gildas L. Molgat: Honourable senators, I want to add a few words regarding the matter of legislative assistants or secretaries from ministers' offices, or whatever you call them, travelling with Senate committees.

I do not know the circumstances in this particular case, but I do know that in the past there have been offers on a number of occasions that this should happen. I think that it is a bad practice. Committees of the Senate are committees of the Senate, not committees of the government.

Senator Guay: Right on!

Senator Molgat: I believe that there should be no members of ministers' staffs attached to Senate committees. We have had that problem previously, for example, with the Joint Committee of the Senate and House of Commons on Senate Reform—and it was with a previous government and a previous Prime Minister. The Prime Minister's Office and the PCO offered us an individual who would travel with the committee. The committee considered it and decided, "No, we are not an organism of the Privy Council Office or the Prime Minister's Office, we are a Senate committee—" in this case, a joint committee— "and we do not want any kind of impression that we are under the thumb of anyone or directed by anyone."

Senator Guay: Right on!

Senator Molgat: Senator Marshall will recall that the Standing Senate Committee on Fisheries had a problem in this regard, where an individual from an organization close to government travelled with us, and it caused us difficulties. I think it should be a standard practice that Senate committees do not have attached to them personnel from ministers' offices, under any circumstances.

Some Hon. Senators: Hear, hear!

Hon. L. Norbert Thériault: Honourable senators, I am grateful to Senator Molgat for pointing this out, because during that three or four week period that we travelled on the committee on Bill C-22 I must honestly tell my colleagues that I was embarrassed that we did not make a move in any place without the minister's staff, who oftentimes were travelling in conjunction with PR men for PMAC, passing out press clippings and press releases to the media, often before our meetings started, and procuring answers from and asking questions of the government members of the committee. On many occasions I was tempted to raise it as a point of order. I am sorry now that I did not, because I agree strongly with Senator Molgat. When a Senate committee is doing a job travelling and meeting throughout the country, it is not a government committee and it is no place for a member of the minister's staff to be.

On motion of Senator Flynn, debate adjourned.

[The Hon. the Speaker.]

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Special Committee of the Senate on the Subject Matter of Bill C-22, to amend the Patent Act and to provide for certain matters in relation thereto, presented in the Senate on June 16, 1987.

Hon. M. Lorne Bonnell: Honourable senators, I could get up and counter-debate all of the points brought forth, and do other things such as telling my good friend, Senator Flynn, where he is wrong again, but there is no sense telling him that, because it does not seem to go past the first layer of the epidermis. Consequently, I will just discuss the second report.

● (1630)

Honourable senators, the second report of the Special Committee on Bill C-22 was presented on June 16, 1987. Because of the constraints in regard to the timetable, and due to the fact that we were a week late in commencing our hearings, we had to ask the witnesses from the Yukon to come to Victoria and the witnesses from Yellowknife to come to Edmonton. They accepted the invitation and that saved our committee the travelling expenses of going to Whitehorse and Yellowknife as well as the accommodation expenses which would have been incurred in those two cities. That allowed us to return to Ottawa quickly in order to present our report to the Senate on Tuesday, June 16, as was the original plan.

While in Fredericton, New Brunswick, the Minister of Health was unable to attend because she had to attend a cabinet meeting. However, since that time she has sent us a brief, on behalf of the people of New Brunswick, opposing the bill.

On June 2, 1987, we were in Victoria, British Columbia, where the Minister of Health and Human Resources of the Government of the Yukon, the Hon. Margaret Joe, representing the people of the Yukon, appeared as a witness and opposed the bill. Also, while in Victoria, the Minister of Inter-Governmental Affairs of British Columbia did not appear as a witness but has since sent a letter, on behalf of himself and the Minister of Health of British Columbia, opposing the bill.

On June 10, in Toronto, Ontario, the committee heard from the Assistant Deputy Minister for Emergency and Specialized Health Services, Dr. Dennis Psutka, who spoke on behalf of the people of Ontario, opposing the bill.

No representatives or ministers of provincial or territorial governments appeared to support the bill.

I thought I should report these facts for the record.

At this time I would like to thank the members who worked so hard on the committee during the last month, namely, Senators Barootes, Buckwold, Cogger, David, Marchand, Thériault and Turner as well as Senators Doody and Frith. I should also like to include other senators such as Senators Petten, Gigantès, Marsden, Bazin, Lucier, Corbin, Simard, Perrault, Nurgitz, Steuart and Hébert who filled in from time to time.

At this time I would like to thank the staff, who worked hard under difficult circumstances, namely, Mr. André Reny, who was the clerk of the committee, and Mr. Denis Bouffard, who acted as committee clerk while travelling. I would also like to express thanks to my research officers, Marion Wrobel and Margaret Smith; secretary, Hélène Bouchard, co-ordinator, Larry Gendron; and messenger, Jacqueline Lambert. Without the help of this staff, it would have been impossible to carry out this tremendous task in such a short period of time. Everything was booked in advance and there were no hold-ups, and witnesses were all given an opportunity to be heard.

Let me say, in closing the debate on this report, that the Senate committee was received well in all the provinces. Most of the witnesses were pleased to know that we had come to their province to hear their views concerning Bill C-22, and most of the witnesses were looking forward to seeing the Senate carrying out its role of giving sober second thought to legislation passed by the lower house, especially at a time when one party holds as many seats as it does and controls the lower house at this particular time in our history. It was felt by many that it was at times like this that the Senate, representing regions of the country, should represent the balance of power as well as representing the country regionally so that those areas with large populations cannot control the destiny of the country as a whole.

With those remarks, honourable senators, I move the adoption of the second report.

Hon. Sidney L. Buckwold: Honourable senators, just before we go to the next order, I should like to mention that although the committee has had some appreciation expressed to it by the chairman of the committee, I would like to extend appreciation to the chairman.

In spite of some of the things that have been said, his really was an example of excellent chairmanship of an important Senate committee. We are appreciative of the leadership he provided, and we wish him very well in the continuing deliberations of the committee, and express our thanks for what he did.

Some Hon. Senators: Hear, hear!

Motion agreed to and report adopted.

The Senate adjourned until Monday, August 10, 1987, at 2 p.m.

THE SENATE

Monday, August 10, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE ALLAN J. MacEACHEN, P.C.

TRIBUTE ON THIRTY-FOURTH ANNIVERSARY OF ELECTION TO PARLIAMENT

Hon. Henry D. Hicks: Honourable senators, before we proceed with the business of the day, may I point out that it was exactly 34 years ago, on August 10, 1953, that the now Leader of the Opposition in the Senate was first elected to the House of Commons and began a career of public service to the people of Canada, and particularly to the people of Nova Scotia—and even more particularly to the people of Cape Breton Island—which I believe has been unexcelled in the annals of our history.

I am sure we all congratulate him on having survived so long and done so much.

Hon. Senators: Hear, hear!

PATENT ACT

BILL TO AMEND—REPORT OF SPECIAL COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. M. Lorne Bonnell: Honourable senators, thank you for that applause. After hearing my report some of you might not wish to applaud quite so loudly.

Hon. C. William Doody (Deputy Leader of the Government): That was applause that was left over for Senator MacEachen!

Senator Bonnell: I see. Honourable senators, the Special Committee of the Senate on Bill C-22 has the honour to present its Sixth Report respecting Bill C-22, to amend the Patent Act and to provide for certain matters in relation thereto, with amendments, observations, recommendations and recognition of dissenting opinion.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 1652.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

[*Translation*]

NATIONAL TRANSPORTATION BILL, 1987

REPORT OF COMMITTEE PRESENTED

Hon. Léopold Langlois, Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Monday, August 10, 1987

The Standing Senate Committee on Transport and Communications has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-18, An Act respecting national transportation, has, in obedience to the Order of Reference of Monday, June 29, 1987, examined the said Bill and now reports the same with ten amendments:

1. *Page 2, clause 3:* In the French version, strike out lines 30 to 36 and substitute the following:

"économique régional et que soit maintenu un équilibre entre les objectifs de rentabilité des liaisons de transport et ceux de développement économique régional en vue de la réalisation du potentiel économique de chaque région;"

2. *Pages 4 and 5, clause 6:* Strike out lines 39 and 40 on page 4 and lines 1 and 2 on page 5 and substitute the following:

"tion 8, of not more than nine members appointed by the Governor in Council, each of whom must, on appointment or reappointment and while serving as member, be a Canadian citizen or permanent resident within the meaning of the *Immigration Act, 1976* and among whom there must be at least one representative from each region of Canada."

3. *Page 5, clause 6:* In the English version, strike ouit line 14 and substitute the following:

"Alberta and the Northwest Territories;"

4. *Page 65, clause 134:* In the French version, strike out lines 16 to 18 and substitute the following:

"Canada s'il en existe plus d'un qui soit susceptible d'être ainsi emprunté dans de bonnes conditions de rentabilité."

5. *Page 77, clause 150:* In the French version, strike out line 45 and substitute the following:

"et commode, de trafic entre les lignes d'un"

6. *Page 78, clause 151:* In the French version, strike out line 42 and substitute the following:

"taire et commode, de trafic entre les lignes"

7. *Page 114, clause 197:* In the French version, strike out line 13 and substitute the following:

"*b*) régir la durée de la validité des licences;"

8. *Page 115, clause 197:* In the French version, strike out lines 38 and 39 and substitute the following:

"*a*) régir la sécurité, la protection, le confort, et la"

9. *Page 117, clause 204:* In the French version, strike out line 29 and substitute the following:

"*a*) régir la durée de validité des licences;"

10. *Page 148, clause 269:* In the English version, strike out line 26 and substitute the following:

"or the *Statistics Act* or;"

Respectfully submitted,

LÉOPOLD LANGLOIS
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Langlois, report placed on the Orders of the day for consideration at the next sitting of the Senate.

[*English*]

MOTOR VEHICLE TRANSPORT BILL, 1987

REPORT OF COMMITTEE PRESENTED

Hon. Léopold Langlois, Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Monday, August 10, 1987

The Standing Senate Committee on Transport and Communications has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-19, An Act respecting motor vehicle transport by extra-provincial undertakings, has, in obedience to the Order of Reference of Monday, June 29, 1987, examined the said Bill and now reports the same with three amendments:

1. *Page 5, clause 8:* Strike out lines 16 to 19 and substitute the following:

"(*b*) have regard to any statement of public transportation policy issued by the Governor in Council after consultation by the Minister with the government of each"

2. *Page 14, new clause 34 (2.1):* Add, immediately after line 12, the following:

"(2.1) After the completion of the review referred to in subsection (2), the Minister shall cause a copy of a report of the review to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report has been prepared."

3. *Page 14, new clause 35:* Add, immediately after line 35, the following:

Annual Report

35.(1) After the expiration of each of the years 1988 to 1993, the Minister shall prepare the report referred to in subsection (2) and shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days that that House is sitting after he completes it.

(2) The report of the Minister shall contain the following in respect of each year referred to in subsection (1):

(*a*) the available statistical information respecting trends of highway accidents in Canada involving motor vehicles operated by extra-provincial bus undertakings and extra-provincial truck undertakings; and

(*b*) a progress report on the implementation rules and standards respecting the safe operation of extra-provincial bus undertakings and of extra-provincial truck undertakings."

Respectfully submitted,

LÉOPOLD LANG&EDLOIS
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

● (1410)

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES RELATIONS

TRADE—REDUCTION OF CANADIAN URANIUM EXPORTS TO UNITED STATES—GOVERNMENT ACTION

Hon. Sidney L. Buckwold: Honourable senators, I have a question for the Leader of the Government in the Senate. We in Saskatchewan seem to be going from one problem to another in our trade relationship with the United States. You will recall that I previously asked a question with respect to problems facing the Canadian potash industry to which I received some non-commital replies. Now our province is faced

with the possibility of a substantial reduction in exports of uranium to the United States.

Uranium is a major Saskatchewan mineral and is produced in large quantities. Saskatchewan produces uranium of probably the highest quality in the world. It is an industry that has meant a great deal to our province. However, in the past few years the industry has been the victim of falling prices. In 1979, I believe, the price of uranium was almost three times what it is today.

The United States, seeking some means of keeping alive their own uranium industry, has, through court rulings, indicated that it is quite possible that uranium imports to the United States—mostly from Saskatchewan—will be reduced from approximately two-thirds of their requirement to approximately one-third. This would constitute a serious setback to an already endangered industry in Saskatchewan. I understand this decision may be further appealed to the U.S. Supreme Court.

My question to the Leader of the Government in the Senate is: What is the federal government doing to protect the interests of Saskatchewan in this situation? I have previously asked this question with respect to the potash industry and some other problems with which we have been faced in our province. I am well aware of the new program to promote western initiatives and the so-called $1 billion that will be available. However, that has nothing to do with this situation. This is a very serious problem, and I suppose what makes it all the more difficult to understand is that at the very time when we are talking about the so-called level playing field and a free trade arrangement with the United States, almost monthly a new punch is thrown at Saskatchewan industry by our friends in the United States.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no information on the matter to which my friend refers. I will obtain a report and advise him in due course.

AGRICULTURE

GRAIN—1987 CROP YEAR—DECLINE IN PRICES—GOVERNMENT RELIEF MEASURES

Hon. H.A. Olson: Honourable senators, I have a question for the Leader of the Government in the Senate with respect to the lower prices farmers are to receive for the 1987 grain crop. I know that the government made an announcement some time ago that they intended to reduce the prices substantially. In fact, that reduction took effect on August 1, which is the beginning of the new crop year. At that time the intial price of wheat was reduced by 18 per cent, and for some grades of barley the price was reduced by 27 per cent.

Honourable senators, just to put this matter into perspective, this means that now, in 1987, farmers in western Canada will be receiving 40 per cent of what they got for wheat ten years ago. What makes it even worse is that that 40 per cent is in 1987 dollars vis-à-vis the value of a 1977 dollar. In other words, in 1977 wheat was selling for approximately $6 total. This year, with these reductions, optimistically the farmers can expect $2.50 per bushel for that same quality wheat.

Therefore, I am asking the Leader of the Government in the Senate if the government is giving consideration, on an urgent basis, to giving some relief from the economic and financial consequences of this disastrous decline in price.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, again, I will ask for a report from the Minister of Agriculture.

Senator Olson: Honourable senators, I can understand that the minister would take it as notice, and I would expect him to say so inasmuch as it might concern specific details. However, surely he can answer today on the principle as to whether or not the government is giving urgent consideration to some relief from this problem that I mentioned. Surely the subject is important enough that he would be aware of it without making inquiries of other ministers.

Senator Murray: Honourable senators, my honourable friend speaks of relief from this problem. The whole range of government policies directed at agriculture, stabilizing the Canadian economy and bringing down interest rates, and so forth, can be said to be successful in bringing some relief to the problems of primary producers in the prairie provinces and elsewhere.

The honourable senator is asking whether there is going to be a specific new income-support program brought in at this time. I can only tell him that if and when there are announcements to be made in that regard, they will be made by the appropriate minister. Meanwhile, I will see what further information, if any, can be obtained from the Minister of Agriculture on the matter that he has raised.

Senator Olson: I have a supplementary question. Honourable senators, can we not give any hope to the farmers of western Canada that the government is giving some consideration to this? We know that the provincial premiers have had a meeting. They had that important meeting in Humboldt, Saskatchewan, I believe it was, and that is now several weeks behind us. They have called this situation urgent and have expressed their views on what ought to be done.

Surely the minister can give us a little hope that they are at least considering the seriousness of this situation insofar as western grain producers are concerned. Can he give some hope?

Senator Murray: Honourable senators, the record of this government with regard to western agriculture is the best indication of our future course. The farmers know that and are very happy to know it.

Senator Olson: Honourable senators, the farmers may know that. They know that they are suffering the worst economic conditions in the last 50 years under this government. If that is the record they are to look at and take some hope from, I can

tell him that he will find out what they think of that kind of prospect.

ABORIGINAL PEOPLES

INUIT OF WESTERN ARCTIC LAND CLAIMS SETTLEMENT—REQUEST FOR INVESTIGATION OF DISBURSEMENT OF FUNDS

Hon. D.G. Steuart: Honourable senators, I would like to direct a question to the Leader of the Government in the Senate. This question is with regard to the land claim settlement arrived at some three years ago by the Government of Canada and the Inuit of the western Arctic. That group was and is still known as COPE—Committee of Original People's Entitlement. It was some three years ago that the government made the settlement, and that settlement was backed up, as you probably remember, by legislation passed by the House of Commons and the Senate.

Approximately a year before the settlement was made, I had been the chief negotiator for the government on this land claim. Due to a very sharp difference of opinion between myself and some of the people negotiating for COPE, mainly a non-native individual whose name is Bob DeLury, I resigned from the position. I was replaced by Simon Reisman, and he finished up the negotiation. I question whether it was successful or not, but he did finish it.

The most serious difference of opinion between myself and those working for the native people was on the question of accountability. I wanted a clause in the agreement and a clause in the legislation that would insist that the government, from time to time, hold those people accountable for the huge sums of money that they were granted by the government in settlement of this claim. The amount of money we are talking about is over $150 million spread over a period of years. The amount of land was over 37,000 square kilometres, and there were a great many other concessions given in response to the COPE claim. Nevertheless, I think it was a very fair claim and a good settlement for the some 25,000 Inuit people.

As part of the deal that was made, a very complicated system of holding corporations was set up to handle this money. Since then I have been informed that Mr. DeLury and some of the other people are still, you could say, running COPE. They are in charge of the disbursement of this money and what is done with it.

● (1420)

I have recently received complaints from the Inuit community, from the former mayor of Tuktoyaktuk, Vince Steen, from the current mayor and from others who hold positions of responsibility in various communities located in the western Arctic. The complaints are that they have received little or no reports on the spending of that money, or that the reports they have received are meaningless. There have been complaints of conflict of interest in that when COPE representatives hired consultants from southern Canada—in fact, from southern Alberta—those consultants recommended that COPE buy into oil wells that, as it turned out, the consultants held major shares in. COPE has also complained that some of the money has been invested in Jamaica, or in some other place in the West Indies.

The "Fifth Estate" television program recently examined the COPE claim. That program raised many serious questions; however, it did not answer any.

I should like the Leader of the Government in the Senate to ask the Minister of Indian Affairs and Northern Development to conduct an investigation into this matter.

I have made preliminary inquiries. The answers I have been given are that this was part of the deal, that the money was handed over, and that the Inuit are to be independent of government. That is all very well and sounds very well, but, personally, I think it is a cop out by the Department of Indian Affairs and Northern Development.

COPE now has control of almost $100 million that has been granted to the members of that organization, and it has also borrowed against the final settlement. That is a huge sum of money. While the government of the day is not responsible for the deal that was made, and is not responsible for the fact that there is no accountability clause in the agreement or in the final legislation—I admit that that was arrived at by the former Liberal government—if this blows up, and if, in fact, there has been mishandling and misuse of this money, then the Inuit community will suffer, as will all Canadian taxpayers.

I think the government does have an ongoing responsibility to look into these complaints. I ask the leader to request an investigation and to provide an answer as quickly as possible.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will convey my friend's representations to my colleague, Mr. McKnight, and report back in due course.

POST-SECONDARY EDUCATION—INADEQUACY OF STUDENT ASSISTANCE PROGRAMS

Hon. Len Marchand: Honourable senators, my question is for the Leader of the Government in the Senate. While he is visiting with his colleague, the Minister of Indian Affairs and Northern Development, on the matter raised by my friend, Senator Steuart, perhaps the leader could consult with the minister on the disastrous education policy that was announced last May. Honourable senators will recall that I raised this matter then and expressed grave concern about what that policy would mean for Indian students this fall.

Just to refresh honourable senators' memories, at that time the minister set out categories for funding. The priority category for funding this fall is that those who were funded last year will receive funding again this fall, those who did not receive funds last year and who apply for funding this year will receive funding, and the rest will receive what is left.

That means that students who graduated last June will not receive funds for any form of post-secondary education this year.

In my home band alone, which consists of 900 to 1,000 members, there are 26 students who will not receive funding for post-secondary education this fall. From talking with mem-

bers of other bands around the country, I have learned that there are literally going to be hundreds, or a few thousand, of students who will not be able to pursue post-secondary education this fall. I call this a disastrous policy.

Such progress as our people, the Métis, the Indian and the Inuit, have made over the past 20 years has been, by and large, related to education. It makes good sense; these people become taxpayers. Maybe you could also tell the minister that once these people get educated they go to work, largely outside the reservation communities, and the taxpayers get back their money within a few years from these students who are leading productive lives.

This policy that he has in place—I do not want to use rhetoric; it is the truth of what is happening in those communities—means that those students will be relegated to welfare and unemployment in those communities. If the minister wants some information, I can take him around and show him some of those communities where there is 50, 60, 70 and even up to 90 per cent unemployment right now. Their way out to a better future is through education.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I recall that Senator Marchand brought these matters to our attention earlier in this session, and I believe that I brought in a report from Mr. McKnight at that time. I do not know how or why he can describe the policy as a disaster when there has been such an enormous increase in the amount of money spent by the government in this field and, as he himself acknowledges, I believe, an enormous increase in the number of students who are being educated under the program.

Financial resources are not unlimited, however, and it was necessary for the Department of Indian Affairs and Northern Development to establish some priorities in this field. If he believes that the priorities are unfair or inequitable, or are being inequitably applied, then we could look at that.

In any case, I will speak to the Minister of Indian Affairs and Northern Development, as the honourable senator suggests, and see what further information, if any, I can bring in. Meanwhile, the honourable senator might wish to put a notice of inquiry forward and debate the matter. I will undertake to have somebody reply in a more comprehensive fashion than is possible in the oral Question Period.

Senator Marchand: Honourable senators, I want to say to the Minister of State for Federal-Provincial Relations—and I appreciated his bringing back that report from the minister when I raised this question before—that all the answer did was reiterate the minister's policy. He did not make any changes or reply in any substantive way as to why he was doing what he was doing.

I understand that we have been spending substantial amounts of money. That is the way it has to be. That is the only way out. It will cost money. If he is telling me that he does not want to educate the students, that is another thing, but that is what is happening. I will bet you that most of the students who graduated last year from high school will not be able to go on to any kind of post-secondary education this fall, if my home band is any kind of example of what is going on in other parts of the country.

I have not been able to make many calls, but I have made a number of calls to inquire about this. There is a national meeting going on at the Alexander Band north of Edmonton on August 17, 18 and 19, and there is also a rally in Edmonton on August 16 concerning this matter. Indians from all across the country, including the Northwest Territories—which include the Inuit—are coming to that rally. The rally is related to the lack of funding for those kids who want to go to school this fall.

Senator Murray: Honourable senators, surely the honourable senator does not seriously suggest that the government does not want to educate native peoples. The facts are there. The moneys that have been committed to this, and the numbers who have taken advantage of it, speak for themselves. The honourable senator is not satisfied with the minister's explanation of his policy. It is obvious, then, that some further explanation is in order, and I invite the honourable senator, as I did earlier, to put down a notice of inquiry and we will have a fuller discussion of the matter.

● (1430)

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—CLAUSE 16—STATUS OF WOMEN—GOVERNMENT ACTION

Hon. Lorna Marsden: Honourable senators, on July 30 last the Leader of the Government in the Senate met with representatives of the National Association of Women and the Law, the Women's Legal Education and Action Fund, and the ad hoc Committee of Women on the Canadian Constitution concerning their reservations about clause 16 of the constitutional amendments now being discussed. They subsequently made their representations before the joint committee.

My question concerns the remarks made by a member of the government party—I believe, the chairman of the Conservative caucus in the other place. It has been reported in the press that he said that something will have to be changed in the accord to accommodate the concerns which were raised by women, the concerns which were also put before the Leader of the Government in the Senate. I wonder if the member of Parliament is expressing the opinion of the government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators. We will be content to hear all of the evidence before the joint committee, to receive the committee's report in due course and to discuss it.

Senator Marsden: Honourable senators, as the Leader of the Government in the Senate is aware, there is movement, as there was in previous constitutional amendments, to organize the women of the country around these concerns which appear to have been ignored by all the First Ministers in that report.

Is the Leader of the Government in the Senate then saying that that political organization needs to take place before there will be any assurance that our hard-won equality rights will be kept in the current constitutional amendments?

Senator Murray: Honourable senators, as my friend has noted, together with my colleague, Mrs. McDougall, I met with the representatives of those women's organizations. They made representations to us which they later repeated in greater detail before the joint committee.

They have not produced a legal opinion, as such. On the other hand, the government has legal opinions from other witnesses who appeared before the committee to the effect that the concerns expressed are unfounded.

Without prejudging the case, I repeat that we will be content to wait to hear the rest of the evidence before the committee and to see what the committee reports.

Senator Marsden: Honourable senators, is the leader then saying that his colleague—I believe, Mr. Daubney—is wrong, or that he has been misquoted as having said that he believed something would have to change in the agreement to satisfy the concerns of women?

Senator Murray: Honourable senators, the last time I looked, Mr. Daubney was not a member of the government.

Senator Marsden: Honourable senators, I meant to say, "a member of the government party." I apologize.

Senator Murray: Honourable senators, I would not tax my honourable friend with all of the views of all of her caucus colleagues, and I hope she will not tax me with all the views of mine.

Some Hon. Senators: Hear, hear!

REFUGEES

DISPOSITION OF SHIP USED FOR TRANSPORTATION

Hon. Paul Lucier: Honourable senators, my question is for the Leader of the Government in the Senate. I should like to know the status of the ship that brought the 174 refugees to this country. It is my understanding that the ship is presently located in Halifax.

I know that the Leader of the Government will not have this information available to him right now, but I should like to know where the ship is presently and what will be its disposition. Will it be seized and sold and the money turned over to the Crown, or will it be released back to the owners? What will happen to that ship?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have a better idea of the status of the captain of the ship, who is now a guest of Her Majesty, than I do of the ship. I will have to inquire as to the status of the ship.

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—CLAUSE 16—STATUS OF WOMEN—AVAILABILITY OF LEGAL OPINIONS

Hon. Joyce Fairbairn: Honourable senators, I have a question for the Leader of the Government in the Senate which is supplementary to that asked by my friend, Senator Marsden.

The Leader of the Government made mention of legal opinions which, in his mind, indicate that women's rights would not be abridged in any way by the passage of the accord. Were those opinions made public at any time? Will they be shared with the members of the committee and with the rest of us?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I was referring to opinions, to statements on the matter made before the joint committee by various witnesses from outside government and by the Deputy Minister of Justice of Canada. Of course, members of the committee will have an opportunity to ask questions on this matter of the witnesses who will be appearing over the next two or three weeks. Some of these witnesses are very eminent constitutional lawyers, others represent interest groups, others are eminent public servants, while still others are former public servants and former politicians. I think we should wait to obtain the evidence from all of these people, in particular from the constitutional experts, before jumping to any conclusions on the matter.

I may add that in due course the Committee of the Whole of the Senate will have the opportunity to hear from law officers of the Crown when I appear and from other witnesses that the committee may wish to invite.

NATIONAL PARKS

PAYMENT TO PROVINCES FOR LAND TO ESTABLISH PARKS—GOVERNMENT POLICY

Hon. Gildas L. Molgat: Honourable senators, I direct my question to the Leader of the Government in the Senate. I think many, if not most, Canadians were pleased to learn recently that the South Moresby region of the Queen Charlottes will be preserved as a national park. However, we noted as well that in order for that to happen the federal government will apparently pay something of the order of $100 million to the Province of British Columbia.

It is my understanding that in the past the policy regarding national parks was that the provinces were to assemble the land and turn it over to the federal government at no cost. I believe that procedure has previously been followed in connection with the national parks across the country. Does the South Moresby park, then, mark the beginning of a change in the policy of the federal government? Will the federal government henceforth be paying provinces for land assembled for national parks?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable

senators, I had before me a few weeks ago a detailed breakdown of the federal government's offer to British Columbia on this matter, which breakdown indicated that the offer was worth something like $106 million. I think I should retrieve that information and place it on the record for the benefit of my honourable friend.

Senator Molgat: Honourable senators, I would certainly appreciate getting that information, but the minister has not answered my question on whether it is now government policy to pay provinces for the land that will become national parks. What is going to happen henceforth with other provinces? I understand that negotiations are going on with Saskatchewan, for example, for a park in the southern region of that province. Discussions were under way some years ago in my own province of Manitoba for a park to be established in a region along Lake Winnipeg and the border of Ontario. What is the policy going to be? Can we expect that the federal government will pay us for that land?

Senator Murray: Honourable senators, I am aware of the policy as the honourable senator describes it. How strictly it has been adhered to in the past I am not certain, nor am I certain of how valid his premise is. That is why I have not attempted to answer the question. Once I have satisfied myself on those scores I will address the question.

Senator Molgat: I look forward with pleasure to the answer.

ATLANTIC CANADA OPPORTUNITIES AGENCY

GOVERNMENT INTENTION RE LEGISLATION TO ESTABLISH—MECHANISM TO MONITOR DEPARTMENTAL ACTIVITIES—APPOINTMENT AND COMPOSITION OF BOARD—CRITERIA FOR ACCESS TO PROGRAMS

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I ask the Leader of the Government whether it is the intention to bring in legislation at any point with respect to the Atlantic Canada Opportunities Agency.

● (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, honourable senators, it is our intention to do that in the fall.

Senator MacEachen: The material that was put out at the time of the announcement stated that there was to be established a coordinating mechanism to monitor or coordinate the activities of all departments with respect to Atlantic opportunities. I wonder whether that mechanism has been established, and, if so, what it is.

There was also reference made to the appointment of a board, and I am wondering whether that board has been appointed. Is it to be made up of public servants or private sector people?

Finally, there is another point which has to do with the criteria of eligibility. Have any criteria been established to guide those who wish to make submissions to the agency for assistance?

[Senator Murray.]

Senator Murray: Honourable senators, the Leader of the Opposition will be aware that a number of existing programs—such as the Atlantic Enterprise Program; Enterprise Cape Breton; IRDP grants and loans up to a certain ceiling; the Small Businesses Loans Act, as it affects the Atlantic provinces, the ERDA subagreements which had been administered by DRIE, have been brought under the wing of the agency, and we have been concentrating, in the opening weeks, on attempting to so organize those programs that they will be of maximum effectiveness in the region.

In particular, we have been attempting, I believe with some success, to cut some of the red tape and some of the process so that clients who are applying for assistance under those programs will be able to do so and will be able to obtain assistance promptly.

With regard to the coordinating mechanism in Ottawa, so far I am it; but as time goes on I expect to be able to put in place a group of public servants here who will assist me in carrying out that part of my ministerial mandate and the mandate of the agency.

The board will ultimately be appointed officially by order in council after the legislation has been passed. Meanwhile, it is my intention to appoint the board as a transitional board under ministerial authority, and I hope to have appointed most of them by the end of this week.

I believe that answers all of the Leader of the Opposition's questions.

Senator MacEachen: Honourable senators, the answer given by the Leader of the Government suggests one other question. He said that he expected to complete the appointment process this week. Have any members of the board been appointed up to the present, and, if so, who are they?

Senator Murray: The president and chief executive officer has, of course, been appointed. That is Mr. McPhail. I expect to appoint most of the others in the course of this week.

The Leader of the Opposition also asked about the criteria. I presume he is referring to criteria for gaining access to the $1 billion of new money over five years that has been committed by the federal government to this agency. The short answer to that question is no, because we want to have the advice and active involvement of the board in deciding how best to invest that money in the long-term economic interest of the region.

Senator MacEachen: Honourable senators, with respect to the criteria and the eligibility, I am somewhat confused by the answer given by the Leader of the Government to the effect that there are a number of existing agencies in operation, which he recited. I conclude from his answer that a big part of the job is to make those agencies more effective, and that if a client comes along, he or she might be directed to Enterprise Cape Breton, the IRDP, and existing agencies.

My question really is: Is there an additional source of funding to which a client may go, or does the client go to one of those presently existing sources, possibly with more money—or maybe not? We all know that game. With $1 billion of new money over a five-year period, only God would

be able to tell at the end of the five years what was new and what was old. But I will not press that today.

What I really want to know is whether the $1 billion is going to be funnelled through "new money", funnelled through existing agencies, or whether it is to be funnelled through a fresh agency with new criteria.

Senator Murray: Honourable senators, I welcome the opportunity to confirm that those programs to which I referred—the IRDP, the Small Business Loans Act, Enterprise Cape Breton, the Atlantic Enterprise Program, and so forth—that are being brought under the wing of the agency, will come with their budgets and with the person-years attached to them. They will not be funded out of the $1 billion that has been committed to the agency for the next five years. The $1.05 billion is new money for new programs from a new agency, and whether that agency will want to use part of that money to add on to the existing—and I might say quite rich—incentive programs that apply to Cape Breton, and to the Atlantic provinces generally, is another matter.

Senator MacEachen: So I take it that up to the present there is absolutely no mechanism in place by which a client could go to the agency to get access to the $1.05 billion; that no criteria have been established, no board has been set up, no legislation has been introduced, and all of that will likely happen later in the fall so that access will take place at the earliest in 1988.

Senator Murray: No, honourable senators. First, the "client", as the Leader of the Opposition put it—and I presume the honourable senator is referring to private sector clients seeking to take advantage of various financial incentives—has at his disposal now a variety of programs, and, I repeat, very rich incentives, under the Atlantic Enterprise Program, Enterprise Cape Breton, and so forth.

The Leader of the Opposition is wrong to say that all of this must wait until legislation is passed. I have already indicated that most of the members of the board will be appointed soon—I hope this week—under ministerial authority, and that they will be meeting before the end of this month to begin the discussion of the kinds of programs to be put in place.

I want to emphasize the fact that what we are talking about here are new programs—not necessarily incentives of the traditional kind to the private sector—that are intended to strengthen the private sector in the Atlantic region and contribute to the long-term economic development of the region. Of that $1.05 billion it is perfectly true to say, as the Leader of the Opposition has said, that none of that money has been spent; and none of it will be spent until the board has had an opportunity to consider the best way to spend it in the interests of the long-term economic development of the region.

Senator MacEachen: I think the Leader of the Government has confirmed what I had concluded, namely, that there are existing agencies with existing budgets available to clients. We all know that. With respect to the new agency, it is still in what I might say is its—

Senator Murray: Infancy.

Senator MacEachen: Or even its pre-infancy stage.

Senator Frith: Its gestation period.

Senator MacEachen: Its gestation or embryonic stage. There are to be new programs, but they have not been developed. The board will develop those, and a client today, who finds that the existing programs are not adequate or available to him, must wait for some considerable time to get access to the new programs. That is all I want to know. I do not complain about the reality. It is there, but, certainly, it does not represent much urgency.

● (1450)

WESTERN ECONOMIC DEVELOPMENT AGENCY

NATURE OF GENERAL STRUCTURE—DATE OF ESTABLISHMENT

Hon. H.A. Olson: Honourable senators, I have a supplementary question. Will this so-called new program for western economic development be set up on essentially the same criteria, principles and structures which the minister has just described? He will realize, of course, that we in the Senate do not have the same opportunity to question the minister, Mr. McKnight, directly as we do in the case of the minister for the Atlantic board. However, is the general structure to be similar?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the principle is the same; that more of the decision-making on matters of regional development should be made in the region by people from the region with resources provided by the federal government. That is the principle under which we are operating. I think the big mistake was made previously by my honourable friends when they did away with DREE and created this larger entity called DRIE, under which the regional development effort has been subsumed, if not lost. Now we are trying to find ways to make sure that the battle against regional disparity is carried on in the regions, making maximum use of local leadership, local initiative and local ideas.

Senator Olson: Honourable senators, I have another supplementary question. Could the minister indicate when he believes that the agency in western Canada will be set up and when it will reach the stage where it is capable of receiving and dealing with applications from whomever, particulary the private sector, to get on to some economic enhancement programs?

Senator Murray: Honourable senators, I think that things are off to a pretty good start with the appointment of my colleague, the Honourable Bill McKnight, as the minister responsible, and the appointment of Mr. Bruce Rawson, who is, as my honourable friend knows, an experienced and highly respected public servant, as deputy minister of the office. Honourable senators will also be aware that they intend to proceed quickly to set up sub-offices in Vancouver, Saskatoon and Winnipeg, and the main office will be in Edmonton. So, I believe that the agency will be open for business very shortly.

Senator Olson: Honourable senators, does "shortly" mean some time later in 1987 or some time in 1988?

Senator Murray: Some time in 1987, not in 1988.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have three delayed answers to questions asked on June 29. Honourable senators will not be surprised if events have overtaken some of the answers, and they may appear dated. I shall follow the usual procedure: I shall read the name of the senator who asked the question, give a brief description, and if honourable senators wish me to read the answer into the record, I shall do so. Otherwise, I ask that they be taken as read and printed as part of today's proceedings.

STATUS OF WOMEN

CANADIAN JOB STRATEGY—AVAILABILITY OF FUNDS

Hon. C. William Doody (Deputy Leader of the Government): The first answer is to a question asked by Senator Lorna Marsden, regarding the Status of Women—Canadian Job Strategy—Availability of Funds.

(*The answer follows:*)

The announcement of adjustments to the Canadian Jobs Strategy by the Honourable Benoît Bouchard, Minister of Employment and Immigration, and the Honourable Barbara McDougall, Minister responsible for the Status of Women, will not have increased funds added to the overall Canadian Jobs Strategy budget.

The purpose of the changes is to provide a flexible and creative approach to using the Canadian Jobs Strategy to ensure that the government is helping those most in need of addressing occupational segregation. It is also vitally important to do what works best within available resources. The participation of women in non-traditional occupations and the participation of women who are doubly disadvantaged, for example, women who are immigrants, is of great concern to the government.

The two changes to the Canadian Jobs Strategy announced in Halifax will help women enter non-traditional occupations and will help other women who were previously excluded because of an eligibility criterion.

Thus, the two changes to which Senator Marsden refers, like the other improvements and adjustments made, are strategic in nature, not financial.

EMERGENCIES BILL

GOVERNMENT'S INTENTION RE LEGISLATIVE ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the answer to a question asked by Senator John B. Stewart, regarding the Emergencies Bill—Government's Intention Re Legislative Action.

[Senator Murray.]

(*The answer follows:*)

The government does not at present intend to proceed with Bill C-77 before the fall.

CANADA POST CORPORATION

POSTAL STRIKE—APPOINTMENT OF MEDIATOR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question asked in the Senate by Senator Charles Turner, regarding Canada Post Corporation—Postal Strike—Appointment of Mediator.

(*The answer follows:*)

The Minister of Labour, the Hon. Pierre Cadieux, appointed Mr. W.P. Kelly as mediator in the dispute between Canada Post and the Letter Carriers' Union of Canada on June 28, 1987, following receipt of a joint request made by the parties earlier that same day. Through the efforts of Mr. Kelly, a tentative settlement was reached in the dispute on July 4th. Mr. Cadieux did not respond favourably to a previous request for mediation assistance, made unilaterally by the Canada Post Corporation, which he judged to be premature. Realizing the crucial nature of timing in any application of mediation procedures, the Minister instead appointed Mr. Kelly when he felt that his intervention would be most productive. Subsequent events have served to confirm the wisdom of the timing of the minister's decision in this particular dispute.

ANSWER TO ORDER PAPER QUESTION
CANADIAN PENSION PLAN ADVISORY BOARD

MEMBERSHIP BY FEDERAL CONSTITUENCY

Question No. 22 on the Order Paper—**By Hon. Jack Marshall**

10th June, 1987—What is the list, by Federal Constituency, of all appointments of Members of the Canadian Pension Plan Advisory Board?

Reply by the Minister of National Health and Welfare:

Federal Constituency	*Member*
Ottawa Centre	Mr. Louis Erlichman
Outremont	Mr. Marcel Le Houillier
Etobicoke Centre	Mr. Robert Apsey
Pembina	Mr. Harvey Atkinson
Halifax	Mr. William Black
Vancouver Quadra	Mr. William Y. Crawford
Saint John	Mrs. Starr Dashwood
Ottawa Carleton	Mrs. Geraldine Gilliss
St. John's Coast	Mr. William Harris
Egmont	Mr. Charles Hogan
Saskatoon East	Mrs. Sam Kelley
Timiskaming	Mr. Richard Madsen
Okanagan North	Mr. Royce Moore
Winnipeg-Assiniboine	Mrs. Joan Prevalnig

Perth	Mr. Frank Romano
Calgary South	Mr. Hayden Smith

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Order stands.

Hon. Rhéal Bélisle: Honourable senators, on June 29, 1987, Senator Corbin said in this chamber, and I quote from page 1494 of *Hansard*, the *Debates of the Senate*—

Senator Corbin: Honourable senators, I rise on a point of order. I asked to have the order stood, and I would like to know by what right Senator Bélisle is taking the floor now.

Senator Bélisle: Honourable senators, I think I have as much right to speak in this chamber as my colleague.

Hon. Jacques Flynn: On a question of privilege.

Senator Bélisle: Honourable senators, I will tell him why I am taking the floor today.

Senator Corbin: Honourable senators, I would like to know whether Senator Bélisle is rising on a point of order or a question of privilege, or whether he intends to take part in debate, which it was my right to do at this time.

Senator Bélisle: Honourable senators, if my honourable colleague prefers, I could ask to have this considered as a question of privilege.

Senator Corbin: In that case, honourable senators, we will need proof that it is indeed a question of privilege.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, is that agreeable to Senator Corbin?

Senator Bélisle: I beg your pardon?

Senator Frith: The main thing is whether it is agreeable to Senator Corbin. Is this intervention agreeable to the senator?

Senator Flynn: Honourable senators, that we can read tomorrow.

Senator Bélisle: On June 29, 1987, Senator Corbin stated in this chamber, and I quote from page 1494 of *Hansard*, the *Debates of the Senate*:

> Personally, I said that the bill would be referred to committee. I certainly do not intend to keep the bill in this chamber indefinitely.

Honourable senators, I assume he was referring to his speech on June 17.

That is what Senator Corbin told us. However, after my own speech on the same 29th of June—

Senator Corbin: Honourable senators, on a question of privilege.

Senator Bélisle: Honourable senators, I do not intend to yield to the senator.

Senator Corbin: Honourable senators, Senator Bélisle has not indicated whether he rose to make a speech, to comment on the bill or whether he intended to raise a point of order. As a result, we have two senators speaking simultaneously. He has not indicated whether he was rising on a question of privilege. It seems to me that if we are to observe the rules governing these proceedings, Senator Bélisle should first of all explain why he feels obliged to speak at this time.

Senator Bélisle: Regarding the question of privilege, honourable senators, my reason for speaking at this time is that Senator Corbin wants to hold up the bill indefinitely. In my opinion, I am entitled to give the reason he is using to hold up the bill.

Senator Corbin: Honourable senators, may I say a few words? You are making an accusation, Senator Bélisle, and I think that is unworthy of you.

Senator Flynn: It depends on the nature of the accusation.

Senator Bélisle: Honourable senators, that is what Senator Corbin told us. After the speech I made on the same 29th of June, Senator Corbin, with the unanimous consent of this chamber and without concluding debate on the bill, adjourned the debate again. He had put his name at the top of the list to take the floor on July 6 and 7, but again he postponed his intervention.

Here we are, August 10, and Senator Corbin is again asking that the debate be adjourned.

Allow me to recall the chronology of this debate. In light of his behaviour in the house, I find it somewhat difficult to understand Senator Corbin's statement, which I quoted at the beginning.

Senator Corbin first adjourned the debate on June 2, 1987. On June 17 of the same year, that is 15 days later, he delivered the first part of his speech, which is par for the course. He then told us the second part would be shorter. Since his last intervention, after my June 29 speech, every time he adjourned or postponed the debate.

Today, almost two months after his June 17 adjournment and nearly a month and a half after his statement that he had no intention of stalling the bill in the house, again he wants to adjourn the debate.

What are we to believe? Would it be that his research turned out to be fruitless and that he has nothing else to tell us?

If he has no intention of stalling the bill, as he said, let him provide concrete evidence of that!

I challenge Senator Corbin to prove to us that he does not intend to stall the bill. He ought to make his speech or tell us he has nothing more to add, just so the debate may proceed and we may at long last refer the bill to committee and hear all relevant evidence.

Senator Corbin: Honourable senators, I rise to speak to this so-called question of privilege. In my opinion, there is no question of privilege. It is nothing more than an intervention in a debate. The purpose of this intervention is to make a case based on assumptions, and this, as I told him a few moments ago, is quite unworthy of an honourable colleague since he does not know the reasons why I am not ready or prepared to take the floor today.

He is accusing me of acting in bad faith, with ill will.

I would ask the Speaker to rule whether or not the question of privilege is warranted.

The Hon. the Speaker: Honourable senators, the rule is clear in this respect:

> 27. A senator may speak to any question before the Senate, a question of privilege, or upon a point of order, or upon a motion or an inquiry, or in making a mere interrogation, but not otherwise except with the consent of a majority of the Senate which shall be given or withheld without debate.

Senator Corbin: Honourable senators, with all due respect for the Chair, this does not tell me whether Senator Bélisle had or had not a *prima facie* point of privilege when he raised the matter, and indirectly imputed intentions to me under the guise of a point of privilege.

In view of the opportunities for a senator to rise at each stage of the various readings of a bill in this House, I feel Senator Bélisle already used that privilege.

He adjourned the debate. The Senate gave unanimous consent for him to rise a second time at the second reading stage, while reserving his right to close the debate after all other senators have spoken.

And now he rises again today under the false pretense of a point of privilege to accuse me, to condemn me and to impute intentions I do not have.

It is my absolute right to adjourn the debate on any matter in this house. I am under no obligation to state my reasons. The reasons I gave in June are still valid today. I stand by that, and let Senator Bélisle also stand by that.

Order stands.

● (1500)

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

[Senator Bélisle.]

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, your steering committee met this morning at 11 o'clock and discussed a number of items, a report of which has been produced, and is now in the process of distribution to all senators, in both official languages.

This report refers to a proposal that was made to the Committee of the Whole by Senator Lucier. His proposal was that the Committee of the Whole should consider travel in the Northwest Territories and the Yukon. This morning the steering committee discussed it. This document, then, is the report of the steering committee to the Committee of the Whole.

Honourable senators, is it your wish that this report be read into the record, or do you wish to read your own copies?

Senator Flynn: Mr. Chairman, I do not think that this proposal was made by Senator Lucier. It was drafted by someone in the steering committee, so I do not think it should be presented as a motion or as a request by Senator Lucier.

Senator Frith: Mr. Chairman, I thought what you were saying was that the suggestion that the committee consider the position of the Yukon and the Northwest Territories came from Senator Lucier. However, as Senator Flynn has said, this is not Senator Lucier's motion. It is a report of the steering committee to the Committee of the Whole, responding to the suggestion made by Senator Lucier.

Mr. Chairman, since, in effect, the Committee of the Whole is the Senate as a whole, and often, when we make reports of this kind, we like to take a day to consider them before we deal with them, perhaps it would be a good idea to adjourn consideration of this report in order to give honourable senators an opportunity to consider it. It can then be dealt with at the next sitting of the Committee of the Whole.

Mr. Chairman, if that is agreeable, I will so move.

The Chairman: Is there any discussion, honourable senators? You have heard Senator Frith's suggestion.

Senator Macquarrie: Honourable senators, perhaps before we start cogitating upon this document, I might ask whether the chairman or someone else can give me an explanation of the interesting phraseology contained in the second clause:

● (1510)

> That the Task Force be composed of eight senators, three of whom shall be nominated by the Leader of the Government in the Senate and five of whom shall be appointed by the Leader of the Opposition in the Senate.

The Chairman: Senator Macquarrie, I might say that you are absolutely correct. This was brought up this morning at the steering committee.

Senator Doody: Now we know how the two caucuses are run.

[*Translation*]

Senator Flynn: Mr. Chairman, the French version is not in keeping either. In both cases, it uses the term "nommés".

The Chairman: Yes, Senator Flynn, but I understand that was the accurate translation for "nominated".

Senator Flynn: No. It is my view that "proposés" would be more accurate.

[*English*]

The Chairman: Can we agree that, for the purposes of discussion, in the English text we will change the word "appointed" in the second last line to read "nominated"?

[*Translation*]

Concerning the French version, I would have to rely on the translators, but if you prefer "proposés" to "nommés"—

Senator Flynn: It would be more in line.

Senator Frith: It is more in keeping with the English version.

The Chairman: So, can we agree on the term "proposés" to replace "nommés"?

Senator Flynn: Well, let us say you will correct it at your convenience.

Senator Frith: Agreed.

The Chairman: Therefore, in the French version, paragraph two, line two, we will change the term "nommés" to "proposés".

[*English*]

Senator Frith: I move as corrected.

The Chairman: Senator Frith moves that the version, as corrected, be taken into consideration at the next sitting of the committee. Is it your wish, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Frith: Mr. Chairman, I move that the committee rise, report progress, and request leave to sit again.

The Chairman: It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Hicks, that the committee rise, report progress, and request leave to sit again. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

REPORT OF COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake Constitutional Accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Senator Molgat: Honourable senators, I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1640*)

PATENT ACT

BILL TO AMEND — REPORT OF SPECIAL COMMITTEE OF THE SENATE ON BILL C-22

MONDAY, August 10, 1987

The Special Committee of the Senate on Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, (formerly entitled the Special Committee of the Senate on the subject-matter of Bill C-22) has the honour to present its

SIXTH REPORT

The Committee, to which was referred Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, has, in obedience to the order of reference of Thursday, 25th June, 1987, examined the said Bill and now reports the same with the following amendments, observations, recommendations and recognition of dissenting opinion:

AMENDMENTS	EXPLANATORY NOTES
1. *Page 10, new clause 14.1:* Add, immediately after line 17, the following: "14.1 Subsection 41(4) of the Act is repealed and the following substituted therefor: (4) Where, in the case of any patent for an invention intended or capable of being used for medicine or for the preparation or production of medicine, an application is made by any person for a licence to do one or more of the following things as specified in the application, namely: (*a*) where the invention is a process, to use the invention for the preparation or production of medicine, import any medicine in the preparation or production of which the invention has been used or sell any medicine in the preparation or production of which the invention has been used, or (*b*) where the invention is other than a process, to import, make, use or sell the invention for medicine or for the preparation or production of medicine, the Commissioner shall grant to the applicant a licence to do the things specified in the application except such, if any, of those things in respect of which he sees good reason not to grant such a licence; and shall settle the terms of the licence and fix the amount of royalty payable to the Pharmaceutical Royalty Fund."	Subsection 41(4) of the *Patent Act* currently requires the Commissioner of Patents to consider giving due reward for the research leading to the invention of a particular medicine when establishing the amount of the royalty to be paid pursuant to a compulsory licence. This amendment would delete this requirement and allow the Commissioner to fix a royalty payable to the Pharmaceutical Royalty Fund.

2. *Page 10, clause 15:*

(a) Strike out line 21 and substitute the following:

"41.1 In subsection 41(4) and sections 41.11 to 41.16,"

(b) Strike out lines 22 and 23.

(c) Strike out lines 29 to 34.

(d) Add, immediately after line 28, the following:

The special definition of "patentee" in the Bill, which includes voluntary licensees, in order to support the powers of the Patented Medicine Prices Review Board (the "Board") is deleted.

" "participating patentee" means a patentee for whom a royalty has been paid into the Pharmaceutical Royalty Fund by a licensee in respect of a licence granted under subsection 41(4);

"Pharmaceutical Royalty Fund" means the fund established pursuant to section 41.16;

These definitions refer to expressions used in the new section 41.16 which would establish a Pharmaceutical Royalty Fund as recommended by The Report of the Commission of Inquiry on the Pharmaceutical Industry (the Eastman Report).

"research and development intensity" means the ratio of research and development expenditures incurred in Canada by a participating patentee in respect of prescription-type medicines to the total sales for consumption in Canada of prescription-type medicines by such patentee;

Prescription-type drugs refer to drugs of a type that would be sold under prescription in Canada but might not require a prescription elsewhere.

"royalty" in respect of a licence granted under subsection 41(4) is the royalty fixed and determined by the Commissioner from time to time; for the purposes of fixing and determining such royalty the Commissioner shall apply the following formula:

This royalty would determine both the size of the Pharmaceutical Royalty Fund and the amount licensees must pay with respect to sales under licences granted under subsection 41(4).

(*a*) the royalty shall be the product of the royalty rate multiplied by the net price of sales of prescription-type medicines sold for consumption in Canada by a licensee pursuant to a licence granted under subsection 41(4), at arm's length or at the equivalent to arm's length;

The qualification on sales "for consumption in Canada" follows the Eastman Report recommendations that no royalties be payable by generic companies on account of export sales.

(*b*) the royalty rate is to consist of a first portion of 0.04 plus a second portion, being the ratio of the total expenditures of the world pharmaceutical industry on research and development for prescription-type medicines,

to

the total annual revenues of such industry from sales of such prescription-type medicines throughout the world."

The first portion (0.04) is to reflect the value to compulsory licensees of current promotion expenditures of patent- holding firms. This 4% is not based on the same criteria as the 4% royalty currently paid by licensees.

The second portion would be set at 10% at the present time, on the basis of existing conditions in the world pharmaceutical industry. This portion would vary according to the ratio of world research and development expenditures to world sales of prescription medicines.

(e) Strike out lines 35 to 42.

This amendment would delete the requirement that a notice of compliance be considered to be first issued only in respect of a medicine that is an original and distinct chemical composition and not for an obvious chemical equivalent of a medicine for which a notice of compliance (NOC) has been previously issued. The deletion of subsection 41.1(2) removes an anomaly found in Bill C-22 that would, in essence, allow patents for certain medicines (that is, obvious chemical equivalents to medicines for which NOCs have been previously issued) to have unlimited protection against the operation of compulsory licences to import for their entire patent term.

3. *Page 11, clause 15:*

(a) Strike out lines 12 and 13 and substitute the following:

"been used; or"

(b) Strike out lines 17 and 18 and substitute the following:

"duction of medicine."

The four year period of exclusivity with respect to statutory licences to import will apply both for medicines consumed in Canada and exported. The Eastman Report did not propose separate treatment for exclusivity in relation to the domestic and export markets.

4. *Pages 11 and 12, clause 15:* Strike out lines 19 to 49 on page 11, and lines 1 and 2 on page 12 and substitute the following:

"(2) The prohibition under subsection (1) expires in respect of a medicine four years after the date of the notice of compliance that is first issued in respect of the medicine."

With this amendment a four-year period of exclusivity running from the issuance of the first notice of compliance would be guaranteed to patent-holding firms. No distinction is made between the period of exclusivity guaranteed against licences to import or to manufacture.

5. *Page 12, clause 15:*

(a) Strike out lines 8 to 14 and substitute the following:

"(4) Subsection (1) does not apply in respect of any licence pertaining to a medicine where on the date of the coming into force of this section, a notice of compliance has been issued in respect of such medicine."

The new "regime" for importation of medicines would come into effect when these sections are proclaimed into law, but will not apply to drugs for which an NOC has issued by that date.

(b) Strike out line 45 and substitute the following:

"medicine is issued after the coming into force of this section, no"

This amendment and amendment 6(a) provide that the four year restriction on manufacturing will apply only where the first NOC for a medicine is issued after the proclamation date. Where an NOC issues prior to that date, statutory licensees will be subject to the old regime.

6. *Pages 13 to 26, clause 15:*

(a) Strike out lines 8 and 9 on page 13 and substitute the following:

"until the expiration of four years after the date"

This amendment parallels amendments 3 and 5(b).

(b) Strike out line 15 on page 13 and all lines from line 16 on page 13 to line 11 on page 26 and substitute the following:

"that medicine.

41.15 No action or proceeding for any"

These amendments would delete all references to the Patented Medicine Prices Review Board (the "Board") from the Bill.

They would also delete proposed new section 41.16 which would grant longer periods of market exclusivity to drugs invented and developed in Canada. With these amendments all patented medicines under the new regime would have a four-year period of market exclusivity.

(c) Add, immediately after line 16 on page 26, the following:

"41.16(1) The Commissioner shall establish a Pharmaceutical Royalty Fund to be composed of royalty payments made in respect of any licence granted under subsection 41(4) after the coming into force of this section.

This amendment establishes the rules under which payments would be made from the Pharmaceutical Royalty Fund to participating patentees. The Commissioner of Patents would establish designated periods during which payments made into this fund are disbursed out of the fund to participating patentees.

(2) Any royalty in respect of a licence granted under subsection 41(4) after the coming into force of this section shall be paid into the Pharmaceutical Royalty Fund at such time or times and in the manner determined by the Commissioner.

(3) The Commissioner shall at such time, to such extent and in the manner that he deems appropriate, make a distribution from the Pharmaceutical Royalty Fund to participating patentees in respect of a period designated by the Commissioner.

Disbursements from the fund for the relevant period would exhaust the total of all royalty payments into the fund for the period, including interest earned on those payments. Every participating patentee would be entitled to some proportion of the fund's monies. This proportion would be determined by the product of two factors.

(4) The amount to which each participating patentee is entitled under subsection (3) shall be the product obtained by multiplying the two factors set out in subsections (5) and (6), further multiplied by the sum of the total amounts paid into the Pharmaceutical Royalty Fund over the designated period and any accrued interest in respect of royalties to be disbursed from the fund.

(5) The first factor in the calculation described in subsection (4) is the ratio of

(*a*) the total of the sales for consumption in Canada made by all licensees of the participating patentee in respect of licences granted under subsection 41(4), during the designated period

to

(*b*) the total of all such sales in respect of all participating patentees during such designated period;

The first factor is the total of all sales of compulsorily licensed drugs based on that patentee's patented drugs divided by the sum of all sales of compulsorily licensed drugs in Canada. Export sales are not included in this factor. This represents the patentee's nominal share of royalties that would normally accrue to him.

(6) The second factor in the calculation described in subsection (4) is the ratio of

(*a*) the participating patentee's research and development intensity during the designated period, plus 0.04

to

(*b*) the average research and development intensity of all participating patentees during such designated period, plus 0.04.

(7) The Governor in Council may make regulations defining, for the purposes of this section and section 41.1, the expression "research and development"."

The second factor is calculated as the sum of 0.04 and the research intensity of the participating patentee, divided by the sum of 0.04 and the research intensity of all participating patentees in Canada. This factor takes into account a participating patentee's research expenditures.

Both factors compare the circumstances of an individual patentee to the industry. In factor two, the reseach intensity of the patentee is compared to the industry norm. In factor one, the amount of sales of compulsorily licensed drugs attributed to the patentee's patents is compared to the total sales of compulsorily licensed drugs. A firm's share of the fund inceases as its research intensity increases in relation to the industry norm.

7. *Page 33, clause 28:* Strike out line 15 and substitute the following:

"arising under any of sections 41.1 to 41.16 of"

This amendment is consequential on the amendments to clause 15. It changes the numbers of the sections to which reference is made.

8. *Pages 33 and 34, clause 30:*

(a) Strike out line 34 on page 33 and substitute the following:

"30. Schedule II to the *Access to Infor-*"

(b) Strike out lines 38 to 43 on page 33 and lines 1 and 2 on page 34.

These amendments are consequential on the amendments to clause 15. They delete subsections (2) and (3), referring to the Board and re-number the remaining provision.

9. *Page 34, clause 31:* Strike out the heading immediately preceding line 3 and lines 3 to 29.

This amendment would delete clause 31 of the Bill. Clause 31 provides for the payment of $25 million annually to the provinces for each of the fiscal years commencing April 1, 1987 to March 31, 1991. It is consequential on the amendments to clause 15, which relieve existing pipeline drugs from the retroactive imposition of exclusivity.

10. *Page 34, clause 32:* Strike out line 30 and substitute the following:

"31.(1) Notwithstanding anything in sec-"

This amendment renumbers clause 32 of the Bill.

11. *Page 35, clause 33:*

(a) Strike out lines 3 to 8 and substitute the following:

"32.(1) The definition "priority date" in section 2 of the *Patent Act*, as enacted by subsection 1(2) of this Act, sections 2, 5, 7 to 13 and 16 to 25 and subsection 30(1) of this Act, or any of those sections or subsections, shall come into force on a day or days to be fixed by proclamation."

This amendment would allow for greater flexibility in proclaiming into force the clauses of Bill C-22 that amend the general patent law.

(b) Strike out line 9 and substitute the following:

"(2) Sections 41.1 to 41.16 of the *Patent*"

(c) Strike out lines 12 and 13 and substitute the following:

"(3) of this Act or either of those subsections shall come into"

These amendments accommodate the renumbering of sections.

OBSERVATIONS

The amendments set out in this report would, among other things, remove all references to the Patented Medicine Prices Review Board (the "Board") from Bill C-22. This is done because the Board is not a part of the compulsory licensing and royalty regime being proposed in this report.

The Committee does feel, however, that it is appropriate to note that some concerns were expressed by witnesses respecting the constitutional authority of Parliament to vest the Board with the power to direct that excessive drug prices be reduced. The Department of Consumer and Corporate Affairs responded to these concerns with evidence supporting the constitutional validity of the Board's powers.

RECOMMENDATIONS ON GENERAL PATENT LAW AMENDMENTS

Part of Bill C-22 is also directed to general amendments to the patent law. These amendments deal with revisions to the novelty requirements, procedures for granting patents, the term of protection and some changes to the effects of patents, after they are granted.

These amendments advance many desirable changes. Among these changes are the dating of patents from filing, with early publication of applications; the adoption of more stringent novelty requirements, with a special grace period for disclosures by inventors; and the introduction of the first-inventor-to-file system. The Bill also provides for the re- examination of patents before the Patent Office, and for the deletion of obsolete marking requirements and caveats.

These and other features advance the patent law towards becoming a more modern piece of legislation, and more in line with provisions in other industrialized countries.

However, the Committee is concerned that a considerable number of provisions in the law may have serious flaws. This is due to inadequacies of drafting and to deficiencies in the basic structure of the provisions themselves.

The novelty provisions fail to make an explicit requirement that applications be more than mere "obvious" variants on prior technology. The date for testing "obviousness" is not specified. This is a point that should be dealt with explicitly.

The novelty provisions appear also to be drafted so that applicants may file two, or more, applications for the same invention, and then theoretically obtain several patents for the same invention. The Commissioner may endeavour to prevent this from occuring, but the statutory language appears to permit it.

The provision to continue section 29 of the present Act so as to "deem" applications to have a filing date in Canada that dates back to a foreign priority date appears to have especially peculiar results. Foreign applicants claiming priority are not placed under the new regime by the Transition Provisions until up to one year later than Canadian applicants. The grace period may afford a one year longer period of protection to applicants filing on the basis of a priority claim than to Canadian applicants.

The Bill contains a "domestic refiling" procedure for Canadians which has the laudable objective of placing applications filed directly in Canada, on an equal footing with applications filed from abroad with a claim of priority. But as drafted, Canadians must give up their corresponding right to claim priority abroad, if they wish to benefit from the domestic refiling procedure. Canadians should have the full flexibility to file applications in Canada or abroad as freely as foreigners.

This domestic refiling section requires careful reconsideration as to its actual effects, and likely will require, along with many other provisions, subsequent amendment.

Submissions were made that portions of Canada's present law violate the Paris Convention, and that insufficient provisions are incorporated to allow Canada to adhere to the latest text of this treaty. These submissions merit further consideration.

The patent profession in a variety of submissions has raised a list of suggestions and concerns about the matters not dealt with in the Bill. These include requests that:

- an explicit limitation period be stated, to apply equally across Canada.
- provision be made to correct patents when some inventors have been improperly named, or omitted.
- patent claims be protected from being invalidated on the mere grounds that not all co-inventors participated in conceiving each claim.
- section 36 of the Act be amended so that the claims do not have to be recited twice, both in the body of the disclosure and at the end of the document.
- the rights of joint inventors to independently use, licence or sell their interests in a patent be defined.
- the intervening rights provision (section 58) be revised to define clearly the scope of immunity, and to limit it to *bona fide* cases of independent acquisition of the invention.
- provisions be introduced to extend a patentee's rights to control persons who contribute to infringement.

Objections were also made that:

- the Act provides no explicit criteria for determining the manner of calculating a patentee's damages.
- the Act lacks any provisions to apply where a patentee threatens infringement, without suing, and causes a business to suffer cancelled orders.
- the Act makes no provision for the effects of deferred examination on Canadians who wish to seek a licence to manufacture, under the present section 67, after three years from the grant of a patent. This period of delay should now date from filing.
- the transition provision for the 1935 revision (now section 80) needs to be repealed, as it extends to "any provision in force from time to time..."

All of these items listed deal with matters not referred to in the Bill. They merit consideration, and in many cases, incorporation into a revised patent statute for Canada.

The Committee has not had the resources to deal with all of these deficiencies by proposing amendments. Faced with the alternatives of not passing a large number of clauses dealing with general patent law amendments, or approving them with reservations, the Committee has decided to adopt the latter course. This is because the general patent law amendments may be relevant, to some extent, to the drug patent amendments, and the Committee does not wish to see a delay in the implementation of its recommendations in this regard.

Accordingly, in order to enable only those essential portions of the general patent law amendments to be proclaimed into force as may be deemed fit, a revision to the proclamation provisions contained in clause 33 of the Bill has been proposed as set out above.

It is hoped that the government will proclaim only those portions of the general patent law amendments that are necessary to ensure the early implementation of the other provisions of the Act. Then, it is the recommendation of the Committee that the government then take action to consult with the public and with practitioners in this field, in order to prepare amending legislation to deal with the concerns expressed in this part of the report.

Ultimately, the Committee would wish to see a patent law for Canada designed to encourage both invention and innovation, in a manner that would best serve not only inventors but all Canadians.

DISSENTING OPINION

This report represents the views of a majority of the Committee. The members who support the Government are in strong disagreement with the proposed amendments to Bill C-22.

Respectfully submitted,

M. LORNE BONNELL

Chairman

THE SENATE

Tuesday, August 11, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

TERRORISM AND PUBLIC SAFETY

AUTHORIZATION TO REVISE AND TABLE FRENCH VERSION OF SPECIAL COMMITTEE REPORT AT LATER DATE

Hon. Jacques Flynn: Honourable senators, I have here a motion concerning the French version of the Report of the Special Committee on Terrorism and Public Safety. I could of course give notice of the motion, but with your leave, I would like to move it now, with the option of adjourning debate if there are any objections.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Flynn: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*h*), I move:

> That the French version of the Report of the Special Committee of the Senate on Terrorism and Public Safety, tabled in the Senate on Monday, August 10, 1987 (Sessional Paper No. 332-521), be revised and tabled at a later date.

Motion agreed to.

QUESTION PERIOD

[*English*]

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—CLAUSE 16—STATUS OF WOMEN—SOURCE OF LEGAL OPINIONS—CONSULTATIONS WITH EXPERTS—NATURE AND SOURCES OF ADVICE

Hon. Lorna Marsden: Honourable senators, I have a question for the Leader of the Government in the Senate. In responding yesterday to a question by Senator Fairbairn, who had asked where the opinions concerning women's rights of equality came from, according to *Hansard* at page 1645, the Leader of the Government responded with, "statements on the matter made before the joint committee by various witnesses from outside government and by the Deputy Minister of Justice of Canada." The Deputy Minister of Justice of Canada is very well known to many of us. He was a distinguished dean of the law school and provost of the University of Toronto. He would not claim to be, nor is he known as, a constitutional expert. Therefore, I assume that the Leader of the Government in the Senate means that the Deputy Minister of Justice formed a committee of advisers. Will he tell this chamber who was on that committee of advisers?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Deputy Minister of Justice and Deputy Attorney General of Canada does not give, as my friend will surely be aware, curbstone legal or constitutional opinions. The opinions and advice he gives to the government are, I am sure honourable senators are aware, as a result of considerable study and consideration within the Department of Justice.

Senator Marsden: Honourable senators, I am sure that such is the case and, in fact, that was the import of my question. Is the Leader of the Government in the Senate then saying that only constitutional opinions within the Department of Justice were relied upon in arriving at the conclusions the government reached with regard to clause 16?

Senator Murray: Honourable senators, I can tell the Senate that during the First Ministers' meetings on this matter the relationship between the "distinct society" clause and the Charter of Rights was considered at very considerable length, and at one point in the proceedings the Prime Minister of Canada, who was chairing the meeting, asked to have the "experts" brought in, and they were brought in. I can say that they included the present Deputy Minister of Justice, a former Deputy Minister of Justice and several experts whom I do not feel I am at liberty to name at the moment, because they were advisers to provincial governments. Even if I were at liberty to name them, I can only remember the name of one of them.

Senator Marsden: I wonder, then, if the Leader of the Government in the Senate would tell us whether Mary Eberts and Anne Bayevsky, who are the authors of what is considered to be the premier work on equality rights and the Charter, were amongst those experts who were consulted?

Senator Murray: Honourable senators, I believe not. In any case, I did not meet them during the course of the First Ministers' meetings.

Senator Marsden: Honourable senators, I wonder whether the Leader of the Government in the Senate would then tell us if Beverly Bains, Lynne Smith, Jennifer Banquier or Luci Lamarche were amongst those experts who were consulted in that context?

Senator Murray: Honourable senators, again, at the meeting in question, I am almost certain that they were not present.

Senator Marsden: Would the Leader of the Government in the Senate then tell us if any of the constitutional experts in this country, who deal explicitly with equality rights and the

Charter, were among those consulted? I think I have listed most of them.

Senator Murray: Honourable senators, I hesitate to do this, but there are people in the Department of Justice, including the Assistant Deputy Minister of Justice (Public Law), who are qualified in this area. I presume the point my friend is making is that the experts who were brought in at the time of that meeting were not women.

Senator Marsden: No, I am not—

Senator Murray: Then, unless I am wrong, all of the names that have been mentioned by the honourable senator were women or members of women's groups. I hesitate to begin naming the various people who have given professional legal advice to the Government of Canada, because I do not want to impute to them the political responsibility for the decisions that were taken by the Government of Canada and by the various First Ministers. However, I do say that the interrelationship between the "distinct society" clause, the linguistic duality clause—those two interpretative clauses—on the one hand, and the Charter of Rights, on the other, was considered at great length by the First Ministers and with the assistance and advice of a number of legal and constitutional experts.

Senator Marsden: Honourable senators, I would not want the Leader of the Government in the Senate to misinterpret my meaning or the intention of this questioning. I am not suggesting that all the constitutional experts are women, although I am sure a great many of them are. In response to Senator Fairbairn's question yesterday, reference was made to "various witnesses from outside government and by the Deputy Minister of Justice of Canada."

We know that the latter would not claim to be an expert, and you have confirmed that. Therefore, the real question is: Who is it who was consulted, and in whom we can have faith that they really understand the relationship between equality rights and the Charter? You have named Mr. Tasse and Mr. Iacobucci and Claire Beckton, who I assume is someone from inside the Department of Justice. I also assume that perhaps John White was there. I am simply wondering whether there are other people whom the Leader of the Government in the Senate considers to be experts. If we knew who those people were, this would be helpful in making a judgment with respect to how to proceed.

Senator Murray: Honourable senators, the honourable senator, I think, is attempting to engage in a debate as to who, in her view, might be an expert in this field and who, in my view, or in the view of other people, might be experts.

• (1410)

We have confidence in the quality of the advice we have received and in the eminence in their field of those people who have given the advice to us.

Hon. Joyce Fairbairn: Honourable senators, I have a further question for the Leader of the Government in the Senate on this sensitive area in the Constitutional Accord.

Given that the advice received was from highly regarded and qualified experts, could the Leader of the Government in the Senate tell me whether that advice itself carried qualifications, was it qualified opinion, and, if so, what were those qualifications?

Senator Murray: Honourable senators, I believe it would be a great mistake on my part to try to describe the advice to the Senate. In due course I will be speaking to the Committee of the Whole, and I will be accompanied on that occasion by the Secretary to the Cabinet for Federal-Provincial Relations and by the Deputy Minister of Justice of Canada, who can and, I am sure, will elaborate on the position of the government and, indeed, of the First Ministers with regard to that matter. I may also say that my colleague, the Minister of Justice, will probably be appearing later in the proceedings of the joint committee. The officials of the Department of Justice will be in a position to elaborate upon the advice and upon the position of the Government of Canada.

In addition, members of the joint committee have the opportunity to question various witnesses, as they have questioned Mr. Beaudoin and Mr. Décary, and as they will be questioning Professor Lederman and others who come before the committee. We will see what the weight of the evidence is. My friends in the Committee of the Whole are likewise at liberty to invite various experts to give their testimony, including some of the people mentioned by Senator Marsden in the preamble to her question.

Senator Fairbairn: Would it be possible to include the experts who actually advised the government on that evening, or are these people who should be called separately? Would they be part of the leader's presentation in the Senate?

Senator Murray: Honourable senators, I think it would be fair to begin with the Deputy Minister of Justice, who is the principal legal adviser to the Crown.

TRANSPORT

TRANSFER OF AIR TRAFFIC CONTROL SERVICE FROM OTTAWA TO GATINEAU

Hon. Hartland de M. Molson: Honourable senators, I would like to address a question to the Leader of the Government in the Senate. I have heard that the air traffic control facility is being moved from the Ottawa International Airport to Gatineau. I do not know whether this is a fact or not. The reason given was that the service was now to become bilingual.

If that is a matter of policy, does that mean when any government service is bilingual it has to be moved across the river, or can we count on continuing our mixed residence for bilingual services of the federal government?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The answer to the second part of the question is no. However, I cannot confirm the premise of the honourable senator's question, namely, that that facility is to be moved from the Ottawa

International Airport to Gatineau. I will have to look into the matter and bring in a report.

Hon. Royce Frith (Deputy Leader of the Opposition): Are you sure you want the answer to be no, because the question was: "Can we count on it?"

Senator Murray: The second part of the question was whether, whenever a bilingual service was required, it was necessary to move the facility across the river. Obviously, the answer to that question is no.

Senator Frith: And then he added "or can we count on it?"

DELAYED ANSWERS TO ORAL QUESTIONS
NATIONAL PARKS

PAYMENT TO PROVINCES FOR LAND TO ESTABLISH PARKS—GOVERNMENT POLICY

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would like to deal with a couple of matters that were raised in Question Period yesterday. Senator Molgat asked a question concerning South Moresby. The answer to his question is that the agreement with the Province of British Columbia for the establishment of the South Moresby National Park Reserve requires that Canada provide for federal expenditures of $106 million over eight years. These funds are not to be paid to the B.C. government. Of the $106 million total, $20 million is for park capital development; $20 million is for park operation costs; $23 million is for acquisition of third party forest interests, which is to be cost-shared with B.C.; $1 million is for acquisition of other third party interests; and $50 million is for a Queen Charlotte Island Regional Development Fund.

It should be emphasized that the federal government has no intention of changing the policy which requires that provincially-owned crown lands be transferred to Canada at no cost. The rather large amount of money directed at the park's establishment and regional development does not set a precedent for future national parks.

As the most internationally significant wilderness area of Canada, South Moresby is the catalyst to ensure that the Queen Charlotte Islands reach their potential as a world-class tourism destination.

CANADA-UNITED STATES RELATIONS

TRADE—REDUCTION OF CANADIAN URANIUM EXPORTS TO UNITED STATES—GOVERNMENT ACTION

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have some information with regard to the court decision in the United States concerning the enrichment of foreign uranium for use in U.S. power reactors. I believe this matter was raised by Senator Buckwold yesterday.

The government was disappointed, of course, to learn of the decision of the appeal court in Denver. The decision to restrict the enrichment of foreign uranium was taken, the government notes, not by the United States administration but by a court of law.

The government has expressed its concern to the United States administration and supports that administration's decision to seek to have the case appealed to the U.S. Supreme Court.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I request leave to bring forward Orders No. 2 and No. 3. Orders No. 2 and No. 3 relate to Bills C-18 and C-19, respectively. It seems that there is a general disposition of members on both sides of the chamber to deal with these two orders quickly.

I should like to get the committee reports on these two bills dealt with first, and then proceed to Order No. 1, which relates to Bill C-22. That may take just a little longer.

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

Hon. Senators: Agreed.

NATIONAL TRANSPORTATION BILL, 1987
MOTOR VEHICLE TRANSPORT BILL, 1987

REPORTS OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Eighth Report of the Standing Senate Committee on Transport and Communications (Bill C-18, An Act respecting national transportation), presented in the Senate on 10th August, 1987, and the Ninth Report of the Standing Senate Committee on Transport and Communications (Bill C-19, An Act respecting motor vehicle transport by extra-provincial undertakings), presented in the Senate on 10th August, 1987.

[*Translation*]

Hon. Léopold Langlois: Honourable senators, although two separate orders referred Bills C-18 and C-19 to the Committee on Transport and Communications, and consequently, two reports were tabled, I am sure you will have no objection to my giving you the following clarification regarding the proposed amendments to both bills, this for the sole purpose of avoiding undue delay in considering these reports.

The Committee on Transport and Communications met twenty-seven times and heard seventy-five witnesses, including the Hon. John Crosbie, Minister of Transport, and his Parlia-

mentary Secretary, Mr. Blaine Thacker, Member of the House of Commons, accompanied by the department's senior officials. In addition to these verbal presentations, the committee received and considered many important recommendations, in the form of briefs and telegrams, from groups and individuals concerned who either supported or challenged the legislation, in whole or in part.

After considering the testimony and submissions, the committee decided to submit the following amendments to Bill C-18.

On pages 4 and 5, clause 6: Strike out lines 39 and 40 on page 4, and lines 1 and 2 on page 5 and substitute the following, and I will read the amendment:

> "tion 8, of not more than nine members appointed by the Governor in Council, each of whom must, on appointment or re-appointment and while serving as member, be a Canadian citizen or permanent resident within the meaning of the *Immigration Act, 1976* and among whom there must be at least one representative from each region of Canada."

The original text of this clause did not contain the citizenship and residence requirement for members to be appointed to the National Transportation Agency, and the amendment corrects this oversight. Otherwise, foreigners could become members of the agency, and that is why the committee decided to word the amendment in such a way that either requirement would have to be considered by the Governor in Council when appointing members on recommendation by the Minister of Transport.

The remaining nine amendments to Bill C-18 are purely linguistic in nature, as a look at the original text and the text as amended will show. I therefore think I can dispense with further comments.

As for Bill C-19, your committee recommends the following amendments:

> *Page 5, clause 8:* Strike out lines 16 to 19 and substitute the following:
>
> "(*b*) have regard to any statement of public transportation policy issued by the Governor in Council after consultation by the Minister with the government of each"

The Governor in Council was substituted for the federal government and "after consultation by the Minister" was added by our amendment.

> *Page 14, new clause 34(2.1):*

This is an addition to the original bill, and the amendment reads as follows:

> "(2.1) After the completion of the review referred to in subsection (2), the Minister shall cause a copy of a report of the review to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report has been prepared."

This is an addition, as I said before.

The third amendment, at page 14, clause 35, is also new: add, immediately after line 35, the following:

Under the title "Annual Report":

> 35.(1) After the expiration of each of the years 1988 to 1993, the Minister shall prepare the report referred to in subsection (2) and shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days that that House is sitting after he completes it.

This is an annual report, not provided for in the original version, which must be tabled in both Houses of Parliament.

The report of the minister shall contain the following, and this is still the same new sub-section:

> (*a*) the available statistical information respecting trends of highway accidents in Canada involving motor vehicles operated by extra-provincial bus undertakings and extra-provincial truck undertakings; and
>
> (*b*) a progress report on the implementation rules and standards respecting the safe operation of extra-provincial bus undertakings and of extra-provincial truck undertakings."

In concluding, honourable senators, I would like to mention the number of senators who took the trouble to attend the committee's sittings although the Senate had adjourned for the summer. I was astonished to see such assiduous attendance and so many members present. I would like to thank committee members whose support I greatly appreciated, as committee chairman. Their co-operation was unfailing, and again, I want to express my cordial thanks.

Honourable senators, I move that the report on Bill C-18 be adopted.

● (1420)

[*English*]

Hon. John B. Stewart: Honourable senators, I want to say something about the reports on Bill C-18 and Bill C-19. Both of these bills came to the Senate late in June. Both were referred to the Transport and Communications Committee for consideration on Monday, June 29, 1987. On that day Bill C-19 was dealt with first. I remind honourable senators that that bill, Bill C-19, was given first reading in this place on Thursday, June 25; second reading was moved the following day, June 26; and the second reading itself took place at the next sitting, Monday, June 29.

At that point the senator sponsoring Bill C-19 for the government declined to move that the bill be advanced to the next stage of the ordinary legislative process, namely, consideration by committee. Senator MacDonald (Halifax) said:

> I have acquainted myself as best I can with the bill, and I am quite confident that it is a good bill. I have no intention of referring it to committee.

In that lacuna, Senator Frith intervened to move that the government's bill be advanced. He did that on June 29, at page 1487 of the *Debates of the Senate*. I am sure the Minister of

Transport is very grateful to Senator Frith for his cooperation, which was necessary for the progress of the bill.

Senator Frith: Don't count on it.

Senator Stewart: Much the same happened in the case of Bill C-18. That bill was read here for the first time on June 18; the second reading motion was made on June 22; and the debate concluded on Monday, June 29.

Again, the honourable senator who was sponsoring the bill on behalf of the government, in this case Senator Macquarrie, declined to move that the bill go through the next stage of the ordinary legislative process. Once again the ever cooperative Deputy Leader of the Opposition helped out by moving that the bill be referred to committee.

Some Hon. Senators: Hear, hear!

Senator Stewart: On the morning of the next day, Tuesday, June 30, the Standing Senate Committee on Transport and Communications met to plan the work which had been assigned to it by the Senate on Bills C-18 and C-19. It was agreed by the committee that it would complete its work on those two bills before the House of Commons returned from its summer adjournment in September. The House of Commons, as we know, by its Standing Orders, adjourns at the end of June for a summer recess.

That decision by the committee was not acceptable to the government, and later that day the Leader of the Government in the Senate announced that Mr. Mazankowski would have the House of Commons brought back immediately to await the pleasure of the Senate on Bills C-18, C-19 and C-22. That turned out to be an empty threat.

An Hon. Senator: Thanks to the Speaker!

Senator Stewart: On that day, Tuesday, June 30, the Leader of the Opposition in the Senate again demonstrated the cooperative spirit of the opposition.

Senator Guay: Where was Senator Flynn?

Senator Stewart: Senator MacEachen said:

> If there is an argument to the effect that it is crucial and urgent to have the transport bills dealt with in mid August rather than mid September, then we would listen to that.

Of course, in that spirit the Standing Senate Committee on Transport and Communications considered whether or not the work on these two bills could be speeded up.

On July 7 the committee reported to the Senate that it believed it could report the two bills by Monday, August 10. As senators know, the committee succeeded in doing so. We are now considering the two reports eventuating from the work of the committee. That is how we got to where we now are.

● (1430)

Before I say anything about Bill C-19, I should like to bring to the attention of the Senate the unhappy situation which prevails with regard to the evidence. Senator Langlois has mentioned the important work done by the committee. We heard from the Minister of Transport; we heard from the parliamentary secretary; we heard from the Deputy Minister of Transport; we heard the evidence and views of various people, both carriers and shippers, who are interested in transportation. These two bills—Bill C-19, dealing primarily with trucking undertakings, and Bill C-18, dealing primarily with rail and air transportation—are of very great economic importance. They are also important to persons wishing to travel from one part of the country to the other. Given their importance, it behooves honourable senators to consider the evidence on which the reports on Bill C-18 and Bill C-19 are based.

At the beginning of the work of the committee, I called to the attention of the chairman the fact that we would have to have the translated and printed evidence before we prepared our report. It soon became clear that we were not going to get the translated and printed evidence. What we got from time to time were printouts from a word processor. It is possible to work with some of this material, although it is awkward, when the print is good. Unfortunately, some of the most important evidence was virtually unreadable. Last week this question was raised again: What progress was being made with respect to producing the translated and printed evidence? At that time there was a rumour that that evidence would not be available until August 24. The Clerk of the Senate came before the committee to tell us that 50 translators had been engaged to bring forth the translation and that it was his understanding that the evidence would be available as of August 5.

Just before I came in here today, honourable senators, I checked to see what actually is available. I found that in my office I had received the proceedings of the committee up to the hearing of Monday, July 20. I stopped by the distribution office and found that since then another fascicle of evidence had been made available, that for Wednesday, July 29. The proceedings of the intervening meetings are not yet available.

Consequently, honourable senators, I find it difficult to understand how the Senate as a whole will be able to proceed beyond this point with these two bills. It is difficult enough for members of the committee to try to form a judgment on the amendments which are being proposed or, rather, which have been made by the committee, and this is particularly true when the evidence is in the other official language. How the Senate as a whole can be expected to pass these two important bills—bills fundamental to our economy—without having had an opportunity to see the evidence, particularly that of the Deputy Minister of Transport, I find almost incomprehensible. But that is the situation. Perhaps some repair work will be carried out later this day, but that still means that there will be a lot of reading to be done before the end of the week.

I should like to say something about the content of the two reports that are now before the Senate. Honourable senators will know that Part II of Bill C-18, the National Transportation bill, deals with air transportation. That is the only part of the two bills which deals mainly with the movement of passengers. I will say a few words about Part II first.

Your committee was anxious concerning the impact of economic deregulation on the safety aspect of air transportation. We have heard various horror stories emanating from the United States, particularly with regard to the series of accidents which has beset Delta Airlines in recent weeks.

If honourable senators could read the evidence—it is not yet printed, and the computer printout is hardly legible—they would discover that those horror stories were not denied by the witnesses from the Department of Transport. However, those witnesses insisted that the situation which gives rise to those horror stories in the United States is not a result of economic deregulation but that, rather, it is the result of President Reagan's treatment of the air traffic controllers in the United States, the result of the resort to the hub system, and the result of the congestion produced by the large number of passengers seeking to travel and the large number of carriers making themselves available to carry passengers.

On July 20 the deputy minister was asked specifically about the Delta Airline incidents. It was his considered estimate—he refused to accept the word "guess", for deputy ministers do not "guess", they make estimates—that there was no connection between that series of incidents and economic deregulation. I believe that we have to accept someone's view on this, and I suppose that the Deputy Minister of Transport is as good a source of an "estimate" at this point as anyone. I phrase it that way because I believe there is still some uneasiness in the minds of some members of the committee; but in the absence of conclusive demonstration one way or the other, we have to go with an "estimate".

Part III of Bill C-18 and all of Bill C-19—the Motor Vehicle Transport bill—deals with the carriage of goods. I wish to make a few summary comments on what we heard in evidence with regard to the economic deregulation of the carriage of goods.

First, it became very clear that the debate here was one between shippers, on the one hand, and carriers, on the other. Shippers contended that Bills C-18 and C-19 were highly desirable. Carriers, on the other hand, anticipated intense competition and a decline in revenues, with all the disadvantageous consequences which may follow.

Second, in the arguments put forward by the shippers there was heavy reliance on the notion that those persons engaged in the carriage business, whether by rail or by highway, should be required to operate in a market situation. They ought to be exposed to the invigorating winds of competition. For example—and I mention these names because they may surprise some senators—both the Canadian Manufacturers' Association and the Canadian Retail Shippers' Association—the latter represented by persons ordinarily employed by the T. Eaton Company and by Sears—based their arguments in favour of Bills C-18 and C-19 on the benefits flowing from free competition. The question was raised with the Canadian Manufacturers' Association whether they thought there should be free competition in world markets in textiles; they declined to respond.

• (1440)

The third point to notice in the evidence is that some of the stronger support for Part III of Bill C-18 came from commodity shippers, particularly exporters in western Canada. I am sure that there is not a member of the committee who would disagree that commodity shippers, particularly in western Canada, see Bill C-18 as liberating them from their captivity to one or other of the two major railways, which they contended often enjoy a monopoly position that enables them to exploit western commodity exporters. At times the evidence was reminiscent of the old argument that we used to hear that insofar as many easterners were concerned, the west exists to maintain eastern based institutions such as the railways and banks.

An Hon. Senator: Hear, hear!

Senator Steuart: Spoken like a westerner!

Senator Stewart: I suppose there are those who regard this legislation as a kind of charter of liberation for western Canada insofar as transportation is concerned. Indeed, the parliamentary secretary, in urging us to report the bills favourably, made the point that these bills were especially popular in western Canada.

I come now to a fourth point. Insofar as trucking is concerned, these bills will permit more U.S. trucking undertakings to be licensed to operate in Canada. This will result in considerable north-south integration of trucking, especially in Quebec and Ontario and, to some extent, in British Columbia. In contrast, to obtain a licence to operate a domestic air service, one must be a Canadian. In other words, insofar as air transportation is concerned, attention will still be given to maintaining the integrity of a strictly Canadian, east-west transportation system. However, this will not be the case with regard to trucking and, to a lesser degree, to the railways. The Minister of Transport told us, however, that the requirement that one be a Canadian, as defined by the interpretation section of the bill, was included in Part II because it was general practice in other countries. He was not prepared to defend this inclusion on the basis of theory nor was he prepared to deny it. He was simply asserting that what we are doing is no different from what is done in other countries.

A fifth point which I want to mention is that a great deal of concern was expressed by your committee about the question of safety. First, with regard to railway safety, we were told that the government will introduce a bill establishing a new safety regime for the operation of railways later this year. That, of course, was reassuring. Second, with regard to trucking safety, we were told repeatedly that satisfactory progress is being made toward the introduction of all the elements of a national safety code for highway traffic, indeed, that that code will be fully operative in all the provinces within the next year or so.

Now, I want to say something about some of the amendments to Bill C-18 insofar as the English text is concerned. As Senator Langlois has said, they are three in number. One of these amendments corrected what I suppose was an oversight,

the possibility that the new Canadian Transportation Agency might be composed of, let us say, citizens of the United States. That possibility was open in the bill as it came to us from the House of Commons, but it has now been removed. Then, of course, there was the famous new province, "Albberta," which Canada acquired by the misspelling of Alberta. That was corrected by your committee. The last English version correction looks insignificant, but I call your attention to amendment number 10 which we made, because in the version of the bill that came to us from the House of Commons a crucial "or" had been left out.

Senator Bosa: The MacDonald amendment.

Senator Stewart: There was a double requirement in the unamended bill, but this is corrected by inserting the word "or".

Insofar as Bill C-19 is concerned, three amendments were made by the committee. I call your attention to that report, the adoption of which will be moved by Senator Langlois. The first of these requires that a statement of public transportation policy, which is to be taken into account by the provincial transportation boards, must be made by the Governor in Council. Perhaps I should say a word of background here. Insofar as trucking undertakings are concerned, most of them come under federal jurisdiction under the Constitution. For some 30 years or more this authority has been delegated by the Parliament of Canada to the provincial governments. For a period, the provincial boards which will be issuing licences to persons wishing to enter into trucking undertakings will have to apply certain tests, and in the bill as sent to us from the House of Commons one of those tests was that the provincial transport board was to

● (1450)

> (*b*) have regard to any relevant written expressions of public transportation policy issued by the Government of Canada after consultation with the government of each province affected thereby.

That seemed to the committee to be defective in several respects. It was corrected so that that subsection will require the provincial transport board to

> (*b*) have regard to any statement of public transportation policy issued by the Governor in Council after consultation by the Minister with the government of each . . .

province, and so on.

During the five-year period that begins when Bill C-19 goes into effect—it is anticipated that that will be January 1, 1988—the present test, which is public convenience and necessity, is to be replaced by an easier test, the so-called reverse onus test. This means that any person can apply for a licence to engage in extra-provincial trucking and will receive his licence unless there has been a successful objection. That is the meaning of "reverse onus".

In deciding whether or not to refuse a licence, the provincial board is to take public interest into account, but there is no definition of "public interest". We thought that an effort should be made to correct this; however, we were convinced that the federal-provincial problem of attempting to decide what "public interest" means in all the ten provinces is probably insuperable; that it will mean one thing in Nova Scotia, another thing in New Brunswick, and yet another in Prince Edward Island, just to take three provinces in one area of the country. Therefore, we abandoned that approach.

What we did propose was that there should be a report to Parliament after the review which is required toward the end of the period when the reverse onus test is in effect. At the end of that five-year period, assuming that the reverse onus test has not produced serious deleterious consequences, a new test—the so-called "fitness test"—is to come into effect. That, of course, will make it very easy for persons wishing to get into trucking to obtain licences. They will simply have to demonstrate that they are fit and able; in other words, that they have safe equipment and that they have the necessary insurance. However, that transition is not to take place without a study to ascertain how the reverse onus test has worked. However, there was no requirement that the minister report on the findings of that review. Honourable senators, that is the purpose of the second amendment proposed in the ninth report. If adopted, it will require that the minister shall cause a copy of a report of the review to be laid before each house of Parliament.

Honourable senators, the final amendment is probably the most important. At one point I thought that we should require that a report showing the efficacy of the public interest criterion in achieving uniformity throughout Canada in the licensing of extra-provincial trucking undertakings, and showing also the number and cause of accidents involving trucks in extra-provincial truck undertakings, be made to Parliament. However, it was argued by the parliamentary secretary, supported by officials from the department, that it would be difficult for the minister to make such a report. If he was required to evaluate the efficacy of the public interest criterion in achieving uniformity, he would, in effect, be required to pass judgment on the work of the provincial transport boards. Also, if he was required to report the causes of accidents involving trucks, he would be called upon to ask provincial authorities to give information, indeed, to acquire information which might not be readily available.

The concern here is related directly to safety. At present, under the public convenience and necessity test, it is fairly difficult to obtain a licence. As of January 1, 1988, a less demanding test will come into effect, the so-called reverse onus test. It will then be considerably easier to get into the trucking business. Indeed it is anticipated, and the philosophy of the bill suggests, that there will be more trucks on the highways, because there will be more competition.

Then, after five years, it will be extremely easy to obtain a licence. There will only be the fitness test to satisfy. Consequently, the committee felt that provision should be made to ascertain how these two tests—first, the reverse onus test and, then, the fitness test—are working. We thought that it was unnecessary to provide for a continuing examination, but we

thought that the experience of the five-year period should be covered, and also enough of the period after the end of the reverse onus test regime—in other words, the first year or two of the fitness test regime—to see what was actually happening with regard to safety. That is why your committee, in its report, is proposing that there should be an annual report. This report will be brought about by the following provisions of the act:

> 35.(1) After the expiration of each of the years 1988 to 1993, the Minister shall prepare the report referred to in subsection (2) and shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days that that House is sitting after he completes it.
>
> (2) The report of the Minister shall contain the following in respect of each year referred to in subsection (1):
>
> (*a*) the available statistical information respecting trends of highway accidents in Canada involving motor vehicles operated by extra-provincial bus undertakings and extra-provincial truck undertakings; and
>
> (*b*) a progress report on the implementation of rules and standards respecting the safe operation of extra-provincial bus undertakings and of extra-provincial truck undertakings.

Since these provincial authorities are exercising delegated federal jurisdiction, Parliament has a right to be informed, indeed, it has a duty to provide that it be informed, as to what is happening with regard to accidents and the realization of the National Safety Code. Incidentally, honourable senators, I believe there may have been a word misspelled and a word left out in our report. It should read "on the implementation of rules" rather than "on the implementation rules."

There is one other matter, an almost private matter, which concerned the committee. The Iron Ore Company of Canada owns the Quebec North Shore and Labrador Railway. However, another company, a competing company known as Wabush, relies upon the Quebec North Shore and Labrador Railway to move its iron ore. The Iron Ore Company feels that the provisions of Bill C-18 with regard to last offer arbitration on tariffs could operate against the interests of the Quebec North Shore and Labrador Railway and thus, of course, those of the parent company, the Iron Ore Company of Canada.

A statement was made to the committee on July 29, 1987, on behalf of the Department of Transport, and that statement was confirmed on August 5, 1987. This is the kind of evidence that I think honourable senators ought to have an opportunity to read. On the latter day I asked the parliamentary secretary if the statement made earlier by Mrs. Bloodworth, from the Department of Transport, should be regarded as a definitive statement by the government with regard to the Iron Ore Company's problem. Mr. Thacker replied:

> Mr. Chairman, I can assure senators that that was a definitive statement. However, we have even more information for the members of the committee, and I would ask Mr. Weinberg to pass on that additional information.

Then Mr. Edward Weinberg, of the Department of Transport, gave us that additional information. That seemed to settle the matter and quieted the feeling of members of the committee that the Iron Ore Company was being dealt with unfairly by the bill.

Since then I have received a copy of a letter from the Iron Ore Company of Canada. The letter is addressed to the Honourable Leopold Langlois, Chairman of the Committee. That letter protests against what the departmental officials told us.

> At no time has Iron Ore Company of Canada denied the common carrier status of the Quebec North Shore and Labrador Railway. We constructed our railway for our iron ore operation and we are now known as a common carrier. Furthermore, we have, in the past asked to discontinue part of our operation, but the Government of Canada denied us that right and subsidized our losses on the passenger side, up to approximately 85 per cent. This is the reason why we received a subsidy of $5.5 million as stated by Mr. Ed Weinburger in his testimony on August 5 before your committee.
>
> I would also like to point out the error made by both Margaret Bloodworth in her testimony before you and by the Minister of Transport, the Honourable John Crosbie, in his letter of May 20 about clause 48(3)(b) (See attached). They interpret the clause to mean that only one onus must be proved, i.e. a third party show they are "materially prejudiced". In fact, if this were so, IOC would not be concerned as it would be given the same status as Wabush in clause 59.
>
> However, the wording in clause 48(3)(*b*) is not "or" but "and". Such wording is used for a reason which we assume to be the confidentiality of a contract between shipper and carrier. The clause puts a double onus on IOC: to prove infringement on "public interest and material prejudice" to IOC before the agency will send it to clause 59. This has been our concern from the start. IOC and Wabush are competitors in an iron ore operation.
>
> Contrary to what Margaret Bloodworth testified on July 29, Wabush had another option in 1964. They could have constructed their own railway to go along with their iron ore operation as we did and as Quebec Cartier Mining has done. We feel that the minister's officials have chosen not to recognize the injustice that will be done to our company.

I read extensively from that letter, honourable senators, because it is very important that the Parliament of Canada should not do an injustice to any person. It seems to me that it is incumbent upon the Leader of the Government in the Senate, or whoever will speak for the government on this measure, to provide a conclusive rebuttal to what the Iron Ore Company has said in their letter to the chairman of the committee. I assume that that will be done before the government asks the Senate to give the bill third reading.

In conclusion, I want to say a word or two about the work of the committee. It is fair to say that we did not begin our

labours in a good atmosphere. At the end of June the government was pushing the Senate far too hard. It was demanding that we complete our work on a pair of complicated bills in a very short period of time, an impossibly short period of time, and in circumstances which, as the lack of the evidence before us today shows, made it impossible for the committee to do its work properly. Nevertheless, the members of the committee, under the leadership of our chairman, settled down to the task, and I think it is fair to say that we had an instructive and a pleasant series of meetings.

One of the factors which made for the successful conclusion of the committee's work was the participation of the parliamentary secretary. Mr. Crosbie appeared before the committee at first, and that did not help at all. However, the government, in its wisdom, or somebody in their wisdom, had Mr. Thacker come in towards the end. Fortunately, he displayed an openness of mind and a readiness to concede that the bill as it had left the House of Commons was not the quintessence of perfection. That made it possible for the members of the committee to agree unanimously on all the amendments made to both Bill C-18 and Bill C-19. In fact, our record will show that some of those amendments were actually moved by members of the committee who support the government. Mr. Thacker made a helpful contribution to the work of the committee, but I think it is fair to say that the man who carried us through it all was the chairman of the committee, the Honourable Senator Langlois. He was patient with us, made us work diligently, and ensured that the committee had the assistance of good witnesses. Without his devotion we would not have been able to accomplish the task given to us by the Senate, namely, that we report these two bills on Monday, August 10.

● (1510)

Most of the amendments to the texts of the bills, particularly to the French texts, are the result of Senator Langlois' own reading and careful re-reading of the bills. I think we owe Senator Langlois a debt of gratitude.

Some Hon. Senators: Hear, hear!

Hon. Douglas D. Everett: Honourable senators, I wonder if I might ask the honourable senator a question. If I heard the honourable senator correctly, he stated that the purpose of clause 35(1) was to allow a review of the application of the reverse onus test, yet, when I look at clause 35(1), I see that it confines itself to a report on safety.

Perhaps I misheard the honourable senator, but, if I did not, I wonder how that clause can relate to an examination of the application of the reverse onus test.

Senator Stewart: Honourable senators, I hope I understand the honourable senator's question. The connection between the reverse onus test and safety is that it is anticipated that the reverse onus test, which is to become effective January 1, 1988, will make it considerably easier for persons to enter into the trucking business. That will put a larger number of trucks on the highways. Just how much of an effect that increase in traffic will have on safety is hard to say, because many aspects of highway safety are primarily the responsibility of the provinces; nevertheless, the Parliament of Canada is instructing provincial transportation boards to bring in the reverse onus test, a test which, undoubtedly, if the legislation works, will put more trucks on the highway. That is the connection between the new test and safety.

Of course, there is an even greater connection between safety and the fitness test, which is to come into effect five years in the future. Then anyone who has safe equipment, safe drivers, and who can obtain insurance will be able to set himself up as an extra-provincial trucker.

Hon. Edward M. Lawson: Honourable senators, I wish to make a few comments on the proposed transportation legislation. I read with interest that the Minister of Transport, the Honourable John Crosbie, chided the Senate and labour for holding up these transport bills. He went on to say that "anybody concerned with regional development or regional disparity would rush these bills through as fast as possible." I suggest to Mr. Crosbie that anybody concerned about the economy of Canada and the safety of its citizens would not rush these bills through but would take the time to better understand the impact of deregulation flowing from these bills.

A few weeks ago I attended two transportation conferences, one held in Montreal, Quebec, by the Conference Board of Canada, which was attended by people directly affected by deregulation and who had some knowledge of the impact of deregulation, and one held in Senator McElman's back yard, Fredericton, New Brunswick, which was an outstanding transportation seminar sponsored by the University of New Brunswick. The university brought in people from the United States, people representing the union side, the non-union side, the government side, operators, shippers, and almost anybody who in any way had been or will be affected by deregulation. I think the University of New Brunswick should be congratulated on its efforts, and, in particular, Dean Wilson and Professor Bisson for putting on such an objective transportation conference. Mr. Crosbie, instead of attacking the Senate and those of us who sit here from time to time, would have done a better service to Canadians if he had organized such seminars in other parts of Canada so that Canadians could be more familiar with what is taking place.

There are a number of things I should like to share with the members of the Senate. In my unique situation I serve as an officer of an international union that has probably been more seriously affected by deregulation in the United States than any other organization. My organization represents approximately 500,000 drivers, warehouse and office workers in the transportation industry, as well as being key players in the airline industry. As for the impact of the U.S. deregulation, it has generally been acknowledged that shippers have been the major winners, and the big shippers have been the big winners.

As expected, the initial phase of deregulation generated unprecedented competition, and, on average, we now have lower rates and fares throughout the U.S. transportation industry. However, the competition has been so severe that it has also produced an unprecedented number of losers. Every-

one seems to have forgotten one of the pioneers of deregulation, Freddie Laker, who introduced low air fares, so much so that he was awarded the Order of the British Empire. Now, what was his contribution in the final analysis? Well, he bankrupted an airline and left investors stuck with approximately $40 million or $50 million, and 40,000 passengers with paid-up tickets but no planes to fly home on. Perhaps if I were successful in my other life of bankrupting a couple of Canadian trucking companies I would receive the Order of Canada, but I probably will not get the chance to do that, because deregulation will beat me to it.

Deregulation has also produced a trend toward corporate concentration amongst the survivors. With People Express now out of the airline picture, we have 84 per cent of the airline market controlled by six large carriers compared with 73 per cent in 1978. As a result of mergers, we now have six large regional systems controlling 86 per cent of the rail freight in the U.S. and 93 per cent of the profits. There were 13 carriers in 1978. In trucking, the number of carriers doubled since 1978, but 40 per cent of the new entrants have failed, and the top ten LTL carriers now account for nearly 60 per cent of the shipments and 90 per cent of the profits.

When you have a smaller and smaller number of competitors meeting each other in the marketplace, I think there is a real danger of "softer" competition. So, it is an open question as to where rates are headed in the long run under deregulation, and it remains to be seen whether the shippers retain their winners' status once all the mergers, acquisitions and bankruptcies work their way through the transportation system.

In any event, if the shippers are thought to be the winners to date, my organization in the United States has been characterized as one of the major losers, and our members as major casualties of the U.S.-style transportation reform. This is an entirely accurate picture. We saw 5,000 union jobs disappear in the Braniff bankruptcy alone, and there has been a steady erosion of jobs over the past six years in the trucking industry. Since trucking is where deregulation has had its greatest impact, I wish to base most of my remarks on our experience in that industry.

To begin, the impact of wide-open entry into trucking was totally predictable—and the same thing will happen here. In the United States some 17,000 new entrants descended on the industry like a swarm of locusts, most of them small, non-union companies and one-truck owner operators, the vast majority of whom were incapable of formulating a business plan extending beyond next month's truck payment. Their cost structures were extremely low relative to the established carriers, their economic lifetimes were predictably short, as reflected by their 40 per cent failure rate, and there seemed to be an inexhaustible supply of them, and they only stayed in business long enough to injure the legitimate operators. Almost overnight we had an invasion of these "entrepreneurs" in an economy that was in recession and a market that could barely sustain its existing carriers. Virtually everyone in the industry was forced to engage in cut-throat competition and non-economic pricing just to retain their market share. Those who saw this free-for-all as an opportunity to expand their market share, and who had the resources to take advantage of it, engaged in predatory pricing to run their competitors off. In addition to the 6,500 new entrants who went out of business, we had 74 major, long-established union carriers go down with them. These carriers had $5 billion in annual revenues and employed more and 120,000 union employees; 40 of these companies were large enough to employ 500 or more workers. This large-scale loss of jobs is by far the single most serious impact that transportation reform has had on labour.

● (1520)

I would like to explore this issue a little further, since the deregulators seem either not to understand or simply not to care about what has happened to these jobs. Our research department conducted a study of the employees of a large carrier that declared bankruptcy and closed its operations in 1982 as a result of deregulation—Spector/Red Ball, one of the ten largest general freight carriers in the U.S., with $430 million in annual revenues and 7,500 employees. The average age of the employees was 51, with 60 per cent of them being over 50 years of age. The average employee had 22.5 years of service with the company and 8 years remaining to retirement.

What happened to this large group of long-term, skilled and experienced workers? The deregulators will tell you that they found work with the other trucking companies that captured the business when Spector went under. The fact is that three years after they had lost their jobs, when the study was conducted, 30 per cent of these people were still unemployed. With an average age of 53, you can imagine their employment prospects. Of the remaining 70 per cent who found employment, half of them were forced to go outside the trucking industry, and 90 per cent of these people wound up in non-union jobs as groundskeepers, car salesmen, furniture salesmen, Red Cross workers, residential construction and other forms of self-employment. When we look at the entire group of 7,500 former Spector employees, only one-third remained in the trucking industry, and less than 20 per cent managed to obtain full-time union jobs within the industry.

In addition to this employment impact and all of the human suffering that goes along with it, there is another serious consequence of erasing a large segment of the skilled, experienced, union workforce from the industry. It has to do with what we are talking about today: the safety impact of their replacements—younger, less skilled, less experienced, non-union "entrepreneurs" who came into the industry with their own equipment and were forced to bid against each other for all of the freight that they could haul in order to meet their monthly payments.

These people were the subject of another study conducted in the mid-1970s, before deregulation, by a Harvard professor, Dr. Daryl Wyckoff. He wanted to know if unionized company drivers in the regulated sector of the industry operated any differently from non-union company drivers and owner-operators in the unregulated sector. In effect, he compared truck drivers, like those who were forced out of the industry when

carriers liked Spector went under, with the kind of drivers who flooded the industry and displaced them under deregulation. His findings are more than a little disturbing. He found that:

> Exempt, unregulated owner operators had over 3.5 times as many reportable accidents per 100,000 miles as the regulated common carriers; more than 3 times as many moving violations; almost 20 times the number of hours driving over the legal limit of ten hours; and they drove an average of 4 miles per hour faster.
>
> Union drivers, mostly Teamsters, had 25 per cent fewer reportable accidents than non-union drivers; almost 2/3 fewer moving violations; and they drove an average of three miles per hour slower.

In short, the unregulated, non-union sector was characterized by unsafe operating practices relative to the regulated sector. Why should this be? It is because drivers in the regulated sector worked under compensatory collective agreements with their employers and were not subject to the type of undue economic pressure prevailing in the unregulated sector—pressure which forces drivers to run faster and for longer hours simply to make a living in a cut-throat environment.

Of course, since deregulation these pressures have spread to the rest of the industry and are now reflected in the increasing number of truck accidents on the highways. Between 1983 and 1985 interstate truck accidents went up by 25 per cent, from 31,500 to over 39,000. The American Automobile Association has cited driver fatigue as a probable or primary cause in 41 per cent of these accidents.

Highway safety is also being compromised in the area of truck maintenance. A great many drivers have chosen to deal with the competitive demands on their cost structures by deferring routine maintenance on their equipment. For example, in 1985 2,900 trucks were stopped in roadside inspections in Virginia. Half of them had sufficiently serious defects that they were ordered off the road. Next door in Maryland 55 per cent of the 4,600 trucks inspected were ordered off the road for repair. What is really frightening here is that Maryland has 500,000 trucks registered. This means that less than 1 per cent of them were inspected. In the following year, when inspections were beefed up and the Maryland state police examined 18,000 trucks over a five-month period, 72 per cent were removed from the road.

So next time you are driving down the highway, or out on the 401, or out on the freeway, and there is a truck in front or a truck behind, and you are in the middle, there is every reason to believe that either the one in the front or the one in the back cannot stop or has defective steering or defective equipment.

This same problem has shown up in state after state. It has become so bad in California that there is a move afoot in the legislature to reregulate in order to establish bottom-line trucking rates just to ensure a sufficient return for proper maintenance. In fact, truck safety under deregulation has become such a pressing issue in the U.S. that it was the subject of a CBS News "60 Minutes" segment on March 15 of this year, and the federal government has been forced to respond to the problem by tripling its funding for training state inspection teams from $17 million to $50 million.

These are some of the problems of transport reform in the U.S. that have been of particular concern to me. But there should be no misunderstanding. These are not just labour's problems or the trucking industry's problems; these are serious economic and social problems that are national in scope. Corporate concentration, deteriorating highway safety, the failure of long-established businesses, large-scale dislocation and unemployment all have price tags. While some of them are not right up front for the consumer to see, the bill will arrive just the same. All of these costs ultimately get factored into the equation of international competitiveness. In this regard, the U.S. experience is a wonderful case study for us. After ten years, with transport reform ostensibly aimed at lowering the cost of moving U.S. goods to market, are the Americans achieving a level of competitiveness in a world that fills Canadians with envy? I think not.

There was a lawyer at this conference at the University of New Brunswick, Mr. Jacobs, who was one of the pioneer lawyers who has represented most major carriers in the U.S.—many of them in Canada—in applications for licensing. His final position was summed up by saying that the benefits of deregulation in the United States were far outweighed by the damage caused to the industry in the United States. The government has raised the amount of money that they will spend on safety, and we are assured in this legislation that this federal government will have $23 million or $26 million set aside so that we will be able to police our own industry here in Canada.

There is an interesting article in the Montreal *Gazette* of November 11, 1986, which is a preview of what we can see will happen. We are led to believe by Mr. Crosbie, and by the government, that this legislation will have all kinds of people policing it and watching over it, and that the provinces will cooperate, and so on. Well, let us talk about what is happening already in the province of Quebec. There were 150 employees in their inspection system just a few short years ago; that has now been reduced to 68. I am quoting here from Renald Leduc, president of the Fraternité des constables du ministère des transports, where he said:

> His members lost all their clout on Jan. 1, 1985, he said, when they stopped reporting to Transport Quebec and were assigned instead to the Sûreté du Québec.

The Quebec Provincial Police. He goes on to say:

> The SQ took our $7-million budget and removed the flashers we had on our cars and then told us we no longer had the right to chase down trucks that failed to stop at our weigh stations.
>
> Nor can the special agents patrol sideroads in search of delinquent truckers who detour around weigh stations.

When Mr. Binette, an agent at the Les Cèdres weigh station, called in about trucks that were going by and not reporting to the weigh station he says:

> I was told that there's only one car on patrol for that area, . . . and it was out on an investigation. So they said to forget it and weigh those trucks that happened to pull in.

Leduc said:

> . . . all truckers know how ineffective the stations are. So, if you are grossly overloaded, you simply drive around the station. Or else you drive right by, thumbing your nose at us because you know there isn't a thing we can do about it.
>
> Leduc said there are 12 agents in his Longueuil office. Two years ago, two of the 12 would be out manning the local weigh station while the others were aboard the 10 patrol vehicles at their disposal.
>
> Now we have two cars, one of which doesn't run any more. So two people are at the station, while the 10 others stay in the office. It's amazing what great blackjack players they've become.

That is, I think, a preview of what is going to happen in the provinces as far as policing or enforcing these new regulations is concerned.

● (1530)

In the past few years, as evidenced by the growing number of mergers, acquisitions and restructurings, the major Canadian carriers have been actively positioning themselves to operate in a deregulated environment. I foresee a continuation of this trend toward consolidation and anticipate that there will be no new major domestic carriers entering the market in the near term. Consequently, the influx of new entrants to the industry will be comprised almost entirely of small non-union companies and individual owner-operators. Under the "reverse onus" transition period contemplated in the act, these operators will be able to acquire operating authorities at will, since existing carriers will be unable to prove that a small entrant will significantly affect the industry or the public interest.

Small, non-union companies and owner-operators have an obvious cost advantage over the major carriers by way of lower wage structures and non-existent fringe-benefit packages. Moreover, these operators will find themselves under pressure to further reduce their costs in order to meet the severe competitive demands that currently exist in the Canadian trucking industry. Experience indicates that these operators tend to respond to such pressure by driving excessive hours and deferring maintenance on their equipment.

The downward pressure on labour costs and the potential for compromising safety are two key implications of deregulation that are of direct concern to me. I recognize that the labour cost advantage enjoyed by non-union competitors is a problem of special interest for the union sector to address by way of collective bargaining and recruiting endeavours. The safety cost advantage, on the other hand, is a matter of public concern, and one that must be effectively addressed by legislation.

What is especially disturbing to me in this regard is that whereas relaxed entry requirements are scheduled for implementation on January 1, 1988, effective and enforceable safety regulations currently under development in the form of the National Safety Code for Motor Carriers will not be in place and operational until late 1989 at the earliest. In my view, the infrastructure of legislation, regulations and personnel required to enforce effectively the safety provisions of the National Transportation Act is a prerequisite to any form of relaxed entry into the Canadian trucking industry. It is unthinkable to issue operating authorities at will when effective safety enforcement mechanisms are still at the developmental stage.

Given that this infrastructure will be in place no earlier than late 1989, I am strongly recommending that the implementation of the "reverse onus" transition period be deferred to January 1, 1990, and, correspondingly, that the "fit, willing and able" entry test be put into effect at the end of the proposed three-year transition period, on January 1, 1993.

As a consequence of our experience with deregulation in the U.S., I am also concerned with the potential for job dislocation in the organized sector of the industry. The government's new transportation policy can be expected to produce a significant shift in jobs from the union to the non-union sector of the trucking industry. The number of union members who will be displaced by the adoption of this legislation is presently expected to be in the 5,000 to 10,000 range. Many of these displaced workers will be either unwilling or unable to secure employment in the non-union and owner-operator sector of the industry with its marginal working conditions and rates of pay.

The legislation contains no mechanism to provide counselling or retraining to reintegrate these displaced workers into the productive workforce. I recommend that the legislation be amended to address this important concern, and propose that the task of reintegrating displaced workers be undertaken as a separate and special initiative using the general training services of the Department of Employment and Immigration.

In connection with this proposal, I also wish to emphasize that the job impact and the related retraining requirements can be significantly reduced by simply ensuring that the legislated safety infrastructure is in place and being enforced in a timely manner. This would remove the safety cost advantage enjoyed by the non-union and owner-operator sector of the trucking industry, thereby eliminating a potentially dangerous and destabilizing element from the environment that will be created by the new National Transportation Act.

In conclusion, while I have very serious reservations about the much heralded benefits of deregulation, I recognize that Parliament has given its approval to this course of action. What I am urging is that this new policy be implemented in such a way as to minimize the destructive impact on safety and employment. By delaying the implementation of the legislation until such time as the National Safety Code for Motor Carriers is fully operational, we can establish a level playing field for all participants in the new environment and curtail the natural tendency for operators to minimize costs at the expense of safety.

The other concern I have—and it is also a concern expressed by the industry, as noted by the *The Journal of Commerce* on March 20, 1987, in the headline "Canadian Truckers Wary Of Deregulation Effects"—is that under deregulation U.S. carriers could dominate Canada. In anticipation of the adoption of this legislation, many American carriers have already purchased Canadian companies to have their licences and to be in position to move in this area. Many of the major carriers that we do business with in the U.S. are poised for open entry across the border, and when they do they will come in with predatory pricing and they will wipe out many of the Canadian trucking companies as we know them.

Honourable senators, I have somewhat mixed views on this. On the one hand, these companies that are coming in are largely the major carriers, such as Yellow Freight and Consolidated Freight with which my international organization has contracts. They will come in at fair rates of pay and good working conditions. As a Canadian, I resent the fact that they are going to come in and are going to be able to almost destroy the Canadian transportation industry as we know and understand it.

I think the Minister of Transport, Mr. Crosbie, is wrong; there is a need for careful consultation and study about this. There are some serious safety factors which will affect Canadians as a whole. We are creating serious problems because of the conditions of our highways and all of the things that will flow from that. We need to move very cautiously and carefully, and the legislation and the Safety Code must come into effect at the same time or we are going to face serious problems in the transportation industry in Canada.

Some Hon. Senators: Hear, hear!

Hon. John M. Macdonald: No. As honourable senators will remember, this bill was sponsored by Senator Macquarrie. In the normal course of events he would be speaking today. However, he is unable to be present and has asked me to take his place.

Hon. George van Roggen: On a point of order, does that mean that Senator Macdonald is closing the debate?

Senator Macdonald: No. I am speaking on the report.

At the outset, I must say that I am very grateful to Senator Stewart who gave a very detailed report on the bill and on the proposed amendments. If any questions are asked of me, I am sure he will not mind if I refer them back to him, because he has a more detailed knowledge of the bill than I do. Indeed, during the committee hearings he played a most important part, and that is not to detract from the contribution of the other members of the committee.

Honourable senators, as stated by the chairman, the committee did give the bill a very thorough study. In fact, the committee sat for most of July, and for those of us who come from far distances that was quite a sacrifice.

The committee heard every organization and person who wished to be heard. Besides that, it received a number of briefs from those who did not wish to appear in person. As was to be expected, there was a considerable amount of repetition as far as the arguments for quick or delayed passage of the amendments were concerned. However, even in such cases I was most impressed—as I am sure other members of the committee were—by those who gave evidence before the committee. Their detailed knowledge of their business and their confident attitude as to their ability to do business anywhere in the world was most impressive.

As was to be expected, some of the clauses of the bill gave some concern to members of the committee. A good many people from the Department of Transport appeared before the committee and they, too, were knowledgeable and able to clarify some points and meet some of the concerns of the members.

As mentioned by Senator Stewart, I thought the parliamentary secretary to the minister who appeared before the committee on two or three occasions was a most cooperative witness. He was reasonable, informative and not averse to accepting amendments. When he was not prepared to accept proposed amendments, he gave a reason for his attitude. Generally speaking, I think it could be said that he called the bill a sort of delicate balance package. Agreements have been reached over a long period of time, apparently between shippers, carriers and the provinces. He was nervous that any amendments might upset this delicate balance, causing him to go back, especially to the provinces, for a new agreement.

• (1540)

In any event, it was helpful that he attended our last meeting and was able then to provide answers as to what amendments would and would not be acceptable. Where there was not total agreement, the members of the committee and the parliamentary secretary understood and appreciated each other's point of view. Perhaps, as a member of the committee, I should not say this, but I do think it fair to say that the committee did a very complete and useful study of the bill. Of course, I am pleased to support the adoption of this report.

With regard to the point raised by Senator Stewart as to the Iron Ore Company of Canada, I will refer that matter to the department and provide an answer at third reading of the bill. I agree with Senator Stewart that it is difficult to formulate reasonable judgments without having all of the evidence of the committee proceedings before us, because this is a very complex and important bill. I think the only thing that remains to be said—and I suppose it does not need to be said—is that Senator Langlois, as chairman of the committee, performed his duties in his usual competent and very courteous manner. I ask honourable senators to support the adoption of this report.

Motion agreed to and report on Bill C-18 adopted.

Motion agreed to and report on Bill C-19 adopted.

The Hon. the Speaker: Honourable senators, when shall Bill C-18, as amended, be read the third time?

On motion of Senator Doody, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.

The Hon. the Speaker: Honourable senators, when shall Bill C-19, as amended, be read the third time?

On motion of Senator Doody, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.

PATENT ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF SPECIAL COMMITTEE—POINT OF ORDER

On the Order:

Consideration of the Sixth Report of the Special Committee of the Senate on Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, presented in the Senate on 10th August, 1987.—(*Honourable Senator Bonnell*)

Hon. M. Lorne Bonnell: Honourable senators—

Hon. Jacques Flynn: Is the honourable senator moving the adoption of the report?

Senator Bonnell: Not yet, no.

Honourable senators—

Senator Flynn: If you rise to speak on this item, I want to raise a point of order.

Senator Bonnell: Just sit down for a moment, please.

Senator Flynn: I ask the Chair to put the question.

Senator Bonnell: I am going to answer the senator's question. I rise on a point of order, Mr. Speaker. I have not moved the adoption of anything. I stand—

Senator Flynn: The order has been read and it deals with the consideration of the report. I am asking if Senator Bonnell is moving the adoption of the report.

Senator van Roggen: Not yet.

Senator Flynn: Then the order will stand. If he is not doing anything, he can sit down.

Senator Bonnell: Honourable senators, we all appreciate Senator Flynn. Without him in the Senate it would be quite dull. Let me say, honourable senators—on a point of order, since that is what we are talking about—that yesterday, August 10, 1987, I received a copy of a communiqué concerning the proposed amendments to Bill C-22, which was sent to Mr. Greene from the Director of Committees Branch. The director felt that there could be some procedural concerns respecting this report. I would like to bring those concerns before honourable senators so that the Senate as a whole will know what the concerns are with respect to the recommendations in the report.

I will read from this communiqué so that I do not misinterpret anything. It is directed to Mr. Richard Greene, Clerk Assistant, from the Director of Committees:

> I have certain procedural concerns with respect to the proposed amendments.
>
> 1. The first amendment proposes to repeal Subsection 41(4) of the Patent Act. Bill C-22 does not propose to alter Subsection 41(4). Therefore the amendment may go beyond the scope of the Bill, making it an inadmissible amendment. To amend the Patent Act and not the Bill specifically before the House is not in order. *Beauchesne's* Fifth edition states:
>
> > An amendment may not amend a statute which is not before the committee . . . An amendment may not amend sections of the original Act unless they are specifically being amended in a clause of the bill before the committee.

Honourable senators, I would point out that our committee had legal counsel. Our legal counsel's advice is that we are procedurally correct. I have before me a written document from our legal counsel stating that in his opinion we are correct in what we have done.

Hon. Duff Roblin: Might my honourable friend be good enough to table that document? We have not seen it.

Senator Bonnell: Yes. This document is from David J. French, LL.B., Ottawa. I would like to table this report, to form part of the record of today, to show that the advice we received is a signed, written document stating that we are procedurally correct.

An Hon. Senator: Could you read it?

Senator Bonnell: This document is three pages long, but if it is the wish of honourable senators, I will read it.

Senator MacEachen: No.

Senator Bonnell: Perhaps I will give honourable senators some idea of what is in this document. My own view is this: I agree that we would probably not be able to amend a section of an act when that section was not dealt with in the bill. But we are amending subsection 41(1), which is dealt with in Bill C-22, and it is subsection (4) of section 41 that we are amending. So, section 41 of the Patent Act is amended in Bill C-22, and I repeat that we are amending subsection (4). I feel that since section 41 is in Bill C-22 we have every right to amend subsection (4), because it is consequential to subsection (1) and it is relevant to subsection (1). That is an opinion—my opinion and the lawyer's opinion—but the house officer's opinion raises doubt. He is an LL.B. and is trained in patent law.

• (1550)

Senator Roblin: He has never cracked *Beauchesne*, I gather.

Senator Bonnell: I don't know what you gather.

Senator Flynn: Why don't you—

Senator Bonnell: On a point of order, why don't you listen, Senator Flynn, just for once.

Senator Flynn: With you it is never once; it is ten times.

Senator Bonnell: Do it twice.

Senator Flynn: No, I won't do it twice.

Senator Bonnell: Then do it three times. Let me say, honourable senators, that he brought up another point of

order. He raised another point which he suggested might be a problem, namely, the royalty fund. He suggests—

Senator Barootes: Not your royalty fund.

Senator Bonnell: It was brought forward by the Director of Committees in a communiqué of August 10 to Mr. Richard Greene, the Clerk Assistant. His second point was relevant to the royalty fund. He states that:

> Amendments Nos. 1 and 6 deal with the establishment of a new Pharmaceutical Royalty Fund into which the licencee will pay and from which payments will be disbursed to participating patentees.

He suggests that there may be two problems with these amendments. He says:

> . . . both of them which may infringe upon the financial initiative of the Crown.

That would be a very serious matter, and, in my opinion, I do not feel that we are doing anything like that. In my opinion, we are setting up a trust fund, the same as you would in a court. In my opinion, there is no money going into the national revenue and, in my opinion, there is no ways and means motion to govern how it is paid out. It is paid into a trust fund, the same as a judge in a court would order a trust fund. However, I am not a lawyer—

Senator Flynn: That is obvious.

Senator Bonnell: Senator Flynn is a lawyer.

An Hon. Senator: Thank goodness!

Senator Bonnell: "Thank goodness" someone says.

Hon. Hartland de M. Molson: On a point of order, may I ask the honourable senator what substance he is now dealing with? Is he dealing with the report?

Senator Bonnell: I am speaking on a point of order.

Senator Molson: What is the point of order?

Senator Bonnell: The point of order is—

Senator Molson: I think you are completely out of order.

Senator Bonnell: We are dealing with the consideration of my report, which was tabled yesterday.

Senator Molson: You have not moved the adoption of your report.

Senator Bonnell: I know I haven't.

Senator Molson: Then wait until you do. Get back on side.

Senator Bonnell: That being the case, I will make a motion:

> That the Sixth Report of the Special Committee of the Senate on the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, be referred back to the said Special Committee to consider the amendments proposed in the report;

Senator Flynn: No, no.

Senator Bonnell:

[Senator Bonnell.]

> That the said Special Committee for such purposes be revived, and
>
> That it be an instruction to the Special Committee to report back to the Senate no later than Thursday, 13th August, 1987.

Senator Flynn: It is out of order, because it would require, first, at least one day's notice. What is before the Senate is the adoption of the report.

Senator Bonnell: No. I did not move the adoption.

Senator Flynn: At this point you cannot make that motion. You can give notice of a motion. But you cannot even do that today, because it is too late. You need one day's notice to move that kind of motion, because it is not on the order paper, it is entirely new.

Hon. Royce Frith (Deputy Leader of the Opposition): What is on the order paper is consideration of the report.

Senator Flynn: Then move it. Move consideration of the report.

Senator Bonnell: I made a motion—

Senator Frith: Consideration of the report was moved yesterday.

Senator Flynn: Really, Senator Frith, are you losing your mind, arguing the way you are doing? It is all very well to say anything that goes through your mind—

Senator Frith: Finish what you have to say, and then I will speak.

Senator Flynn: Your Honour, I say that this motion would require one day's notice, that it is not in order at this point. That is sufficient to put it off.

Senator Frith: Honourable senators, is the point of order being raised that notice must be given, and leave is not granted?

Senator Flynn: Leave is not granted.

Senator Frith: Then notice is given. Now you are out of order, because notice has been given, and we cannot deal with it until tomorrow. If you want to deal with it tomorrow, then we will deal with it tomorrow.

Senator Flynn: We are not dealing with the motion but with the report. The report is before the Senate. Senator Bonnell has risen on a point of order, and we are entitled to discuss the point of order he has raised. He has raised it to defeat it. He has built a straw man, and now he does not want anyone to deal with it. He won't get away with that. We have this report before the Senate. The question is whether or not the recommendations contained in the report are acceptable, and that is the point that we are entitled to discuss.

Senator Frith: Honourable senators, let us get back to where we were. We were dealing with an order that is called "Consideration of the Sixth Report of the Special Committee of the Senate on Bill C-22." Senator Bonnell rose on that consideration and moved a motion.

Senator Flynn: No, no.

Senator Frith: What is now before us is a motion, and we have been refused leave; and the order with which we have been dealing now stands over because of the motion that was made under that order.

Senator Flynn: No, no.

Senator Frith: That means that we now have to deal with that tomorrow, because leave was refused—

Senator Flynn: No, no.

Senator Frith: —and I ask His Honour the Speaker to make that ruling. What we have before us, and what His Honour has in his hand, is a motion which, as read by Senator Bonnell, is to refer the report—that is what we were considering: consideration of the report—back to the committee, and to reconstitute the committee for that purpose. Since leave was not given, and notice was therefore given, it stands over until tomorrow.

Hon. Duff Roblin: Have we not missed a step in the proceedings? It has been my observation in the past that when a motion is called by the Table, that is not sufficient to put it before the Senate for discussion.

Senator Frith: He did not call the motion; he called the order.

Senator Roblin: But that is not sufficient to have it discussed. It has to be moved by a member of the Senate. It wasn't moved. The subject is not before us until someone moves it.

Senator Frith: He moved the motion.

Senator Roblin: That is not the point. We have before us this Order of the Day which was called by the clerk. The calling of an order by the clerk does not place an item before the Senate for discussion.

Senator Frith: Of course it does.

Senator Roblin: It does not. It has to be moved.

Senator Frith: What about an inquiry?

Senator Roblin: Certainly, but it is moved by the person making the inquiry.

Senator Frith: No, no—

Senator Roblin: My honourable friend can have his opinion. I think that when the Senate reflects upon this matter it will come to the conclusion that it is up to an honourable senator to move a motion before it is before us for discussion. It is not sufficient merely to have the item called by the clerk at the Table. If I am wrong, I am willing to be corrected. I do not claim to be an expert in these matters. That has been my firm impression. It seems to me that we got off on the wrong foot when Senator Bonnell did not move his motion.

Senator Frith: He said he was rising on a point of order.

Senator Flynn: So, I rise on the same point of order.

Senator Roblin: Until the motion is before us, there is no point of order to be discussed with respect to that motion.

• (1600)

Senator Frith: But there is a motion.

Senator Roblin: The motion is not before us simply because the clerk calls it.

Senator Frith: Senator Bonnell moved a motion.

Senator Roblin: It has to be moved by a member of the Senate.

Senator Frith: He moved a motion.

Senator Roblin: He never did. Senator Bonnell was challenged by my friend here to move a motion, but he did not move it.

Senator Flynn: He could not.

Senator Frith: He did not move the motion that Senator Flynn asked him to move. But there is no requirement that Senator Bonnell move a motion asked for by Senator Flynn or by anyone else.

Senator Flynn: He cannot move a motion at all at this point in the proceedings.

Senator Frith: Where Senator Roblin got this proposition that nothing is before the Senate until a motion is moved I cannot imagine. The order was called, and what does the order say? Does it say, "continuing debate on a motion?" No. It says, "consideration of the report." Senator Bonnell got up under the heading of "consideration of the report" and made a motion.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): He said he had a point of order.

Senator Frith: Whatever he said, he moved a motion.

Senator Murray: He was asked two or three times, and he said he was on a point of order.

Senator Roblin: You can't bootleg in a motion on a point of order.

Senator Frith: Senator Bonnell is not bootlegging anything. Whatever he said, he eventually moved a motion. If a mistake was made, it was made when the other side refused leave to proceed with that motion and said that it required—

Senator Murray: You never asked for leave.

Senator Frith: Yes, leave was asked for.

Senator Murray: Leave was never asked for.

Senator Frith: Now we are on Senator Flynn's point of order when he rose to say that Senator Bonnell's motion requires one day's notice. The record will show that we asked, "Is leave not being given?", and Senator Flynn said, "No, leave is not being given."

Senator Flynn: Not even to give notice.

Senator Frith: So, at that moment leave was not given, because Senator Flynn said, in spite of what he is saying now, that the motion requires a day's notice.

Senator Flynn: But you cannot give it now.

Senator Frith: Therefore, when leave is not given, the motion becomes a notice which stands over until tomorrow. The proper procedure now, because leave was not given, is to call Order No. 4.

Senator Roblin: The proper procedure is to call Order No. 1.

Senator Frith: Order No. 1 was called 20 minutes ago.

Senator Roblin: Order No. 1 was called by the Table, so we should proceed with it. The fact is that my honourable friend here did not want to discuss Order No. 1.

Senator Frith: He was talking about the sixth report, which is what Order No. 1 is about.

Senator Roblin: He wanted to bootleg in a motion to deal with this question in another way. That is quite improper. What should now happen is that Order No. 1 should be moved by my honourable friend, Senator Bonnell, particularly since we cannot proceed with this bootleg motion which has obviously been introduced. The next order of business is not Order No. 4. We cannot skip over Order No. 1 like that. Something has to be done about it. It either has to be stood—

Senator Frith: If you had granted leave, we would be dealing with it. You refused leave.

Senator Roblin: Never mind that. If you try to bootleg things in like this, it is not likely to succeed, I suggest.

Senator Frith: The bootlegger is standing on his feet!

Senator Roblin: I suggest that the proper procedure at the present time is to proceed with Order No. 1, which the clerk has called and which we have not properly dealt with.

Hon. George van Roggen: Honourable senators, I hesitate to rise because I am not, by any stretch of anyone's imagination, an authority on parliamentary procedure. However, I do believe that there is a logical progression here, and I am having great difficulty understanding the points raised by honourable senators on the other side. Order No. 1 was called. As I understand it, it is now argued that the order, having been called by the clerk, cannot be discussed unless a motion is made relative to that order. Is that not the point some honourable senators are trying to make; that the adoption of the report must be moved before the order can be discussed?

Senator Flynn: That's not it.

Senator van Roggen: Senator Bonnell then rose on a point of order, and after developing the point of order for a short time, Senator Molson said that it was not in order for him to be doing so. Senator Bonnell then said, "If it is not in order for me to be doing so, I will move a motion instead."

Senator Guay: Right on!

Senator van Roggen: The proposition was then put forward that Senator Bonnell could not do that because Order No. 1, having been called, cannot be discussed or dealt with until the adoption of the report is actually moved. My point is simply this: Once an order is called, that order can be discussed and dealt with, without any motion being made or without any further steps being taken, in the same way as we deal with orders that do not involve reports or bills, such as Order No. 9 which deals with the consideration of the report on the "Snowbirds". Discussion of that order could go ahead without any separate motion being introduced. So, surely under Order No. 1, which has been called by the Table, discussion can proceed without a motion by Senator Bonnell for the adoption of the report. During the discussion on Order No. 1, Senator Bonnell made a motion that this matter be referred back to the committee. Leave was denied, so Senator Frith has said that we will let it stand as notice for one day, if you will not give leave.

The argument that it is incumbent upon Senator Bonnell to move the adoption of the report makes no sense to me. Maybe that is not what was meant, but it is certainly what I heard.

Senator Flynn: First, it is obvious that Senator Bonnell could not move the motion he introduced. Second, he could not give notice of that motion at that particular time. It was too late. Notices of Motions come at the beginning of the sitting. Third, Senator Bonnell rose on a point of order when Order No. 1 was called. Perhaps he moved consideration of the report implicitly, as Senator van Roggen has suggested, and I do not mind that. However, if he wants to discuss this matter without introducing a motion, he cannot object to my rising on a point of order. If Senator Bonnell was not speaking to the report and was really on a point of order, I am entitled to discuss his point of order. One way or the other, I am entitled to deal with the problem he raised, whether he raised it by moving a motion or implicitly by saying, "I am not talking about the report, I am talking about something else." If he wants to talk about something else, I will talk about something else. If he wants to talk about the report, I will deal with the report. But I raised a point of order also, because I want to discuss the point of order he raised, and that I am entitled to do.

Senator van Roggen: Can a point of order only be raised on one side of this chamber?

Senator Flynn: It was raised on your side.

Senator van Roggen: But Senator Molson said that it was wrong to raise it.

Senator Flynn: Senator Molson said that it was wrong to discuss the point of order without moving the adoption of Order No. 1, but that is something else. If he does not want to move it, it means that he is discussing only a point of order, and I am prepared to discuss a point of order. That is all, and I do not mind one way or the other.

Senator Guay: You objected to the motion.

Senator Flynn: You cannot prevent this discussion. You are trying to avoid discussing the point of order raised by Senator Bonnell at this time. It is the device you have used with regard to the so-called motion put by Senator Bonnell. It is so obvious. Do not take us for fools. Just because you have the numbers it does not mean you are right.

Senator van Roggen: Senator Flynn, I would never take you for a fool. I might disagree with you at times, but I do not disagree with you on this occasion. It seems to me from what you are saying that you would like to discuss the point of order. I am not trying to prevent you from discussing the point of order. Senator Bonnell was discussing the point of order when Senator Molson interjected and said that he should not be doing so. Personally, I think Senator Bonnell was wrong to give way to Senator Molson's objection; Senator Bonnell was quite properly discussing a point of order. When Senator Bonnell was finished discussing his point of order, Senator Flynn or any other senator could also have discussed it.

• (1610)

Senator Molson: Honourable senators, if I might interject a word here about my intervention, my comment was that Senator Bonnell had not made his point of order. He rose on a point of order, and then went all through his report and the communications received from the clerk, and so on, but he did not say what the point of order was. That was my objection. He either has to have a motion, state a point of order, or sit down.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have listened quite carefully to the procedural arguments and I am trying to understand the nature of the difficulty which has been suggested by Senator Flynn and subsequently referred to by Senator Molson. I support 100 per cent the point made by Senator van Roggen in which he argued that it was possible, under this item, to have a debate. It is not necessary for Senator Bonnell or anyone else to put a motion in order to have a discussion or a debate on the report of the committee, which Senator Bonnell presented yesterday. In fact, if you look at the *Minutes of the Proceedings of the Senate*, you will notice on page 1074 it says:

> The Honourable Senator Bonnell moved, seconded by the Honourable Senator Buckwold, that the Report be placed on the Orders of the Day for consideration at the next sitting of the Senate.
>
> The question being put on the motion, it was—
>
> Resolved in the affirmative.

Therefore, yesterday a motion was moved, seconded, and carried that today the Senate would consider the report. Therefore, it is clear to me that it is totally in order to have a debate on that report, as was ordered yesterday by motion. I think that is absolutely clear, and therefore I think it was quite appropriate for Senator Bonnell or Senator Flynn or any other senator to get up and debate the report.

The question then arises: What sort of a motion can be made under this particular order, and what notice is required? It is interesting that on the scroll the Table officers presumed that Senator Bonnell would move the adoption of the report. They presumed that because it often happens, but it is not necessary that it happen.

Senator Flynn: Always.

Senator MacEachen: It is not necessary that it happen, but if Senator Bonnell had moved the adoption of the report, would anyone have risen and said that he needed a day's notice? Obviously not. We saw just a few moments ago Senator Langlois, as Chairman of the Standing Senate Committee on Transport and Communications, under a similar order made yesterday—namely, the consideration of the report—move a motion that his report be adopted.

However, it was not necessary, procedurally, for Senator Langlois to move the adoption of his report in order to have a debate. Senator Stewart could have made his speech under the item of "consideration of Senator Langlois' report" without the movement of a new motion. But what is interesting is that we ask ourselves: Is it appropriate to make a motion under this particular order? We obviously find that it is, because a motion has been made to adopt the report of the Standing Senate Committee on Transport and Communications. I suggest it is equally in order, rather than move the adoption of the report, to move to refer the report of the committee back to the committee itself.

Senator van Roggen: Exactly.

Senator MacEachen: In fact, if you look at *Beauchesne*, there is ample reference, when a committee report is made, to the possibility of referring that committee report back to the committee. In the case of a special committee *Beauchesne* says, of course, that you have to add the requirement that the special committee be revived in order to do it. Therefore, I think it was quite appropriate for Senator Bonnell to make that motion.

Honourable senators, the objection has been raised that Senator Bonnell made the motion on a point of order. That is a technical point that will have to be considered. However, that does not preclude me from making the motion, because I am speaking on a point of order raised by another, and when that point of order is disposed of, I am free—as is any other senator—to make the motion, which might be held inadmissible because Senator Bonnell made it on a point of order. We still have his motion before us, namely, the consideration of the report, and if it is ruled that Senator Bonnell acted improperly in making his motion when he said he was speaking on a point of order, then, of course, it is open to another senator to make that same motion.

Of course, honourable senators, I think it might be alleged—and I am not going to press the point—that Senator Bonnell's motion constitutes an instruction to the special committee. To that extent, if, indeed, Senator Bonnell's motion is held to contain an instruction to the committee, then, of course, I understand that, according to rule 45 of the rules of the Senate:

> (1) One day's notice shall be given . . .

I think it would be pressing the point very hard to insist that one day's notice is required. However, Senator Frith has asked for a ruling, and I think we must have a ruling on this particular point. There are, in fact, two points: Whether Senator Bonnell is estopped from making this motion because he referred to the fact that he was speaking on a point of order; and whether it requires one day's notice. Those are the two points, and if Your Honour rules, then we can later proceed, still under this order, to move the motion, because I insist that under this order it is as valid to move the motion to refer the report back to the committee as it is to move the adoption.

Senator van Roggen: Of course.

Senator MacEachen: It is quite as valid, and, to speak quite frankly, the Table officers had no right to put down under Senator Bonnell's name:

. . . moves . . . that the Report be adopted—

I do not think he told them he intended to move the adoption. Speaking quite technically and correctly, the scroll should not have contained the assertion "Senator Bonnell moves . . . ," because he had given no indication to the Senate that he intended to move the adoption. In fact, he had already decided not to move the adoption. He had decided to move that the report go back to the committee.

● (1620)

Senator Flynn: When did he decide that?

Senator MacEachen: He obviously decided it, because he made the motion.

Senator Flynn: Yesterday?

Senator MacEachen: I have no idea. However, if he had decided yesterday or this morning, he was not obligated to inform anyone. He informed the Senate itself when he rose in his place today. That is the situation. Let us not be mesmerized by the fact that there appears on the scroll the notation, "Moved by Senator Bonnell" that "the Report be adopted," because there was an alternative which he exercised, and that was to move that the report be referred back to the committee.

There may be some procedural difficulties, but one of them is not the right to move this motion under this order. It may be that it requires one day's notice, and that the motion could not be moved until tomorrow. However, honourable senators, what is the point of the government today refusing leave to send this report back to the committee? If they want their bill and if they want to—

Senator Flynn: Out of order.

Senator MacEachen: —facilitate the work of the Senate in an orderly way in order that we will do our job on Friday, then it would seem to me that it is in the interest of the Senate and the government to accept the motion today. So, whatever work has to be done in the committee on the procedural matter can be done and the committee can report tomorrow. Why hold it up? Senator Bonnell is saying that he wants this report to go back to be examined by his committee because procedural objections have been raised by the Table officers. "Send the report back," he is saying to the Senate, "so we can look at this and fix the matter up, if required, and I will bring it back to you not later than Thursday."

I do not know why we should be battling over this unless—

Senator Flynn: I know why.

Senator MacEachen: —it is the wish of Senator Flynn to say that there are procedural difficulties with the amendments. Maybe there are.

Senator Murray: Then let us consider them.

Senator MacEachen: Let us consider them in the committee.

Senator Murray: Consider them here.

Senator MacEachen: There will be a motion to that effect. Whether Senator Bonnell's motion is ruled in order or not, there will be another motion that will be an order to send it back, and it will be carried. Why not do it today and get on with the work of the Senate?

Senator Flynn: I rise to comment on an unfair comment made by the Leader of the Opposition about the people at the Table. When a committee chairman reports a bill with amendments, it is presumed that the chairman moves the adoption of the report. That is why it appears that way on the scroll, and it should appear that way in the *Minutes of Proceedings*. When Senator Bonnell brought forward his report yesterday, don't tell me that he did not have the intention to move the adoption. That is not true. He had the idea. Now he is afraid of a decision on the validity of the amendments proposed, and that is your fear also, Senator MacEachen, and the fear of the majority. You do not want the Chair to consider the validity of these amendments. You are trying to avoid the issue in order to bury the mistakes made by the committee. You do not want to deal with the problem of the—

Senator Frith: We are assuming that there is a problem and we want to solve it. It is quite the opposite.

Senator Flynn: All right, tomorrow we will discuss your motion.

Senator Frith: He is assuming that there is a problem and wants to deal with it. Why take two or more days to do it? Let us get to work on it and see if it can be solved.

Senator Flynn: The Chair is in a position to render a judgment on the problem, and you are avoiding that.

Senator Frith: No, on the contrary.

Senator Flynn: You want to send it back to committee rather than deal with the problem, as we should deal with it.

Senator Frith: We want the committee to deal with the problem. We assume you are right.

Senator Flynn: The Chair has to deal with it, not the committee. I do not trust that committee, because it is the one that made the mistakes. It is so obvious and so simple.

In any event, because the point was raised by Senator Bonnell, I am entitled to discuss the point he raised, and I am going to discuss it right now.

Senator Bonnell: Go ahead. The floor is yours.

Senator Flynn: And we will see if you do not—

Senator Bonnell: Let me finish the point.

Senator Flynn: I am going to have the Chair rule whether some of the amendments proposed by the—

Senator Bonnell: Would you permit a question?

Senator Flynn: Certainly.

Senator Bonnell: Will you let me finish the point so you can debate the whole point?

Senator Flynn: Sure.

Senator Frith: Just a minute. Senator Flynn is perfectly entitled to raise his point of order. At any point in time when there is a breach of order, that is the time to raise the point of order. What is before us now, however, is the point of order as to whether or not this motion is in order. That has to be dealt with before we go on to any other points of order. Let us get it settled whether the motion is in order or not. If that motion, that is the motion to refer it back to the committee, is a breach of order, or there is something out of order in that motion, then anyone can raise that as a point of order.

However, what is before Your Honour now is a request to rule on whether or not Senator Bonnell's motion is in order. Senator MacEachen says it is as much in order as an order or a motion to adopt. That is the question that Your Honour has to rule on. Then we can go on to other points of order, if necessary.

Senator Flynn: Will we get back to the point of order discussed by Senator Bonnell?

Senator Frith: You can raise it.

The Hon. the Speaker: Honourable senators, section 655 of *Beauchesne's* says:

> It is not possible to initiate a debate in the House on the evidence alone of a committee, unless there is before the House a formal report. The report must state the specific question and be brought to the House by means of a specific motion to concur.

Following this, if we concur, then we go to section 660, which says:

> (1) When the motion to concur is moved, the House may refer the report back to the committee for further consideration or with instructions to amend it in any respect. It is not competent for a committee to reconsider and reserve its own decision, but if the House resolves that such reconsideration is necessary, the correct procedure is for the House to give the committee instructions, which will enable it to consider the whole question again. Bourinot, p.480

I do not know if that helps. The motion to adopt the report should come first, and when it is debated then there is a second motion and an amendment or another motion, if you wish, to send it back to committee.

Senator MacEachen: Honourable senators, my submission is that there is before the Senate now the consideration of the report. Yesterday the Senate ordered that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate. It is my submission that that is all that is before the Senate, and that it is open for a senator to move either the adoption of the report or to move that the report be referred back to the committee. There is no obligation on a senator to move concurrence in the report and then that it be referred back. I do not think that makes any sense at all in our proceedings. I think we have to give a little more thought to that.

• (1630)

Senator Murray: How do you interpret the citations His Honour just read?

Senator MacEachen: I have listened to those citations for 34 years.

Senator Murray: If I understood the citations correctly, what we were being told was that to accomplish the end that is desired by Senator Bonnell it would take (a), a motion to concur; and (b), an amendment that the report be not concurred in but that it be referred back to the committee with instructions. That is my understanding of the citations that His Honour just read.

In any case, if I may leap into this lacuna for a moment, it seems to me that the normal procedure is as follows. A report has been brought in on a bill. The report that has been brought in is part of the legislative process. It has been brought to our attention that there are certain procedural difficulties. The appropriate thing to do, in the normal course of events, would be for an honourable senator to raise those procedural difficulties as a point of order.

Senator Frith: Which Senator Bonnell has done.

Senator Murray: Yes, but to raise them as a point of order and allow the Senate to discuss and decide on them. Instead of that, what has happened is that the chairman of the committee has risen in his place, drawn honourable senators' attention to the procedural difficulties that have been raised, stated that his committee had obtained legal advice—in which he has confidence—to the effect that there are no procedural difficulties, and moved that the report be referred back to the committee, without any instructions whatever except to report by Thursday.

It seems to me that we could conduct the business of the Senate much more expeditiously if we faced the procedural difficulties now, whatever they are, which is the appropriate time, and resolve them one way or another.

Senator Frith: Honourable senators, I do not want to be disputatious about this, because I may misunderstand the point of the motion to refer the report back.

I understood Senator Bonnell to say that he had received legal advice that there was nothing out of order in the report.

He also said that he has received advice from the clerks at the Table that there is something out of order.

I understand that the purpose of Senator Bonnell's motion to have the report referred back to the committee is based on the fact that it is undesirable for a Senate committee to make a report to the Senate when there is a cloud over its procedural, and perhaps even constitutional, rectitude. Therefore, he wants the committee not to go back and check the legality. He assumes that there is a problem, and it is my view that, assuming that there is a procedural problem with the report in its present form because of the citations and the points that he has raised, the committee should be asked to go back and try to present a report that does not offend these principles.

If we proceed—which, if you wish, we can do—to have a discussion about this, and Senator Flynn, for example, makes the same points, my view would be that that raises enough doubts that the report should be referred back to the committee so that the committee can present a report that does not create these problems.

We seem to have fallen into thinking that what will happen is that Senator Flynn will raise questions on the report and that we will say, "No, Senator Flynn is wrong." The purpose of Senator Bonnell's motion is to say, "Let's assume he is right." Then we will not spend two days discussing this matter, because the Senate can make up its own mind as to what is in order—it does not have to have a ruling if it does not want one. If all honourable senators agree that there is a problem, then the committee should try to take that into account in presenting a report.

We are not quarrelling about whether there is a problem or not. We are saying, "Yes, there is a problem, but let us not go back and try to solve the problem in terms of deciding what is right or what is wrong. Assume there is a problem and that there may be a difficulty, and phrase the report in a way that does not offend."

That is why I say it seems to me we are misunderstanding each other, if honourable senators opposite think that our position is that we want to have a fight about whether or not there is something irregular here. My view is that if there is any doubt about this we should send it back to the committee—we have only until Friday by an order of the Senate—and see if the committee can present a report that takes into account these objections.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I think "misunderstanding" is the key word, because I am misunderstanding this myself now. At the last meeting of the committee I raised this matter and asked that it be dealt with then. At that time I had a copy of the document provided by the officials with me. As I said, I raised this matter then, and I was told by the chairman of the committee and by other members of the committee that the committee would present the report to the Senate and that the Senate would deal with it. Now there appears to be a complete turn around. Despite the fact that we had that information at the last meeting of the committee, and I asked that we deal with it then, it was decided not to do that but that the report be presented as it was—possibly flawed, possibly not flawed—to the Senate and the Senate could then consider the report. That is what we are asking the Senate to do now.

Senator Roblin: Honourable senators, should it not be possible for the Senate to consider the flaws in this report right now? Why should we be discussing these points of order?

Senator Frith: Because we are working on the assumption that they are right.

Senator Roblin: I do not think you should necessarily assume that that is the opinion of everyone when they have not heard the issues discussed, and even if everyone does agree as to what the issues are, for the enlightenment of the committee it would be no bad thing to have those issues ventilated in the chamber right now. Points of order can be raised with respect to the document that is before us, which is the report of the committee, and we can review them. I think this is something we should proceed with right away.

Senator MacEachen: Honourable senators, I want to go back to the main procedural point in an effort to understand what has been the impact of the Speaker's comments.

If I understood His Honour correctly, at this point it would be appropriate to move the adoption of the report, and when that motion is made, and before it is carried, an amendment would be in order to move that the report be not now adopted but that it be referred back to the committee.

I really seek guidance from the Chair to determine whether that is the impact of His Honour's statement, because, if that is the case, we can certainly do that. Is my understanding correct?

The Hon. the Speaker: The intent was to have the report, if moved, adopted now. As to subsequent events, either a motion put by Senator Bonnell or by some other senator can be heard by the Senate, or, as Senator Roblin has said, honourable senators may wish to discuss the issue now. That is the prerogative of honourable senators. I would suggest that the adoption of the report be moved now, and that we proceed from there.

• (1640)

Senator Flynn: The question can then be put to the Chair. If you say that we do not want the Chair to rule, we want the committee to rule—that is something else.

Senator Frith: A ruling is not necessary.

Senator MacEachen: Honourable senators—

Senator Frith: It is only if there is a dispute that we need to have a ruling. We are not disputing it!

Senator MacEachen: —I am prepared, without prejudice to my own arguments and comments, to accept the procedure proposed, if it is agreeable to His Honour, namely, that a motion could be made that the report be adopted. It would then be possible to move an amendment that the report be not now adopted but that it be referred back to the committee for

the purposes indicated. We would then be able to carry that today.

Senator Frith: That is crazy!

Senator MacEachen: Any discussion that is required could be undertaken on the amendment to the motion.

Senator Roblin: I comment on that, honourable senators, by saying that I feel much relieved, because that is really what I was trying to say when I first entered into this discussion, namely, that there had to be the resolution before us and then we could deal with it in the way suggested. I have no objection to what the honourable Leader of the Opposition has been proposing—without prejudice to any of my arguments!

Senator Flynn: The way I assume that the proposal would work is that you would move the adoption of the report; I, or someone else, would raise the question of the legality of some of the amendments; and you would move the referral back to the committee to state that we do not want the Chair to rule on this question, we want the matter to be considered by the committee—

Senator Frith: We do not need to.

Senator Flynn: —rather than to be dealt with by the Chair.

Senator Frith: We do not need it.

Senator Flynn: We can then discuss whether this is a good solution in practice. But what we have to decide is whether these amendments are in order or not. I do not think that it is up to the committee itself to decide that, because it has already made a decision.

Senator Frith: That is not what it wants to do. It does not want to make this decision; it is assuming that that decision is made. It wants to go back and comply with it!

The Hon. the Speaker: Well, honourable senators, may I then have a motion to adopt the report now?

Senator MacEachen: Your Honour, I find the approach proposed by Senator Flynn quite dangerous. It will have the effect of delaying the expeditious treatment of this bill, because he has given us notice that if the motion to adopt the report is made—and at that point, of course, the amendments are before the Senate—he will then raise points of order and will ask the Chair for rulings. At that point the Chair may find it necessary to make rulings which we may find difficult to live with. All of that will go on without an opportunity to have the committee deal with the report.

I am seeking a practical solution, namely, that we move the adoption of the report and that we move immediately that it be referred back to committee. The necessity of procedural rulings by the Chair would be deferred until the committee has made a further report after being able to examine again what it has put forward to the Senate. If that can be done, I would set the process in motion, but I do not think that we should embark on two separate tracks at the same time. Either have it done in the special committee, or have it done on the floor of the Senate. I think that if it is to be done on the floor of the Senate, we will be heading into real difficulties. It is a government bill that is being dealt with, and I do not understand why government members will not immediately agree to have this go back to the committee, at the request of the chairman, to consider the difficulties that have been raised by the Table officer.

Senator Frith: Not to make a ruling!

Senator Roblin: And what the committee would do would be another matter.

Senator Flynn: If it was another committee.

Senator van Roggen: Honourable senators, I have listened with great interest to the exchanges between the Leader of the Opposition in the Senate and the members on the other side relative to adopting the report at this time as a first step or mechanism for getting it back to the committee.

I wish to say that personally I have grave reservations about voting in favour of the adoption of a report which, as has been explained to me, is possibly flawed.

An Hon. Senator: Right on!

Senator van Roggen: In the interests of the Senate—not of the Liberal Party or of the Conservative Party—it is important that we not bring forward proposed amendments to legislation if, indeed, they are flawed.

Why should I, therefore, having had notice of that, be asked now to vote for the adoption of the report just to get it back to the committee, where these concerns about the report being flawed can be dealt with and, hopefully, corrected?

I refer now to earlier this afternoon when we had the two transportation bills before us. A considerable discussion, with quite long and comprehensive speeches, was conducted by two or three senators relative to those bills before their adoption was moved. If, in the course of those speeches by Senator Stewart, Senator Lawson and others, points had been brought to our attention that might have persuaded us that those reports should have had some further consideration by the committee before we adopted the reports, then surely the logical thing for us to do would have been to send those transportation bills back to the committee rather than move their adoption and vote on them first.

An Hon. Senator: Right on!

Senator van Roggen: I feel strongly, personally, that I would rather not be invited to vote for the adoption of the committee report, having been forewarned that it is flawed. I would much rather vote simply, having received this advice that it may be flawed, to send it back to the committee now so that the committee can endeavour to correct these imperfections—if, indeed, they are—and bring in a report so that I could then vote for its adoption, knowing that these flaws had been removed, or at least dealt with to the extent possible.

I do not think that we, as senators, should be making a partisan exercise out of trying to tidy something up that has been brought to our attention by the legal officers of the Senate, namely, that a report may be flawed. We should be addressing ourselves as to how to correct that imperfection

rather than going through this exercise, and, indeed, using the mechanism of adopting the report in order to get it to the committee, when we are being asked to adopt something that we should not adopt; that is wrong.

● (1650)

Senator Frith: Honourable senators, I am wondering whether today we should deal with the fact of whether this motion is in order or whether we need a motion to adopt. I believe that amendments to the committee's report, which would satisfy the procedural and other objections, can be made.

Senator Roblin: There are other objections, not just procedural ones?

Senator Frith: The reason I said "and other objections" is because the objections that were the subject matter of the memorandum by the Table officers were divided into some which were procedural and some which may be matters of law. They have been bundled into the term "constitutional". In fact, I think Senator Flynn would agree that some are procedural and some are constitutional and matters of law. That is the only reason I use that expression, whatever the objections may be.

I think the report could be amended in such a way as to avoid offending those principles. I have just spoken with Senator Flynn and indicated that I would understand if he would like to see what they are. If that is so, those amendments could be made on the floor rather than being sent to committee. I do not think there is any reason to prefer one system over the other, except that from Senator Flynn's point of view he would rather have them presented on the floor in case the committee thinks that it has to make a ruling on the legitimacy versus the ruling by the Senate or, if called upon, the Speaker. I do not think that is the committee's intention. I can understand why Senator Flynn would say, "If you have some amendments to the bill or to the report that you think would not offend these principles, let me see them."

Senator Roblin: You should not ask us to draft them.

Senator Frith: I am not asking you to draft them; I am saying that I will present them. I am not expecting you to vote for the amendments. I am simply saying that they would be amendments that would not offend.

Senator Flynn: I think we should discuss the legality of some of the amendments without asking the Chair to rule at this time. Then tomorrow, if amendments are to be presented, we will see them, with the reservation of calling on the Chair to make a ruling on these amendments or those that you may eventually propose. I would suggest that we not refer the matter back to the committee, because, after all, the committee has a plan which is something concrete. It has no expertise in constitutional matters. It is a lop-sided committee. It is a committee in which I have no confidence at all as far as impartiality is concerned. Do not ask us to support a motion of that kind.

I agree that we should discuss the legalities without asking the Chair for a ruling, and tomorrow amendments can be introduced.

[Senator van Roggen.]

Senator Roblin: Fair enough. Good idea.

Senator Frith: I thought we could avoid the question of legalities in that I thought we, on all sides, realized that there were some legality problems.

Senator Flynn: It would help you to propose amendments that might be—

Senator Frith: I, of course, would prefer to propose those amendments to the committee and have the amendments come back from the committee, because I do not expect the committee to be raising the question of legalities. The problem for the committee is to come back with a report that does not offend those principles.

I do not know whether we are any further ahead; I thought we were, but I guess we are not. I do not see what we can do other than stand the order.

Hon. Efstathios W. Barootes: Honourable senators, I am totally confused by this, and I seek further clarification from the wisdom with which I am faced opposite.

It appears as if we have had a special committee established by the will of those on the other side rather than by the usual procedure. The committee has sat for three months and one week trying to get somewhere, and now we have a report before us.

It would appear to me that for us to proceed either in the way Senator Frith or some of our front bench colleagues wish, we would have to withdraw those points of order and withdraw the motion. Then we could proceed with discussion of the bill itself or the report of the committee. I am a little confused as to how we are going to do that when we have before us a series of motions on which we have asked for rulings.

Nevertheless, it would appear to me that these legal points were raised by the Deputy Leader of the Government at our committee meeting yesterday. The letter from the clerk was produced and considered, and it was decided not to proceed. Today, all of a sudden, the amendments in this report, of which some of the committee members are so proud, and with good reason, because they worked pretty hard at it—and which I might add, the Honourable Leader of the Opposition in the other place has spent some time endorsing as I understand it—are now being renounced. I do not know how we can return the matter to the committee because we are in a jam.

I think we have to withdraw the resolutions or the motion if they are on the Table and proceed from there, and allow either Senator Bonnell or someone on this side to put forward a motion.

Senator Frith: Honourable senators, I thought that we could profit from consideration overnight of how best to come to grips with what I think we want to come to grips with, that is, the amendment or non-amendment of Bill C-22. That is the issue we really want to deal with. There must be a way to get to that by negotiation. If we cannot do it on the floor, we can do it otherwise.

Having discussed this with Senator Flynn, the problem I now have is that the proposal I made he seemed to think was

based on a lack of confidence in the committee. He is entitled to have a lack of confidence in the committee, but I do not share that; I have a great deal of confidence in the committee.

I do not know whether eventually the best way for us to come to grips with amendment or non-amendment of Bill C-22 should come through the committee or be proposed directly on the floor.

I do not know of any other way to deal with this now, except to ask: Have we a ruling that Senator Bonnell's motion is out of order or not? Can we deal with that, and then we will at least have something in front of us?

Senator Flynn: The ruling is that he has to move the adoption or the consideration of the report first.

Senator Molson: I have been following the suggestion made by the Leader of the Opposition, which seemed to me to be very sensible. Supposing the motion is put by the chairman of the committee to adopt the report, it will then be debated if that is the wish. Someone could then move an amendment that it be not now adopted but referred back to committee. Then we could go through the whole procedure. If we do what was suggested earlier by Senator MacEachen, it would get a motion in amendment on the floor. At the moment we do not have a proper motion before us in order to be debating anything.

Earlier I objected, because Senator Bonnell said he was speaking on a point of order, but he never said what the point of order was and, frankly, when he finished, I was not sure what it was. He read the opinion of the law officers, and so on, which is fine, but we have nothing before us by way of motion or resolution. In all the years I have been in this chamber we have always had to start any procedure by a motion or a resolution presented on the floor of the Senate by a senator. It seems to me that if we have moved the adoption of the report, if we debate it, and if somebody moves an amendment that it go back to the committee, we are right where we want to be. I would ask Senator MacEachen whether I am wrong in that.

• (1700)

Senator MacEachen: Honourable senators, my procedural position is that what is before the house now is the consideration of the report, as ordered yesterday by the Senate, and that it is appropriate to have a debate on that subject. Certainly it is commonplace in the House of Commons to have before it committee reports that are never concurred in. That is possible.

Senator Roblin: It is consideration that is the issue here.

Senator MacEachen: Yes, there is before us consideration of the report. The Senate has agreed that today we consider the report, and we are free to do it on the strength of that particular order.

Senator Molson: We need a motion, however.

Senator MacEachen: But I am submitting that it is open to the Senate, procedurally, to leave the order as it is. There is no procedural objection to that. We could consider the report for several days under the present order and make no motion whatsoever. That is my submission. In logic, the Senate agreed to a motion yesterday authorizing members of the Senate to consider the report at the next sitting of the Senate. We have authority to consider the report. We could debate it. At a certain point it is open to a senator to make a further motion—

Senator Roblin: Or to raise a point of order.

Senator MacEachen: —or to raise a point of order, as Senator Roblin says. My submission is that it is equally valid to make a motion to refer the report back to the committee, and that it is not necessary to have an earlier step; namely, to move the adoption of the report. In logic, it does not stand up to have both alternatives married together, because we would move to adopt the report knowing perfectly well there might be something wrong with it that we do not want to adopt, which is the reason for our sending it back to the committee.

I was prepared—even though my logic was violated, as was procedure, I think—to agree to a make-shift arrangement, as it were; namely, that we move the adoption of the report and then move an amendment to refer it back—and do it fast—so that all of the problems could be settled in committee. But that is not what either Senator Flynn or Senator Molson is suggesting. Senator Molson suggests that we move the adoption of the report, then raise procedural problems, have Speaker's rulings, and so on, and not refer it back to the committee.

I suppose that we could ask the Speaker to rule whether it is his view that there must be an intermediate motion, whether there must be a motion to concur before there can be a motion to refer it back. If he rules yes, we could appeal it. If we appealed it, we could make the motion to refer, and the procedural matter would be settled. That is open to us.

However, I was hoping that rather than go in that direction we could have unanimous consent, waive all other considerations, and refer this report back to the committee immediately, without prejudice to any position. Why do we not do that? Why do we not simply agree to send the report back to the committee? If the lack of confidence which Senator Flynn has in the committee is justified by the subsequent report, then he will have a field-day. He is not giving up any rights whatsoever. The rights which he could exercise today will be available to him when the report comes from the committee.

I suggest that we agree by general consent to send the report back.

Senator Flynn: Do you not agree that the committee will try to save face one way or the other?

Senator MacEachen: I was not a member of the committee. I do not feel, personally, the necessity to save face. I believe the sensible thing to do is to refer the report back to the committee, give it a day or two, and then, if there are procedural difficulties which have not been cleared up, Senator Flynn can have a field-day. All I am asking him to do is to postpone that exercise and let us all agree by unanimous consent to send the report back to the committee.

Senator Flynn: I would prefer to have the amendments that Senator Frith has in mind directly before the Senate.

The Hon. the Speaker: Are honourable senators in agreement with Senator MacEachen's suggestion?

Some Hon. Senators: Agreed.

Senator Frith: But having it understood that it is without prejudice to any position taken at a later time.

Senator Roblin: I am not going to interpose my will against the will of the Senate, but I do want to express my reservations. I think the position outlined by Senator Molson is undoubtedly the correct one. There should be the motion to consider—that is what is before us now. This should be here as a subject for our debate. Should the motion to consider be proceeded with and, in the course of that proceeding, should someone want to amend the motion to the effect that it not be considered now but that it be referred back to the committee, that is the proper way to do it. I do not think it requires any unanimous consent. What is wrong with this thing here is that it is not an amendment—it is a new motion, and it is an instruction, at that.

As to leave, I think my colleague is quite correct in saying that it requires leave, but we can skip all of that if we just follow the proper procedure in this house as we always do in these matters. That is what I think we should do.

Senator MacEachen: Honourable senators, I understand that Senator Roblin has reservations about the course of action which I proposed. I have reservations about his course of action, which I think is procedurally incorrect. We both have reservations. In an effort to facilitate this matter, why do we not refer the report back to the committee by common consent and reserve all our positions? If these difficulties prevail, when the committee report comes back we will all have a field-day.

Senator Roblin: I think that it would be highly appropriate if this house were to ventilate the issues that are involved in this question of the legality and the constitutionality of what this committee is trying to do. That report is before us now for consideration. It is legitimate for us to consider matters that have to do with the constitutionality, rectitude, propriety, or what have you, of what that committee recommends. If the report is to go back to the committee for improvement, as I hope it will, there is no reason why we should not express our opinions about that matter beforehand so that the committee will be informed as to the opinions of some of us on the whole matter. It seems to me that that is the way in which we ought to proceed.

Senator Murray: Honourable senators, I do not wish to delay the proceedings much further except to say that I am glad I am here and do not have to read this in *Hansard* on a subsequent day to try to divine what happened. The fact is that whatever the procedural difficulties are, they are not really on the record. Senator Bonnell began, on some kind of point of order, to recite them to us, but to the best of my knowledge and recollection he never completed his recitation. I am still of the view that it would be best to deal with the procedural difficulties here and to resolve them here, but we have come to an impasse on the matter. For some reason honourable senators prefer to send the matter back to committee and have it dealt with there. I do not think that gives us much time to deal with the amendments that Senator Frith indicates he or somebody has in his back pocket. I would have liked to see those amendments now.

• (1710)

However, we will not object further. We have made our point about this. I do ask, however, that the complete letter, if that is what it is, or memorandum from the Table officers, indicating the procedural difficulties, be made part of the record so that we will know what it is that we have been talking about for the past couple of hours. Perhaps the honourable senator would care to place alongside that the opinion of Mr. French, LL.B., the counsel to the committee.

Senator Bonnell: Honourable senators, if Senator Flynn will keep quiet for another two minutes—

Some Hon. Senators: Oh, oh!

Senator Bonnell: —and if we have agreement, then I would like to carry on, as the Leader of the Government has said, and finish the point I had in mind, and table the copy of the letter from the Table officers and also the letter from the lawyer.

Senator Murray: And they can be incorporated in *Hansard*.

Senator Bonnell: Yes; and perhaps I could also table the letter from Mr. du Plessis, the Law Clerk and Parliamentary Counsel, giving his viewpoint that the proposed amendment does not create any charge on the public revenue and therefore does not infringe on the financial initiatives of the Crown. Perhaps this letter can also be tabled.

Senator Murray: Not just tabled but made part of the record.

Senator Bonnell: The correspondence from my lawyer should also be tabled. They can all be tabled and be made part of the record for this day.

Senator Murray: At this point in the proceedings—in the *Hansard*.

Senator Bonnell: Yes.

Senator MacEachen: We may have the printed edition next week!

The Hon. the Speaker: Is it agreed, honourable senators, that the correspondence be printed in *Hansard*?

Hon. Senators: Agreed.

(*For text of correspondence see appendix, p. 1686.*)

Senator MacEachen: Honourable senators, if I understood the words of the Leader of the Government correctly, even with reservations and with the requirement that these documents be printed, I understand that it is agreed that we send this report back to the committee with very low-key, unprovocative comment.

Senator Frith: And with the deadline of Thursday.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Bonnell:

That the Sixth Report of the Special Committee of the Senate on the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, be referred back to the said Special Committee to consider the amendments proposed in the report;

That the said Special Committee for such purposes be revived, and

That it be an instruction to the Special Committee to report back to the Senate no later than Thursday, 13th August, 1987.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1684*)

PATENT ACT

BILL TO AMEND — CORRESPONDENCE RE REPORT OF SPECIAL COMMITTEE ON BILL C-22

August 10, 1987.

TO

Mr. Richard Greene,
Clerk Assistant

FROM

Gary O'Brien,
Director of Committees

SUBJECT

Proposed Amendments by
Special Committee on Bill C-22

I have certain procedural concerns with respect to the proposed amendments.

1. The first amendment proposes to repeal Subsection 41(4) of the Patent Act. Bill C-22 does not propose to alter Subsection 41(4). Therefore the amendment may go beyond the scope of the Bill, making it an inadmissible amendment. To amend the Parent Act and not the Bill specifically before the House is not in order. Beauchesne's Fifth edition states (c.773(8), p. 233):

> "An amendment may not amend a statute which is not before the committee... An amendment may not amend sections of the original Act unless they are specifically being amended in a clause of the bill before the committee."

There have been many rulings in the House of Commons on this point. (i) By Speaker Lamoureux, June 19, 1970. "Motions in amendment must be relevant to the Bill before the House and cannot seek to amend the parent act"; July 20, 1973 "If an amendment seeks not a modification to the Bill before (the House) but rather a change in the statute which the bill seeks to amend", there is no alternative but to find it unacceptable". (See Decisions of Speaker Lamoureux, pp. 467, 488);

(ii) By Speaker Jerome: December 19, 1978 "Of the five motions, three of them" (Motions 11, 27 and 30), "clearly seek to amend the parent act in a way that was not invisaged by the amending bill"; December 20, 1975 "Amendments cannot seek to amend the Parent Act of a bill since it is not before the House". (See Decisions of Speaker Jerome, pp. 124, 122.

It should be noted that Bill C-22 does amend Subsection 41(1) of the Patent Act, and adds many sections after section 41, notably 41.1, 41.11 - 41.26. Bill C-22 does not envision amending Subsection 41(4) regarding requirements of the Commissioner of Patents when establishing the amount of the royalty to be paid pursuant to establishing a compulsory license. The amendments proposed by the Senate Special Committee puts forward an alternative scheme regarding royalties.

The fundamental procedural question regarding the admissibility of the first amendment is its relevancy to Bill C-22. Based on the authorities and Commons precedents, it appears not to be relevant.

2. Amendments Numbers One and Six deal with the establishment of a new Pharmaceutical Royalty Fund into which the licencee will pay and from which payments will be disbursed to participating patentees. There may be two problems with these amendments, both of them which may infringe upon the financial initiative of the Crown.

(i) There is a proposed alteration to the Act regarding the conditions of purchasing a licence, which, though it may not be a tax, is a charge upon certain people or corporations, sanctioned by federal law.

May's 20th edition states (p. 766) "The guiding principle in determining the effect of an amendment upon the financial initiative of the Crown is that the communication to which the royal demand or recommendation is attached must be treated as laying down once for all (unless withdrawn and replaced) not only the maximum amount of a charge, but also its objects, purposes, conditions and qualifications. In relation to the standard thereby fixed, an amendment infringes the financial initiative of the Crown, not only if it increases the amount, but also if it extends the objects and purposes, or relaxes the conditions and qualifications, expressed in the communication by which the Crown has demanded or recommended a change."

(ii) In addition to the fact that they may fall under the rubric of "ways and means", the amendments propose to make payments from a fund administered by the Crown, to

individuals. It may be that both a ways and means motion as well as a royal recommendation would be required in order to do so.

Only Ministers of the Crown can move ways and means motions or those proposing the spending of Crown money.

If these amendments are considered 'money votes', their admissibility is made more complicated in that the Constitution Act, 1876, sections 53 and 54 state:

> "53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.
>
> 54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed".

The problem of admissibility may be one not just of procedure, but also of law. The Law Clerk's opinion should be sought on this point.

It should be noted that May's 20th edition states that levies upon an industry for its own purposes are not considered ways and means (p. 826-827). Three points, should also be considered: (i) does the new provision impact upon consumers as well as the general level of research and development within Canada? In other words, is the levy for the purposes of the pharmaceutical industry only? (ii) while it may not be ways and means, there may still be the problem of payments by the Crown to individuals; and (iii) a motion in amendment by Mr. Dingwall was ruled out of order in the House of Commons on March 31, 1987 with regards to Bill C-22. The amendment proposed that "Every patentee of an invention pertaining to medicine shall ... pay to Her Majesty in right of Canada in addition to any taxes an annual royalty of fourteen percent of the net revenue whether direct or indirect from the sale in Canada of medicine, to be distributed to the patentees, as prescribed by regulations made by the Governor in Council".

The Speaker of the House of Commons ruled " ... such a charge, an annual royalty of fourteen percent on the sales of patented medicines in Canada, would extend the objects and purposes as expressed in the Royal Recommendation and would require the

passage of a Ways and Means motion. Therefore, I must rule the motion out of order". (Commons Debates, March 31, 1987, p. 4745).

It appears that the Canadian practice may be more strict than that of the U.K. regarding ways and means motions.

3. I feel these concerns should be addressed since Bill C-22 may be the object of a conference between the two Houses and the Commons may be locked in a straight-jacket from both a procedural and legal point of view, with regard to accepting the Senate amendments.

Gary O'Brien

Gary O'Brien

18 August, 1987.

Senator M. Lorne Bonnell,
Room 481 - S,
Centre Block,
Senate of Canada,
OTTAWA, Ontario.
K1A OA4

Dear Senator:

You have asked for my opinion concerning a procedural question raised respecting possible Senate amendments to Bill C-22. This question concerns the extent to which amendments may be introduced in the Senate to implement the Drug Patent royalty system recommended in the Eastman Report. I will first review the background to this question.

The House of Commons in Bill C-22 endeavoured to increase the compensations afforded patentees, whose inventions were subject to statutory licences under section 41 of the Patent Act, by providing for a period of exclusivity. During this period statutory licences would be inoperative. This was done in clause 15 of the Bill by adding sections 41.11, 41.14, and 41.16. These sections would declare a licence issued by the Commissioner of Patents under section 41(4) of the Act to be partially inoperative. Further provisions would cancel this inoperativeness after a period of time, i.e. 7 to 10 years, or under special conditions, i.e. for failure to manufacture in Canada.

While Bill C-22 would affect the exclusivity enjoyed by patentees who are subject to statutory licences under section 41(4) of the Act, the Bill would not change the criteria by which the Commissioner sets the royalty for statutory licences.

The Special Committee has proposed to change the manner of compensating patentees by:

(1) shortening the period of exclusivity, and

(2) providing a predetermined formula for the Commissioner to set the royalty payable.

It is obvious that the provisions in the Bill were drafted so as not to change the wording of section 41(4) directly. This was likely so that the Bill's provisions

could, as provided for in clause 15, section 41.26 of the Bill, be suspended, if needed, at a later date. The Bill would nevertheless affect section 41(4) by rendering licences granted thereunder inoperative for a period of time.

The Bill would also expressly amend a subsection of section 41 of the Act, namely subsection 41(1) dealing with the style of claiming monopoly rights over medicines.

A concern has been raised that the Special Committee's Report goes "outside the scope" of the Bill as passed by the Commons. This is based on the following passage from Beauchesne:

> "An amendment may not amend a statute which is not before the committee... An amendment may not amend sections of the original Act unless they are specifically being amended in a clause of the bill before committee."

and a number of rulings by Speakers of the House of Commons.

The Beauchesne quotation speaks of amending a "statute which is not before the committee". This is not the present case.

The quotation refers to a bar on amending sections of the original Act unless they are specifically being amended in a clause of the Bill. In the present case the Bill amends subsection (1) of section 41 of the original Act, and affects subsection (4) of the same section.

Beachesnes also states (section 876(1)(2) p.267, Fifth Ed.:

(1) A committee on a private bill is precluded from making amendments which are beyond the scope of the bill as defined by the clauses and schedules of the bill. It is within their competence, however, to make amendments in the bill which are within those purposes, though such amendments, necessarily, must not enlarge the powers sought by the bill.

(2) The admissibility of amendments made at the committee stage of a private bill is governed by the same principles as those for public bills.

The spirit of these quotations is summarized in the words "beyond the scope of the bill" as defined by its clauses.

In view of the foregoing, it is my opinion that the recommendations in the Report of the Special Committee are procedurally correct because:

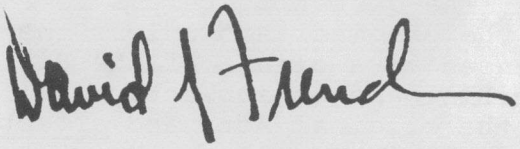
(1) Bill C-22 did amend section 41 of the Patent Act, vis section 41(1) ;

(2) Bill C-22 did affect subsection 41(4) by rendering licences granted thereunder partially inoperative (vis clause 15, s.41.11: "...notwithstanding anything in section 41"); and

(3) the Report is focussed on the same issue as the Bill, namely providing compensation to patentees. The Commons would provide increased exclusivity; the Special Committee would reduce the extent of exclusivity and provide a more precise royalty formula.

On this basis, it is clear that the proposed amendments are relevant to the scope of Bill C-22.

Yours truly,



David J. French

Ottawa, Ontario
K1A 0A4

August 11, 1987

The Honourable Lorne M. Bonnell,
Chairman,
Special Committee of the Senate on Bill C-22
Room 489-S,
The Senate,
Ottawa

Dear Senator Bonnell,

The Sixth Report of the Special Committee of the Senate proposes certain amendments to Bill C-22, one of which would provide for the establishment of a "Pharmaceutical Royalty Fund".

You have asked for my opinion on whether this amendment is one that may be made by the Senate. In other words, is it an amendment that would, if passed by the Senate, infringe on the financial initiative of the Crown?

The purpose of the fund would be to put into place a new system for the payment of royalties to participating patentees. Under the present system, royalties are payable directly from the licensee to the patentee and the amount of the royalty is determined by the Commissioner of Patents. Under the system that would be put into place by the proposed amendment, payments at a higher royalty rate would be made by licencees into a royalty fund and the monies accumulated in this fund would later be distributed to the patentees according to a formula set out in the amendment.

The requirement that so-called "money bills" or amendments involving the expenditure of money originate in the House of Commons and have the recommendation of the Government are historical ones common to all parliamentary democracies. In Canada, as in the United Kingdom, they find their expression in the traditions and rules of the Houses of Parliament. In this regard, I refer you to Rule 62 of the Senate and to Standing Orders 86 and 87 of the House of Commons, copies of which are annexed to this letter. However, in Canada the requirement is also part of our constitution, which is now the supreme law of the land. Sections 53 and 54 of the Constitution Act, 1867 provide as follows:

> "53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

> 54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or any Tax or Impost to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed."

In order to understand this requirement, it is important to appreciate what it is that constitutes the nature of a bill or an amendment to a bill that would have the effect of "appropriating any part of the Public Revenue". Such a bill or amendment, within the meaning of section 53, would be one that, if enacted, would commit, set apart or earmark public revenue for a particular person, purpose or use.

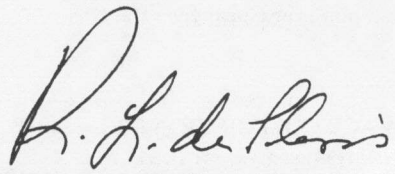
In the case of the proposed Pharmaceutical Royalty Fund, the money that is to be paid into that Fund comes from licencees and is therefore not money that is taken out of the public revenue of Canada. The fund itself would become what is referred to as a special purpose account, governed by section 15 of the Financial Administration Act. That section reads as follows:

> "15. (1) Money received by or on behalf of Her Majesty for a special purpose and paid into the Consolidated Revenue Fund may be paid out of the Consolidated Revenue Fund for that purpose, subject to any statute applicable thereto.
>
> (2) Subject to any other Act, interest may be allowed and paid from the Consolidated Revenue Fund in respect of money to which subsection (1) applies, in accordance with and at rates fixed by the Minister with the approval of the Governor in Council."

A special purpose account is a type of holding account or "liability account". This means that the money deposited in the account, although it is paid into the Consolidated Revenue Fund, is received for a special purpose. It also means that, when the money is paid out to patentees, the payment does not reduce the public debt. This is because the money, in effect, belongs to the patentees and is collected for the sole purpose of the payment of a property right. Such an account, therefore, has no effect on the public debt. It does not create a charge on the public debt and it does not appropriate public money.

It is my opinion, therefore, that the proposed amendment does not create a charge on the public revenue and therefore does not infringe on the financial initiative of the Crown.

Yours sincerely,



Raymond L. du Plessis, Q.C.

THE SENATE

Wednesday, August 12, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

PRIVACY COMMISSIONER

REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour of tabling the Report of the Privacy Commissioner for the period ending March 31, 1987.

[*English*]

THE SENATE

QUESTION OF PRIVILEGE—CONFLICT-OF-INTEREST INQUIRY FROM OFFICE OF MINISTER OF JUSTICE

Hon. Daniel A. Lang: Honourable senators, I rise on a question of personal privilege.

Just before coming into the chamber today, I received a call from some young lady in the office of the Minister of Justice. The questions directed to me were as to whether I was still practising law and, if so, where my conflicts of interest might arise.

Honourable senators, I have been here for some 25 years and I have never encountered such an insulting inquisition which trespasses on the privilege of members of Parliament.

I ask the representative of the government in the Senate to please call off such insulting inquiries.

I know that the inquiry directed to me is not directed to me solely but to all members of this chamber who are also members of the legal profession. This, to me, is an insult and a trespass on the rights of Parliament such as I have never seen in this place before.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just before the sitting commenced, Senator Lang came to me and asked if I had received a call from Mr. Hnatyshyn. I responded that I had not. However, then, by messenger, an envelope appeared on my desk which I opened. The message is from my secretary and it states:

> For your information—
>
> 1.35 p.m. We had a call from Ray Hnatyshyn's office wanting to know about lawyers in the Senate. She asked if you practised law. I said that you were Counsel to firms. She wanted to know which (and as the firms are listed in the Parliamentary Guide) I gave them to her. She said again—so he is practising law—and again I repeated that you were Counsel to.

She added, in brackets: "(I wonder what this was in aid of.)"

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I say to both Senators Lang and Frith and to members of the Senate that I have not the slightest idea what this is in aid of or of what larger inquiry these individual inquiries are part.

It so happens that I met with the Minister of Justice some time this morning and I talked to him not ten minutes ago on two other matters, and I am sure that if he had any direct knowledge of these matters he would have raised them with me.

In any case, I undertake to make a full inquiry at once and to bring in a report to the Senate as soon as possible.

Hon. Henry D. Hicks: Just to keep the record complete, I also had a similar telephone call shortly before I came into the chamber.

Hon. Douglas D. Everett: I should add to that that I also received a call.

Senator Frith: What about Senators Cogger and Bazin?

Senator Argue: No secretary, no call!

Hon. George van Roggen: I would like to object to the fact that I did not get a call!

Hon. Jerahmiel S. Grafstein: I do not know if I received a call or not.

Senator Frith: For the record, the next President of the Canadian Bar Association, so far as he knows, did not receive such a call.

Senator Bazin: I wasn't in my office!

BUSINESS OF THE SENATE

On Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, I ask the indulgence of the house to revert back to Reports of Committees later today. The report, which does not have to be ready until tomorrow, is almost prepared except for having it printed in both official languages. Therefore, I would ask the permission of honourable senators to revert back to Reports of Committees later today.

Hon. Jacques Flynn: May I ask whether Senator Bonnell is going to move the adoption or consideration of the report, or will he say nothing at all?

Senator Bonnell: Honourable senators, for the information of my honourable friend, who is always colourful and gives me

great enthusiasm, when I complete my remarks I will move the adoption of the report.

Senator Flynn: I think that the honourable senator will have to move the adoption of the report before he makes his remarks. Otherwise, he will get into trouble again.

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

Hon. Senators: Agreed.

THE HONOURABLE JERAHMIEL S. GRAFSTEIN

TRIBUTE ON PUBLICATION OF SENATE SPEECH IN U.S. CONGRESSIONAL RECORD

Hon. George van Roggen: I crave the indulgence of honourable senators, because this is not a formal report of my committee but, under Reports of Committees, I wonder if I might draw to their attention the fact that one of the outstanding members of the Foreign Affairs Committee, Senator Grafstein, delivered a speech in this chamber on June 30, 1987, reporting on the Canada-U.S. interparliamentary meeting in Vancouver.

● (1410)

The Honourable Dante B. Fascell, the Chairman of the United States House of Representatives Foreign Affairs Committee, took the occasion on July 21 of this year to refer to Senator Grafstein's speech and to have it printed in the Congressional Record. The whole of his speech, as given in this chamber, is now part of the Congressional Record of the United States.

I thought it interesting that this, if not unique then most unusual, occurrence had taken place, and that honourable senators would like to know.

Hon. Senators: Hear, hear!

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have here a motion suggesting that when the Senate adjourns today, it do stand adjourned until tomorrow morning at 11 a.m. I thought that it might be appropriate for us to sit at 11 a.m. tomorrow to undertake further work on the report in connection with Bill C-22, or to deal with the third reading stage or whatever stage we will have reached at that time. We may get a jump on the proceedings by coming back in the morning rather than at 2 p.m. If it is agreeable to honourable senators, I will move that motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if we are able to obtain unanimous consent to deal with the debate on the report, which will be presented by Senator Bonnell, then I take it that we would probably have third reading tomorrow, the next day, as we usually do. It would mean that Bills C-18 and C-19 will also have been dealt with if they receive third reading today. We can then deal with third reading of Bill C-22, which would enable us to clean up our legislative agenda. I believe that is a very good idea, and I will support the motion.

Senator Doody: If it is acceptable to honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, 13th August, 1987, at 11 o'clock in the forenoon.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD—DISCUSSION BY PARLIAMENT OF PROPOSAL ON SENATE REFORM

Hon. Gildas L. Molgat: Honourable senators, my question is addressed to the Leader of the Government. The Meech Lake accord provides for an annual constitutional meeting of First Ministers, and the first item listed to be discussed is Senate reform.

Shortly after the Meech Lake agreement, I asked the minister whether the government would be making a proposal under this provision or whether it would simply wait for the provinces to do so. His response at that time was that yes, the government would be making a proposal to the First Ministers.

On May 5, I asked the Leader of the Government:

> Will the proposal of the federal government be discussed beforehand by Parliament, and by the Senate in particular?

The response of the Leader of the Government was:

> Honourable senators, my friend is getting quite a distance ahead of himself. I really have not had an opportunity to think about that or to discuss it with my colleagues, but I shall do so.

I notice that recently he was again quoted as saying that yes, the government would definitely be coming forward with a proposal. My question now is a repeat of the question I asked on May 5: Because this matter obviously is of major importance to the Parliament of Canada—to both houses, but particularly to this house—will this house and will Parliament be involved beforehand in the preparation of the proposal to be made to the First Ministers?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot give that undertaking at this time. I can

only remark upon the fact that in recent years both houses of Parliament, and especially this one, have been actively engaged in discussions on Senate reform, and quite a number of proposals from parliamentary committees on this subject are already on the public record. So we will be studying those as we formulate a federal government position.

I might also say that the government will have to do some soundings with the provincial governments before putting any proposal on the table, because we would like to have a proposal that will at least provide a sound basis for discussion. I do not preclude the possibility that there will be some formal consultation with this house or the other house. I simply state that I cannot give that undertaking at this time.

Senator Molgat: Honourable senators, I am pleased to hear the minister say that there will be soundings with the provincial governments. Surely, if there are to be soundings with the provinces on a matter affecting Parliament, there ought to be soundings with Parliament. I cannot visualize a situation where this body would not be involved beforehand. What I am concerned about is that we will find ourselves with a government proposal that is a fait accompli and that there will be no opportunity for input by this body and the House of Commons, Parliament— not the federal government but Parliament— which is, it seems to me, the body primarily concerned in this development, not the provinces. It is fine to sound out the provincial governments, but surely this body and the House of Commons should be consulted.

Senator Murray: Honourable senators, when we have an amendment to the Constitution relating to the Senate, Parliament, of course, will have an opportunity to debate it and, indeed, to approve it or otherwise. I know where the honourable senator stands on the issue of Senate reform. He was co-chairman of a joint committee that studied the matter and brought in a list of recommendations. As I look around at other colleagues, I know where a great many of them stand on the issue, because they have made their positions clear. It may well be that this house or the other house may wish to find a way to achieve a consensus and to convey some consensus to the government on the matter of Senate reform. There is nothing to stop my honourable friends in this place or in the other place from so doing. My only statement is that I cannot undertake at this time that the proposal that we will place on the table in a federal-provincial conference will be placed before Parliament for discussion. For one thing, I am not sure that there will be time to do so.

Hon. George van Roggen: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. I regret very much that I must take from the leader's remarks that it is the position of the government that this fourth level of government which has been created, namely, the First Ministers' conferences, is now to deal with matters, including matters relative to Parliament itself, behind closed doors, under the type of negotiation we saw with the Meech Lake accord, which results in a proposal that is put forward *ex cathedra*, a proposal which is so carefully negotiated with the provinces and so carefully argued in this so-called Star Chamber, this new form of government we have developed in this country, that Parliament is really incapable, to all intents and purposes, of amending it, as we were told we may not do with the Meech Lake accord. Indeed, we will have the same situation with the very reform of this chamber.

I am not blaming this government for having invented the dominion-provincial conference. It is something that has grown over 25 or 30 years. However, I would hope that the Leader of the Government in the Senate would share with me my concern that we have invented a structure of government that, to all intents and purposes, bypasses Parliament and legislatures, so that when these men get in a room and make a deal, that is it! If we have majority governments, not minority governments, in this country, then they can control Parliament or their legislatures, put the agreement through, and that is it. The reform of this chamber seems to be the next stage in that process. That is what I take from the remarks of the Leader of the Government, and I am very concerned. I would hope that the government would have some slight concern about this very unfortunate state of affairs in which we have landed ourselves as a result of allowing these dominion-provincial conferences to develop to the level that they have.

• (1420)

Senator Flynn: That is a good start for a debate.

Senator Murray: Honourable senators, my colleague, Senator Flynn, points out that that was a good start for a debate, and I agree. I am not sure whether Senator van Roggen is objecting to the annual First Ministers' conference on the economy or the annual First Ministers' conference on the Constitution. In either case, I do not know on what authority he can state that these meetings will be held behind closed doors. That is not a decision that has been taken at all.

So far as the process of constitutional amendment is concerned, I do draw to his attention that as a result of the amending formula that was agreed upon in the 1981-82 exercise, this is the very first time in the history of our country that the Constitution is being amended by way of resolutions of not only the House of Commons and the Senate but of all ten provincial legislatures.

In previous exercises—including that of 1981-82—joint addresses were moved by the federal Parliament, and executive decisions made by the governments in the provinces. Indeed, some of the amendments that were brought into the constitutional package of 1982, after the agreement of 1981, were agreed to by the provinces in a series of telephone calls between the federal government and those provinces, of which there is not even a written record.

Senator van Roggen: The difference was, with respect, that in 1982 this Parliament had committees sitting that made substantive and numerous amendments as opposed to the process today where they came out of the Langevin Block, and no amendments are to be considered.

Senator Murray: Honourable senators, numerous and substantive amendments were made by a parliamentary commit-

tee to a unilateral initiative of the Trudeau government, which had the support not of ten provinces but of two provinces.

Senator van Roggen: So the provinces now run the federal government?

CONSTITUTIONAL ACCORD, 1987—ADVISERS TO GOVERNMENT APPEARING BEFORE SPECIAL JOINT COMMITTEE

Hon. Lorna Marsden: Honourable senators, the Leader of the Government in the Senate has been very helpful over the last two days in clarifying the nature of the advice which the government received on the matter of the Charter of Rights in relation to the various aspects of the constitutional amendments now under discussion. In his remarks yesterday, reported on page 1661 of the *Debates of the Senate*, the Leader of the Government in the Senate said this:

> . . . the interrelationship between the "distinct society" clause, the linguistic duality clause—those two interpretative clauses—on the one hand, and the Charter of Rights, on the other, was considered at great length by the First Ministers and with the assistance and advice of a number of legal and constitutional experts.

The Leader of the Government in the Senate also went on to say that a number of those constitutional experts were from outside the Department of Justice, although advisory to it, and therefore, in the sense in which I would like to use the word, they were "independent" legal and constitutional experts.

My question is: Can the leader tell us how many of those people who provided advice to the government will appear as witnesses before the joint committee?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sorry, I beg my honourable friend's pardon. I did not hear the last few words of her actual question.

Senator Marsden: My question is: Could the leader tell the chamber how many of the legal and constitutional experts from outside the Department of Justice will appear as witnesses before the joint committee?

Senator Murray: Honourable senators, the honourable senator referred to advisers from outside the Department of Justice who were nonetheless advising the department. With the exception of a former Deputy Minister of Justice, that is not the case. If my recollection is correct, the two advisers who were brought in to the room for that discussion were the present Deputy Minister of Justice and a former Deputy Minister of Justice, both of whom, it can be said, are advisers to the federal government. The others were not advisers to the federal Department of Justice but were in the Langevin Building that night in their capacity as advisers to provinces. To the best of my knowledge, subject to correction, none of them has been a witness before the joint committee.

CANADIAN TRANSPORT COMMISSION

CREATION OF NEW AGENCY—EFFECT ON TENURE OF PRESENT COMMISSIONERS

Hon. Edward M. Lawson: Honourable senators, my question is directed to the Leader of the Government in the Senate and flows from the proposed transportation legislation. The proposed legislation contemplates the creation of a new transport agency to replace the existing Canadian Transport Commission. As a result, there are a number of commissioners who are to be replaced or whose appointments are to be terminated.

The particular case I am referring to involves a commissioner who was appointed for a ten-year term, not at pleasure but at good behaviour, which, in my view, constitutes a contract. At this time he has approximately five and a half to six years left in his term of service or his contract. He has received a presentation from someone from the Treasury Board acting on behalf of, I assume, the Minister of Transport proposing to give him nine months' pay and send him on his way. He is so angry and so insulted at this unfair treatment that he is contemplating court action against the government.

In this particular case this commissioner gave up his business to take a ten-year appointment, and since he is going to be removed as a result of the legislation, and through no fault of his own, is it the policy of this government to engage in such practices to force someone to go to court to get what that person is entitled to under the terms of his contract, or will the government do the honourable thing and honour the terms of the contract and see that these individuals are fairly treated?

Senator Perrault: Shocking!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator can depend on this government to do the honourable thing and to treat people fairly. In view of the possibility and the probability alluded to by the honourable senator that the person in question will be taking legal action, it would be quite wrong for me to attempt to express an opinion on the matter.

In any case, I have no knowledge of the particulars of that case.

Senator Lawson: I have a supplementary question. I think we are entitled to an answer on a very important principle here, whether contracts are to be honoured or not to be honoured. Can you make an enquiry and find out for me, please?

Senator Murray: Honourable senators, I will ascertain what information, if any, can properly be released on that matter at this time.

THE SENATE

PROVINCIAL NOMINATIONS TO FILL VACANCIES

Hon. Daniel A. Lang: May I ask a question of the Leader of the Government in the Senate? We have two vacancies in this chamber at the moment. Has the government asked for

nominees from the respective provinces, which I believe are Quebec and Ontario? If so, have the respective provinces responded to that invitation? If they have responded, would the honourable Leader of the Government tell us who has been nominated?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not believe that the formal process has been put in train as yet.

THE SENATE

QUESTION OF PRIVILEGE—CONFLICT-OF-INTEREST INQUIRY FROM OFFICE OF MINISTER OF JUSTICE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have a preliminary report on the telephone calls which apparently have been made by somebody in the Department of Justice to various honourable senators. The preliminary report states that the calls, first of all, have been made not only to Liberal senators but to others. They were made out of a concern of the department respecting contracts being awarded to various firms of which members of Parliament may be partners and, therefore, a concern about conflict-of-interest provisions from the point of view of the department.

● (1430)

I will get a fuller and more formal report at a later date and bring it to the Senate.

Hon. Jerahmiel S. Grafstein: I appreciate that information. Just for purposes of the record, I did phone my office and was advised that I, too, had received a call with respect to my association with the law firm that I have been associated with since 1960.

Just for the information of honourable senators and for the information of the Leader of the Government in the Senate, I sit in an office within five feet of the place that I was sitting at in 1960. I can be found at 111 Richmond Street at any time on a Friday or a Monday when the Senate is not sitting. The law firm's phone number is in the legal directory; it is also in the Toronto Telephone Directory.

With respect to government contracts, I do not believe the firm has received a government contract since 1904, but I will check into that for you, if you request it.

REFUGEES

FEDERAL-PROVINCIAL CONSULTATIONS ON BILL C-84—POSSIBLE CONFLICT OF BILL WITH HUMAN RIGHTS AND LAW OF THE SEA

Hon. Jerahmiel S. Grafstein: I now have a question for the Leader of the Government in the Senate in his capacity as Minister of State for Federal-Provincial Relations, and it relates to a bill before the other place, Bill C-84. I wonder whether or not the government consulted the provincial governments respecting that bill, and whether or not the provinces

agreed that there was an emergency that warranted the introduction of the bill.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That bill has not been submitted to members of provincial governments nor have specific provisions been canvassed in advance with members of provincial governments.

I may state in passing that members of several provincial governments have commented publicly on the problem posed by the non-scheduled and unexpected arrival of people claiming refugee status, because, of course, that does create problems, actual and potential, for those provinces. I know that the Premier of Nova Scotia has spoken on the matter, as has the Premier of British Columbia.

Senator Grafstein: Apparently there have been groups, including the Canadian Bar Association, which have questioned the bill with respect to its being contrary to the Charter of Rights and Freedoms, contrary to United Nations protocols, treaties and practices respecting refugees, contrary to the United Nations' principles and policies and treaties respecting human rights, and, finally, contrary to the International Law of the Sea.

Could the minister advise us whether or not the law officers of the Crown advised the government that the bill is not offensive to those various and important fundamental laws?

Senator Murray: Honourable senators, I think it is an open secret that whatever legislation is brought in by the government and passed by Parliament in this field will be the subject of court action by somebody. My information is that the law officers of the Crown are confident that the legislation does not offend against the Canadian Constitution, against international law or international treaties to which we are a party.

GOVERNMENT OF CANADA

DISSEMINATION OF INFORMATION ON FIRST MINISTERS' ACCORD—POSSIBILITY OF SIMILAR ACTION ON ILLITERACY AND LEARNING DISABILITIES

Hon. Joyce Fairbairn: Honourable senators, it has been brought to my attention that our colleague, the Leader of the Government in the Senate, was successful in persuading his colleagues to include most recently in envelopes containing old age security cheques a colourful pamphlet making the Canadian public aware of the Constitutional Accord.

An Hon. Senator: It was coloured blue!

Senator Fairbairn: I will not comment on the contents of the pamphlet other than to say that I do know it takes a great deal of persuasion on the part of ministers to achieve this accomplishment!

Senators may recall that, since January, I have been asking the Prime Minister, the Secretary of State—and, indeed, I mentioned it in a speech in the Senate last March—that the problem of illiteracy and learning disabilities be made the subject of such a pamphlet that might be included in pension cheques, Family Allowance cheques—any government

cheques—to make Canadians aware and sensitive to a problem that touches 20 per cent of our citizens. I am wondering whether the government leader in the Senate could use his powers of persuasion, in conjunction with my own efforts, to persuade his colleagues so that a pamphlet on the subject of illiteracy and learning disabilities might find its way into those cheques.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will take that suggestion up with my colleagues, yes.

Senator Fairbairn: Thank you.

Senator Frith: There's no chance that those against the accord will get equal time, is there?

Hon. Joseph-Philippe Guay: Honourable senators, I would like to ask the Leader of the Government in the Senate if this is a new policy that he has implemented, that is to say, sending such information in pamphlet form to senior citizens? The information which Senator Fairbairn just mentioned was inserted in the envelopes containing senior citizens' old age pension cheques.

Are you anticipating bringing this to the attention of all Canadians one way or another? If you feel that it should be done for senior citizens and others, what other ways and means are you taking to ensure that all Canadians get the same information?

Senator Murray: Honourable senators, I believe the same insert was put in the Family Allowance cheques.

Senator Perrault: It will be put everywhere!

Senator Doody: In Senate salary cheques!

Senator Murray: Recipients were invited to return the coupon and ask for further information.

Senator Perrault: On all tax forms!

Senator Murray: I may say that I am quite gratified by the response. There have been quite a number of responses asking for further information. We thought that it was an appropriate step to take in view of the fact that the accord is extremely important for the country and has the support of ten provinces, the federal government, the leaders of the three political parties and Parliament.

With regard to what further steps might be taken, I will take that under advisement, of course.

An Hon. Senator: I am sure you will.

Senator Murray: We could consider television commercials—without the Canada geese, of course!

An Hon. Senator: You could always use the loon!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, would it be possible, concerning that question about the political parties' proposed amendments to the Meech Lake accord, to ensure that the people of Canada are made familiar with the proposed amendments in the same way?

Senator Guay: My supplementary is to let you know that I am in accord with what you have done. That is why I followed up Senator Fairbairn's question by adding that you could also include it in the Canada Pension Plan cheques and others, as I have suggested. I am pleased that you are now possibly giving consideration to putting it on television and also on the radio.

THE SENATE

AVAILABILITY OF COMMITTEE PROCEEDINGS

Hon. John B. Stewart: Honourable senators, the first two Orders of the Day deal with the proposed third reading of Bills C-18 and C-19. I want to ask a housekeeping question, one which should be cleared away before we get to those orders. I refer, of course, to the translation and printing of the evidence and proceedings of the Standing Senate Committee on Transport and Communications. At the outset of those committee meetings, I informed the committee that we would have to have the translation and the printed evidence before we could complete the work of the committee.

● (1440)

As I said yesterday, we were given the printout from a word processor. Some of that was legible, but about half of it was virtually illegible by reason of the fact that the ribbon, or whatever is used, was worn out.

When the matter was raised again, the Clerk of the Senate came before the committee and told us that it was his understanding, after inquiries, that we would have, as I read what he said, most of the evidence on August 5, that is before we were to report the bills. Honourable senators, I have just come from the distribution office where I found that the last four issues available are the issues for July 14, July 15, July 20 and July 29. There is a considerable gap between the issue of July 19, which was Issue No.19, and the issue for July 29, which was Issue No. 23. Also, the issues for the meetings after July 29 are not available.

I am directing this question to the Leader of the Government; he may wish to direct it to the senator who is responsible for the conduct of these two government bills. I am referring now to a period during which the other place was in adjournment so that the pressure of work from the other place did not fall upon the translation and printing services. Moreover, the Senate was in adjournment for most of that period. Surely, with the proper priority given to government business, this translation and this printing could have been done.

I think this matter is particularly important in this case. As we know, senators who are not members of committees often attend committees to hear the evidence. In this instance, however, the Senate was not in session, and most of the senators were not in Ottawa. They, therefore, did not have the opportunity to attend the meetings of the committee.

Let me give you an example of the kind of problem that arises. Only yesterday Senator Lawson made a speech concerning the disastrous results of economic deregulation, particularly in the trucking industry. He emphasized the relationship between economic deregulation and safety. There is not

on the record of the Senate any comment or any rebuttal of what he said, yet, we are going to be asked later this day to approve third reading and passage of these bills.

I think it is incumbent upon the Leader of the Government, or whoever he has asked to assume the responsibility for the progress of these two government bills, to explain to the Senate, before it votes on the third reading of these bills, when this evidence is going to be available in translation and in print, if, indeed, it is going to be available; or are senators going to be asked to vote on, say, Bill C-19 with the cloud of uncertainty created by Senator Lawson still in their minds? It seems to me, given his speech, which was well informed, we have an obligation—

Senator Flynn: It would have been a good speech on second reading.

Senator Stewart: That may be true, nevertheless, it was a speech which was made in the Senate, a speech that Senator Flynn will want to consider carefully.

Senator Flynn: I knew that story a long time ago. I suggest the speech was a little late. He should have made it on second reading.

Senator Haidasz: Better late than never.

Senator Stewart: That is an argument that Senator Flynn can have with Senator Lawson. All I am asserting is that that speech is now on the record of the Senate, and we are being asked to vote on third reading without any rebuttal of the content of that speech available to senators.

Senator Flynn may have inside information with regard to trucking deregulation and its consequences for safety, but that is private knowledge, not public knowledge available to senators. I think he should be sympathetic towards senators who do not have his special, inside information.

Senator Flynn: I have no such inside information.

Senator Stewart: I ask the Leader of the Government in the Senate, or whoever is acting on his behalf with regard to these two items of government business: What provision is being made to make the evidence available to the Senate?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will undertake to attempt to answer, although it is certainly not my direct responsibility.

Senator Flynn: Nor that of the government.

Senator Doody: Yes, nor that of the government, for that matter, although, obviously, it will be helpful for the progression of goverment business if the people who are responsible for the printing and translations see to it that the necessary documentation gets here on time.

When this was brought to our attention earlier this month, the problem was immediately brought to the attention of the Clerk, who contacted the Secretary of State's office. Assurances were given at that time, as Senator Stewart has said, that the printed proceedings would be available up to a date that would make possible the study of the bills. That has not happened, and I do not know why that is the case. I have asked the Table to look into this matter further.

I suggest that it might be appropriate for us to raise this matter at the next meeting of the Standing Committee on Internal Economy, Budgets and Administration, which is scheduled for tomorrow morning, and that we ask the management of the Senate to advise us as to how best we can accomplish obtaining the printed proceedings in time to deal with the legislation.

I cannot go beyond that at this point. I just do not have the information. No one has bothered to bring me up to date any more than they have bothered to bring anyone else up to date on the progress of the printing problem. It is certainly not a new problem. It has been going on for as long as I have been here despite entreaties and pleas by individual senators both on the government side and on the opposition side. The problem does not seem to be much closer to a resolution.

I will certainly be pleased to raise the matter with the Internal Economy Committee, and I shall try to get a more accurate report for honourable senators. Other than that, I can really add very little this afternoon.

Hon. Edward M. Lawson: May I add, in response to what Senator Stewart said and Senator Flynn's admonition about giving this speech on second reading, that we appeared some months ago before the parliamentary committee chaired by the Honourable Patrick Nowlan with some of the same information. It apparently fell on deaf ears.

NATIONAL TRANSPORTATION BILL, 1987

THIRD READING

Hon. John M. Macdonald: Honourable senators, I move third reading of Bill C-18, as amended.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Macdonald (Cape Breton), seconded by the Honourable Senator Phillips, that this bill, as amended, be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. John B. Stewart: Honourable senators, I am not going to say anything more about the content of the legislation. I expect that honourable senators will have questions concerning the matters raised by Senator Lawson yesterday, matters which have not yet been dealt with on the floor of the Senate. I do not have questions because I had the privilege of attending the committee meetings.

The matter I want to raise now is the matter of which I gave notice, in a sense, yesterday, namely, the particular concern of the Iron Ore Company of Canada, which feels it has been treated unjustly by the Department of Transport, that its position has been represented improperly by officials of the Department of Transport and, indeed, by the Minister of Transport. I will not go into the detail of that now, because Senator Macdonald, Cape Breton, knows the question and probably has an answer ready. Unfortunately, I gather that

when he speaks he will close the debate. If his answer is not satisfactory, I suppose that the only recourse is to vote against third reading of the bill, which is certainly not my intention.

• (1450)

Perhaps Senator Macdonald could be permitted to say something now so that it could be cleared away before we hear his final speech closing the debate.

Hon. Royce Frith (Deputy Leader of the Opposition): It will not close debate on third reading. It only closes the debate on second reading.

Senator Stewart: I did not realize that.

Senator Macdonald: Honourable senators, with regard to that matter, when representatives of the Iron Ore Company of Canada made their submission to the committee, it was my view that that company was subject to quite an injustice. When the Wabash people came along to make their submission, I thought that there was not such an injustice to the Iron Ore Company of Canada, that matters were sort of even. Perhaps I had better put it this way, that after the question was put yesterday, I got in touch with the Department of Transport to see if there is any change in its attitude as it was stated in the committee hearings.

I have before me a letter which I received today from the Minister of Transport with regard to this matter. Perhaps if I read that letter it would clarify the matter so far as the Department of Transport is concerned. The letter reads:

> Dear Senator MacDonald:
>
> Pursuant to your discussion with departmental officials today, I am writing you, as the Senator responsible for the passage of Bill C-18, concerning the August 7 letter from Mr. Carl Nickels, Chairman and President of the Iron Ore Company of Canada to the Honourable Senator Léopold Langlois about aspects of Bill C-18.
>
> I want to stress that the Government has tried to achieve a reasonable balance between the interests of the Quebec North Shore and Labrador Railway (and the Iron Ore Company of Canada) on the one hand and Wabash Mines on the other. Because the Quebec North Shore and Labrador Railway is a common carrier and Wabash a "captive shipper", we think that the provisions dealing with final offer arbitration of Bill C-18 should apply to the Quebec North Shore and Labrador Railway. I also concur with the testimony given by Mrs. Margaret Bloodworth to the Senate Committee on July 29 that any final offer arbitration action between those two parties could lead the Agency to decide to refer the matter for investigation as a Section 59 case.
>
> As you know, this matter was extensively considered by both the House and the Senate Transport Committees. I think all parties had a fair hearing, and agreement was reached in the Transport Committees of both Houses of Parliament that the provisions of Section 48 should not be amended to accommodate the concerns of the Iron Ore Company of Canada. Accordingly, I hope that you and your colleagues will give third reading to Bill C-18 without any further amendments except those that were agreed to by the Senate Committee last week.

That letter is signed by Mr. Crosbie, the Minister of Transport. It would seem that the attitude of the department now is the same as that expressed before the committee.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I return to a point which was made earlier by Senator Stewart and commented upon by the Deputy Leader of the Government, namely, the printed accounts of committee proceedings. I do not intend to make extended remarks on the point, except to remind honourable senators that on an earlier occasion I did make some extended comments about the situation in which senators find themselves when proceedings of committees are not available when bills are called for adoption.

Senator Doody has pointed out that, really, the matter is not his direct responsibility, and I accept that he is not responsible for the administration of the Senate. Nevertheless, the problem still exists and it is one that, as he has pointed out, has been around for quite some time.

Regardless of the location of the responsibility for the failure to produce the evidence, there is one recourse that senators have in a case of this kind, and that is not to pass the bills until the evidence is available. I think that that is a valid point of view to take. In this particular case, however, the Senate has passed an order to have all stages of these bills completed by the end of the day on Friday. We did not add a qualification that we should have the proceedings of the committee hearings. Perhaps we should have done so. In any event, all I want to say is that if we were not already faced with a decision of the Senate to deal with these bills by a certain date, I would be tempted to ask that their consideration be deferred until the evidence is available. Because of that order of the Senate I will not do so and will not stand in the way of the passing of the bills. But I do want to say that it is a valid recourse that the Senate can take in the future if the printed evidence is not available. I think that those responsible ought not to be surprised or indignant if that recourse is resorted to in the future.

Hon. C. William Doody (Deputy Leader of the Government): I just want to make one comment on proceedings of committees, and so on, an elaboration, I suppose, on the comments I made a few moments ago. Subsequent to those few words, I received a note from the Table to the effect that the Translation Bureau did, indeed, respect the commitment it had made to have the committee proceedings ready by August 7. However, the Printing Bureau has procrastinated. So, all of the assurances given at that committee, which we accepted, have indeed been fulfilled, but we have still been snookered.

Senator Frith: "Rooked" is the popular word with the Prime Minister, I think.

Senator Doody: Some people want to be "euchred", others want to be "rooked"—I prefer to be "snookered". If senators want to raise a procedural point on that, we can get into it. However, that does not take away the frustration I feel when

we have been told, "We did everything we said we were going to do, but we also found a way to frustrate your desire to get the records before the chamber."

I would ask those honourable senators who are members of the Internal Economy Committee to put this forward as a first priority in an effort to come to grips with it again. I know that we have tried to do so several times in the past. We have sent delegations of officials to meet with representatives of the Printing Bureau and the Secretary of State's office, and various promises and commitments have been made. Obviously, they have not been fulfilled. I really think we have to come to grips with this for the sake of the business of the Senate.

Hon. Roméo LeBlanc: Honourable senators, I would like to make a short comment, because I have heard these complaints in the Internal Economy Committee for close to three years now. My subcommittee has been trying to grapple with some of the issues, particularly that of translation, the quality of which really leaves a great deal to be desired. I am beginning to think that departments of government only understand one thing—and, incidentally, this problem exists in the other place, too—which is that when you decide to do something yourself that they are not doing well, they usually improve what they are supposed to do. I would suggest, in looking at the problem, that the Senate, as an institution which is supposed to enjoy a certain amount of autonomy, including the level of its budget, should look at the possibility of securing in other ways the services which obviously are lacking.

• (1500)

Some Hon. Senators: Hear, hear!

Senator Frith: Honourable senators, I congratulate Senator Doody on getting us a fast answer. Perhaps he will ascertain for the sake of the committee—where I hope the matter will be raised again—whether the problem was the same as that concerning the Printing Bureau which we discussed in the chamber on an earlier occasion. At that time they had set aside the printing of the *Debates* for another specific purpose. I believe it had something to do with a Commons committee or the Commons itself. Perhaps the Deputy Leader of the Government will obtain that information for us so that in committee we will know who received priority.

Senator Doody: I will certainly ask that the information be made available. I do not have it at the present time. I simply had a note from the officials. Certainly that is important, and I will endeavour to obtain the information.

Senator Frith: I would hate to think that it was in order to print Senator Murray's insertion with the Old Age Pension cheques. We would all be disappointed if that were the case.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the motion for third reading of this bill, as amended?

Some Hon. Senators: Carried.

Senator Lawson: No.

[Senator Doody.]

Senator Frith: Your Honour, I thought I heard someone say "No" or "On division".

Senator Lawson: On the adoption of Bill C-18 I am voting "No".

The Hon. the Speaker *pro tempore:* Then the bill, as amended, will be read the third time, on division.

Motion agreed to and bill, as amended, read third time and passed, on division.

MOTOR VEHICLE TRANSPORT BILL, 1987

THIRD READING

Hon. Finlay MacDonald moved the third reading of Bill C-19, as amended, respecting motor vehicle transport by extra-provincial undertakings.

He said: Honourable senators, in moving third reading of this bill, I will resume my seat and I am prepared to accept questions.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator MacDonald, seconded by the Honourable Senator Robertson, that this bill, as amended, be now read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Carried.

Hon. Edward M. Lawson: On division. I would like to be recorded as voting "No" on Bill C-19, as well.

Motion agreed to and bill, as amended, read third time and passed, on division.

PATENT ACT

BILL TO AMEND—REPORT OF SPECIAL COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Leave having been given to revert to Reports of Committees:

Hon. M. Lorne Bonnell: Honourable senators, the Special Committee of the Senate on Bill C-22 has the honour to present its Seventh Report respecting Bill C-22, to amend the Patent Act and to provide for certain matters in relation thereto.

(*For text of report, see appendix, p. 1721.*)

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

An Hon. Senator: Now.

Senator Bonnell: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

Some Hon. Senators: Hear, hear!

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

Senator Bonnell: Honourable senators, let me take the first couple of minutes of my allotted seven to give nothing but

praise to the deputy chairman and members of the committee for their dedicated work over the summer on a very difficult and controversial bill, one that occupied the attention of many Canadians and of the special committee for much of the summer. As chairman of the committee, I wish to thank the members of the committee from both sides of the house for their dedicated work.

As we bring forth this report, may I say that as chairman I took the stand, rightly or wrongly, that no such thing as a minority report should come before this Parliament. Because of the strong views held by many senators on the government side, I allowed a section to be included at the end of our report indicating that they did not agree with these amendments. Therefore, the report represents the views of the majority of the committee, but those members who are in support of the government are in strong disagreement with the proposed amendments to Bill C-22.

I mention that because I would not want this situation to become a precedent or something that will be used or referred back to in the future. As chairman, I allowed that to happen, because I knew they held strong views and felt that their views should not necessarily be expressed afterwards but that they should be included in the report.

Hon. C. William Doody (Deputy Leader of the Government): On a point of order, that is the third time that the chairman has said that he "allowed" us to do this. I thought that was done by the will of the committee.

Some Hon. Senators: Hear, hear!

Senator Doody: I thought that we had examined ways of accommodating the opinions of members of the committee, and that the committee agreed that that was the way to handle it. With respect, I did not think that it was done by the grace of the chairman.

Senator Bonnell: Honourable senators, I suspect that my friend, Senator Doody, is correct in that the committee agreed that the chairman should let this happen.

Senator Roblin: How to win friends and influence people!

• (1510)

Senator Bonnell: At any rate, they worked hard and they did not agree.

However, we brought in the report of the committee. Let me say further that the basic change brought in by the committee was to add the Eastman recommendations to Bill C-22, which gives four years of exclusivity to the patent drug companies instead of ten years. In the seventh report the committee is recommending to the government and the Senate that the royalty to be paid by the generic drug companies be 14 per cent instead of 4 per cent, which at this particular time the Commissioner of Patents may prescribe. Another change the committee recommends is that the bill become effective when it is proclaimed by the Governor in Council. Currently Bill C-22 becomes effective retroactively to June 1986.

Another change put forward by the committee is that the Drug Prices Review Board be removed. As honourable senators will remember, the government has stated with regard to Bill C-22 that it supports the Drug Prices Review Board and has said that it is a good way to control prices of patent drugs and of new drugs coming on the market. According to what the committee heard from various witnesses across Canada, many Canadians have very little faith that the Drug Prices Review Board has teeth. Others thought that the responsibility for asking companies producing patent medicines to reduce prices should be under provincial jurisdiction. However, most people thought that the best way to control prices was through competition, and by allowing generic drugs into the field, and the more generics stemming from any particular drug, chemical or medicine, the more competition, resulting in lower prices. The committee determined that the only real teeth given to the Drug Prices Review Board was that, after looking at the prices of drugs for a five-year period, it was allowed to remove patent protection from the drug concerned. Under the Eastman recommendations, companies would have four years' exclusivity on their patent rights. It was felt by the committee in this light with regard to the proposed five year protection that most of it was already gone and, therefore, the provision was almost useless. The members of the committee felt that the best way to control prices was through competition from prices of generic drugs.

As well as looking at these amendments with regard to drugs and at the Eastman report, the committee also looked at the entire Patent Act as such. Bill C-22 contains some good things. One thing the committee thought was good was the proposal that new patents be based on first to file rather than on first to invent, as was the case in the past. Other changes to the general Patent Act which have been proposed are worth while. The committee felt that Bill C-22 contained some really progressive changes. However, there are changes that should have been made and could have been made to make it even stronger and better. Rather than getting involved with amendments and changes to the general Patent Act, the committee felt that it was best to make recommendations and to point out some of these conditions to the government for consideration. As a result, the first part of our seventh report consists of amendments to the legislation recommended to the Senate. The second part consists of amendments to be recommended to the House of Commons for adoption, so that there is no possibility of any procedural difficulties. In addition, the report contains observations as well as recommendations on the general patent law amendments. They need no explanation from me. They are the result of a summer's work by a very active committee. Therefore, I leave the report with the Senate and move its adoption.

Hon. Michel Cogger: Honourable senators, I wish to thank the chairman for his kind words to me and to other members of the committee. I shall try to respond in kind. Yesterday we had a long afternoon arguing procedural points about the sixth report. We are now called upon to consider the seventh report. This morning I argued in committee that I did not think that it was very nice to the Right Honourable the Leader of the Opposition in the other place, since the sixth report had

already been endorsed, approved and blessed by him, to pull it out from under his feet and throw at him a seventh report. I assume, however, that he will take a look at this report and give it his approval, blessing and endorsement. In any event, I want to convey my apologies to him.

Senator MacEachen: Very thoughtful of you!

[*Translation*]

Senator Cogger: Honourable senators, we are approaching the end of three months of fairly intensive work, started in mid-May, on a bill that has focused the attention of the media and the general public.

Other committee members will consider some of the more technical aspects of this report. I thought I would give a short history of the bill for the benefit of honourable senators, which may be conducive to a better understanding of the facts and put the report into its appropriate context.

A point I intend to make later on in concluding my speech is that the report hardly justifies the three months of intensive effort that went into it. At the very beginning, when I agreed to sponsor the bill, I was looking forward to working with my colleagues on the Committee on Banking, Trade and Commerce, since according to the rules of the Senate, Bill C-22 would normally have been referred to that Committee. However, it did not happen that way. Now, considering the tremendous work accomplished by the Committee on Banking, Trade and Commerce and considering the exceptional talents of its chairman and his extraordinary insights into the Canadian business world and Canadian society in general, I assumed that the Banking Committee's reputation was not the reason for not considering the bill in this particular committee.

Upon reflection, I thought that perhaps the reason was that the interests of the membership of the Committee on Banking, Trade and Commerce were not sufficiently representative of the interests of Quebec, the province I represent. It is public knowledge that Quebec has a vested interest in Bill C-22. In fact, we all know that Bill C-22 was the subject of three unanimous resolutions by the Quebec National Assembly, and that it received the support of the Chamber of Commerce, the Montreal Board of Trade, and the Senior Citizens Association. In any case, I thought that perhaps they wanted to create a special committee where Quebec interests would be more adequately represented. However, when I saw the names of the members of the Special Committee, I was both surprised and disappointed, because although Liberal senators from Quebec represent nearly one-third of the total Liberal contingent, there was not a single Liberal representative from Quebec on the Special Committee on Bill C-22.

The only representatives from Quebec were Senator Paul David and myself, and there was not one from the Liberal Party.

Although I am relatively new to this chamber, I have been in politics long enough to understand the message we were being given, and I concluded that one of the prerequisites for membership on the committee was unfailing, unswerving, irreconcilable and unconditional opposition to the bill.

Honourable senators, such was the atmosphere when the committee began its proceedings; since it also carried out its mandate in that atmosphere no one should be surprised to find today the report with which you are familiar and which is before you.

I must tell you that this atmosphere prevailed during the past three months. It was echoed in the choice of witnesses, in the way the committee proceedings were held, in the selection of experts and, finally, in the drafting of the report.

So it became essential to project the image of a committee which would listen only to harsh criticisms of the bill, and to very little favourable evidence. It became essential to seek a disproportionate balance in the number of pros and cons. I leave you to imagine, and you heard this from our chairman, to what extent opponents, if we are to believe our own statistics, were significantly more numerous than supporters. There is no need to dwell on the fact that during its proceedings the committee heard, for example, the Canadian Consumers Association on seven occasions: their national representatives once in Ottawa, their provincial representatives six times in the provinces. The committee heard the Canadian Labour Congress five times, I believe: their national representatives once in Ottawa, their provincial representatives in four or five provinces.

But there is more. I also want to draw the attention of honourable senators, and I am referring to the way the proceedings were handled, to the difference in the way most committee members would welcome witnesses according to the views they held.

A witness appearing to denounce Bill C-22 openly, for whatever reason, was generally welcomed with open arms, warmly greeted by the committee chairman and, having given evidence, more often than not was thanked profusely, warmly and generously.

When the witness took it upon himself to defend or speak in favour of the bill, he sometimes had the impression of being given a frosty reception.

I must confess that sometimes he was given a hard time.

● (1520)

[*English*]

I see my colleague, Senator Guay, laughing. If you think I am exaggerating, let me just quote to you for a second. In Edmonton, on Wednesday, June 3, the committee was listening to what I thought was a very valid and valuable presentation by a Mr. Shipka, who is the Registrar of the Alberta Pharmaceutical Association. Our chairman, in an objective, non-partisan, unprejudiced and unbiased gesture, asked of Mr. Shipka the following question:

> Do you feel that it is right, through increased drug prices, to tax the poor, the sick, the infirm, the crippled, those on welfare, those who are eating dog food for meat because they can't afford anything else so that we can have more research.

Mr. Shipka was somewhat flabbergasted at that question. In my law practice I have not had that much court experience, but I would suggest that that was, at least, a leading question.

Senator MacEachen: But what was the answer?

Senator Cogger: As a matter of fact, it was a typical case of: "My mind is made up, don't bother me with the facts."

Senator Frith: You said that.

[*Translation*]

Senator Cogger: In some cases, and I believe that other committee members have found the same thing, and it is unfortunate, the very motivation or credibility of certain people who came to support the bill was questioned, and these witnesses were not just anybody, as we have had people of the highest calibre appear before us.

I recall for example what happened in Halifax when the dean of the Pharmaceutics Faculty of the University of Halifax appeared before the committee. It appears that the Pharmaceutics Faculty, as attested before the committee, will be undertaking jointly with a multinational company a project worth several million dollars. I do not recall the exact amount, but it is not important. The dean, who appeared before the committee with his students in attendance, was questioned in such a way as to suggest that his evidence and his support of the bill had been bought by the multinational with the promise of a grant.

I had to intervene because I found it extremely unseemly to allege or imply that the support given to a bill by a distinguished academic, researcher and scientist could have been bought.

In my opinion, honourable senators, this was not one of the highlights of the proceedings of this committee.

[*English*]

In many ways it was a shame that some of the senators opposite who are prominent members of the academic and scientific communities, such as Senator Marsden, Senator Stewart and others, were not there at times to lend support and moral authority to those academics, researchers and individuals from the various schools in this country who appeared before our committee and, quite often, were eloquently pleading for the prompt adoption of Bill C-22. Yet, as I pointed out, in too many cases those individuals were handled roughly by the committee.

In any event, the long and short of it is that as a result of all these travels, and as you have heard many times, we come back to this chamber having found out that there were many more consumers than there are researchers; many more buyers of drugs than there are individuals who labour to invent them. As I pointed out before, if we want legislation by referendum, so be it. I do not think it is quite enough for a committee to go out and spend $350,000 merely to come back to this chamber and say that there are more people against this bill than there are for it and, therefore, we should kill it.

[*Translation*]

I am sorry to say that at committee hearings, opponents of the bill were quick to exploit the anxiety and concern of people regarding possible price increases, to the extent that when people left the hearings they were even more worried than they were before.

I must admit I was very surprised, especially since these very legitimate concerns that we heard raised across this country are now being used to move the passage of a bill as amended by a majority of the committee and which has now been stripped of the provision providing for a drug prices review board. Yes, I was surprised, and in fact, I fail to understand the logic behind this amendment. I have followed all the Special Committee's sessions. I have heard hundreds of witnesses begging the Committee to give the Drug Prices Review Board more powers to ensure it would be an effective body with major powers and thus able to prevent excessive price increases. I never heard a single group ask us to get rid of the Drug Prices Review Board.

Whether we are talking about drug manufacturers, generic companies or innovative companies, consumer associations, the Canadian Legion or whatever, no one ever asked us to strip the bill of an element I have always considered to be essential.

I promised Senator Bonnell I would not let my speech run longer than his, and I will try to keep my word.

[*English*]

I believe I first spoke to this bill in May of this year. I then pleaded for its adoption on basically three principles. I thought that it was a well-balanced piece of legislation and that it achieved three things. It achieved appropriate protection for intellectual property; it protected the consumer through the Drug Prices Review Board against excessive increases in the prices of drugs; and it achieved a very important objective, namely, creating funds for research and development in this country. I thought that was the objective of the government. Bill C-22 in its original form achieves that delicate balance.

At this point in time we have a report that does three things. It recommends minimal protection for intellectual property, namely, four years. More importantly, it takes away two very important features of the initial Bill C-22. It takes away the Price Review Board, which would protect the consumer against excessive rises in prices, and as a result of yesterday's kerfuffle and bungle, or whatever you want to call it, it takes away any mechanism that would redirect money towards research and development.

We started out with a three-fold, reasonably well-balanced piece of legislation, and today we are looking at a piece of legislation that is so bastardized that Dr. Eastman would not even recognize it as his brain child. We are left with one minor aspect of the bill, and God knows what will happen to the other two aspects. Honourable senators, as recommended by the reporting committee, the piece of legislation becomes so imbalanced and out of kilter that it would fail to meet some of the very major objectives that the government had in mind when it first introduced the legislation.

Therefore, I plead with you—I especially plead with senators from Quebec—that we send Bill C-22 back to the House of Commons in its original form.

Hon. Sidney L. Buckwold: Honourable senators, we have listened to an astonishing response by the sponsor of the bill, the deputy chairman of the committee, on the resolution before the Senate today. My colleague started by downgrading, denigrating and insulting the committee for being unfair, for being biased, and for not allowing witnesses to be equitably treated. I am rather suprised at this, because I am looking at the deputy chairman who sat in at every meeting, with one or two exceptions. Never once did I hear him say that the committee chairman was unfair; never once did I hear him criticize the way the committee was run. As a matter of fact, I leaned over to some of my colleagues and said, "Our chairman is so fair that sometimes I'm almost embarrassed at the fact that he is bending over backwards trying to protect these witnesses who are in support of the bill against some of the criticism that might have been levelled by questions from this side of the house."

An Hon. Senator: Hear, hear!

Senator Buckwold: The fact is that this is a brand new approach we are hearing. This is what we hear when the Minister of Consumer and Corporate Affairs gives us his Orwellian philosophy: rich is poor, hot is cold, up is down. This whole thing is ludicrous.

A bill has been given to us with three objectives, as we have just heard. The objectives are: One, to protect patent rights on intellectual property; two, to create a Drug Prices Review Board to control and protect consumers; and three, to have funds for research. My colleague did not mention the first reason for the bill, namely, a response to the multinational drug companies' pressure in Washington to get Canadians on side with them.

Senator Cogger: That is your opinion.

Senator Buckwold: That is not my opinion. That is the opinion of the general public of the country and those who know the scene.

Senator Frith: And witnesses before the committee.

Senator Buckwold: And witnesses before the committee.

Senator Argue: And Clayton Yeutter.

Senator Buckwold: And Clayton Yeutter. They all know this. When the minister was before us, he said that he had not been asked. Then one of his advisers leaned over to him and said, "Well, there was a little discussion in Quebec City with the Prime Minister about this."

The fact is that your number one reason is to get on side with our fat-cat multinational drug companies, using their immense pressure in Washington so that you can talk about free trade.

Senator Cogger: There is not a shred of evidence to that effect.

[Senator Cogger.]

Senator Buckwold: If there is not a shred of evidence, why don't you sue every newspaper that is using this information in column after column? We all know what the facts are.

Let us look at what has happened. As I say, we had the minister tell us that rich is poor. He says that prices will not go up, that they will go down, and with the same breath he provides a token $100 million in the legislation over the next four years to assist the provinces in meeting the increased cost of drugs as a result of this bill.

• (1540)

Senator Frith: It will protect them against something that will not happen!

Senator Buckwold: Yes, and on the other hand, they say: "Don't believe anybody who says that the prices are going to go up." The fact is that we all know that pipeline drugs—and there are now, I understand, over 50 of them ready to hit the market—will not be available and lower-price generic drugs will not be for sale.

I have received a letter from one of the generic drug companies indicating that a drug which is now on the market, but which was not by June 1986, will not now be allowed, that it will be withdrawn from the marketplace. The absence of that one drug could cost Canadians in the next year $6 million extra. That is a great deal of money to us; perhaps it is not so much to those sitting opposite.

Senator Frith: That is in Bill C-22, not in the amendments.

Senator Buckwold: Yes, that is in Bill C-22. Of course, one of the proposed amendments is that we eliminate that aspect of the bill, the retroactivity aspect, which was, I gather, put in by the government again as a result of pressure from the multinationals. That was not contained in the original bill, but the government backtracked and made sure that those drugs, as of June 1986, would not be on the market, resulting in an extra cost of $100 million to Canadian taxpayers. We should get applause from our friends on the other side, because we have just saved, through this proposed amendment, the people of Canada $100 million. I suggest that if the members of the committee are sincere about putting money into research they take that $100 million and give it to those people who conduct drug research, and there are many qualified people who do conduct research. They should be able to use the $100 million for research. That will not change the budget by one cent.

On the other hand, what has been done? Since 1984, although this government claims it supports research and says that Canada must keep its scientists in Canada, it has reduced the budget of the National Research Council of over $500 million by nearly $125 million. That is how this government encourages scientists in this country.

There is a National Research Council branch in Saskatoon. The representations made to me by scientists in that office indicate that what this government is doing to the research and scientific community as a result of reduction of funds available for research is abominable. It is insulting to the intelligence of any honourable senator to say that this is a government that

takes research as its priority when we have this kind of evidence.

Honourable senators, where is the money coming from? When multinational drug companies say that they are going to give $1.4 billion to research, that they will increase the amount devoted to research to 10 per cent of sales, keeping in mind that promotion costs will still represent 21 per cent, where is the money coming from? This is all part of the hocus-pocus. Do any of us really believe that out of the goodness of their hearts the generous multinational corporations will provide $1.4 billion over the next ten years for research? Where will that come from? It will come from increased prices. Canadians are not that dumb; they are not that stupid. That is why the bill is so unpopular.

I say to my honourable friends that the public of Canada is not being duped. The public of Canada is subject to the same kind of pressure that was applied in 1969, when a courageous Liberal government at that time saw fit to reduce the highest drug prices in the world, and brought in a program which is used as an example for many, many countries, and which has even been looked at by a committee in the United States reviewing outrageous drug prices.

We in Canada had the courage to fight those multinationals and bring down drug costs to the extent that, as Dr. Eastman has indicated, we saved Canadian consumers $213 million in 1983.

We have heard evidence from a variety of provincial drug-plan people who represented their respective provinces. The Province of Ontario said that it could cost, over the next ten years, up to $1 billion in extra costs. We have heard that from many of the provinces, although Quebec did not send a delegation opposing this legislation.

Let me tell Senator Cogger, when he appeals to Liberal senators from Quebec to support Bill C-22, because it has received great support in Quebec, that the results of a poll taken by the *Toronto Star* on June 4, 1987, indicate otherwise. To his amazement he will find that the greatest opposition to this bill came from the province of Quebec. I will give him the figures.

Senator Flynn: What was the question?

Senator Buckwold: I will be glad to read the question. The question was:

> Do you support or oppose the new legislation on prescription drugs giving patent protection for new drugs developed in Canada?

The opposition was: British Columbia, 48 per cent; the Prairies, 52 per cent; Ontario, 53 per cent; Toronto, 45 per cent—Toronto seemed to like it—Quebec, 56 per cent; Atlantic Provinces, 52 per cent.

If senators from Quebec want to support the people of their area, then they should recognize that the majority of the people from the province of Quebec are opposed to this legislation, which has the ringing endorsement of our friends across the way.

Now, let me deal with the importance of research. I went back to some of the records of 1966 when, as I said, a courageous government did something about high drug prices. Here is some of the evidence given by representatives of the Pharmaceutical Manufacturers' Association of Canada. They stated:

> It would be unrealistic to claim that we can ever be the authors of the major proportion of the prescription drugs used in this country, but we can be worthy collaborators in an international venture. This must remain an international industry, with the main foci on endeavour in those countries where the major companies have been long established.

It has not changed since 1966. We know where drug research will be carried out.

Senator Cogger: May I ask the honourable senator a question?

Senator Buckwold: I would appreciate questions after I have finished so that I do not lose my train of thought.

This is the kind of propaganda we received from the drug companies in 1966. They admitted then more truthfully than they do now that, internationally, Canada is not going to be a great player in this serious work of drug research. It is to be hoped that we will do more and more. I am delighted to see that we will raise our research level one way or another in order to bring about development of that important field in this country.

I looked at the third criterion; that is one of drug price control. The chairman of the committee has said that competition is a very good way to do that, but let us keep in mind the other aspects of the Patented Medicine Prices Review Board. We went through this on numerous occasions when the committee travelled across the country. Those of us who looked at it realistically are satisfied that there is absolutely no way that the Patented Medicine Prices Review Board can be effective in controlling the prices of drugs. Added to that, of course, is the question of the constitutionality of that board. That was raised by some of the witnesses who appeared before the committee. In fact, as most honourable senators are aware, the Government of Canada cannot move into an area of provincial jurisdiction in this particular case unless there is a national emergency, as was the case when price controls were introduced a few years ago.

● (1550)

So what did the government, in its wisdom, do? They said, "The penalty will be that we will take away two patents of a company that does not obey the law." Honourable senators, I can tell you that that becomes meaningless, because by the time you go through the procedures, by the time a generic drug is processed—which is a minimum of five years from the date the original drug comes on the market—and by the time you go through these long studies to try to get information on what the drug companies are spending on research in Puerto Rico, or wherever it may be; what they are selling drugs for around the world; and what the consumer price index is, which

is just one part of the whole scene, I suggest to you that it is ineffective. The reason—and my colleague is aware of this—why the Drug Prices Review Board was removed was because it would be meaningless with a four-year protection period. When we, through Dr. Eastman, recommend a four-year period, by the time the new drug is on the market there is no more protection.

Senator Frith: Competition.

Senator Buckwold: The whole Patented Medicine Prices Review Board becomes completely redundant—at a cost of hundreds of thousands of dollars a year, I presume. If you say that you are just throwing it open to the wolves, the fact is that the situation will be basically what it is today—

Senator Frith: Competition, that is right.

Senator Buckwold: —where, in fact, competition has resulted in prices in Canada that are considerably lower, even for the patent drugs, than they are in the United States.

So, honourable senators, having said all that, and having expressed my indignation to my colleague, the deputy chairman of the committee, for downgrading the work of that committee—which, in my opinion, was probably one of the most effective, cross-country studies—

Some Hon. Senators: Hear, hear!

Senator Buckwold: —of an important bill—

Senator Flynn: What did you learn that you did not know in advance?

Senator Buckwold: —and spending most of his time today saying that we did not give people a chance; we did not listen to people who were in favour, I think that that was not a reasonable way of protesting against the proposed amendments to the bill.

Senator Flynn: That is not what he said.

Senator Buckwold: Honourable senators, I believe that if the government is looking out for the interests of Canadians in the future; if the government really is dedicated to providing drug prices at a reasonable rate for the people of this country; if we are really interested in the health of the nation; in making our health dollars go as far as we can; in providing research in a reasonable way; in encouraging the development of Canadian drugs and Canadian manfacturers, then you will support the amendments. The government itself should take a careful look at them, along with the important part dealing with the patent law in this bill. We have not talked about that. Those parts of the bill referring to general patent law probably should have been dealt with in a separate bill altogether. But again, I think a bit of smoke screen was used to put it all in with the drug bill. Suddenly, it became a drug bill rather than a patent bill. In fact, the House of Commons did not spend much time on this complicated business of patent law. We had many witnesses who looked at this and pointed out significant changes that are required. Those have been drawn to the attention of the government in this report.

[Senator Buckwold.]

Looking it all over, I compliment the chairman; I even compliment the deputy chairman, because he was an effective person there. I even compliment Senator Barootes, who kept us entertained—not that we learned very much, though. Having said that, honourable senators, I beg all of you to look carefully at this—not in the interests of any political party; not in the interest of gaining marks but in the interest of the people of Canada, who deserve the best at the lowest possible price for the health of this nation.

Some Hon. Senators: Hear, hear!

Hon. Efstathios W. Barootes: I am prepared to defer to Senator Cogger in case he has some questions for Senator Buckwold.

Senator Cogger: I will pass.

Senator Steuart: They were all answered.

Senator Barootes: Honourable senators, in joining this debate it is not my intention to speak about the rules of order and legal precedents. The debacle in the house yesterday was enough to convince me that there are others in this house who are best able to bring about disorder.

Some Hon. Senators: Oh, oh!

Senator Barootes: Nor shall I discuss the—

Senator Frith: What a thing to say about your colleague, Senator Flynn!

Senator Barootes: —general amendments to the patent law, since there is agreement—

Senator Flynn: I do not know who else would do that but you!

Senator Barootes: —that these are highly desirable and long overdue, having been endorsed by the professionals practising in the field, as well as by the Institute of Patents and Trademarks.

I shall not comment further on the glaring and obvious absence of Quebec Liberal senators from a committee in which Quebec's vital industrial interests are at stake, but I hope to hear from those senators from Quebec, as they fulfil their senatorial duty as representatives of regional interests.

It has been reported by the chairman that the committee members on this side strongly opposed the drug patent amendments that were proposed in Bill C-22. I hope to explain our reasoning in that regard.

Senator Frith: You mean proposed in the report, not in Bill C-22. You did not oppose that.

Senator Barootes: Thank you. I stand corrected by my senior member over there.

I hope to explain my reasons. I intend to do this by demonstrating our views on the effects consequent to the original Bill C-22, comparing them to the results that would follow if the present amendments were adopted. I shall also make a few observations on how health care in Canada may be affected by this. I will do that and present for your attention a motion that may be able to alleviate these problems.

Let us turn for a minute to how drug patent provisions in Bill C-22 affect us. The objective is to encourage Canadian firms to undertake more pharmaceutical research and development in Canada by providing a more favourable climate for that investment. The Bill C-22 regime would give Canadian pharmaceutical firms seven to ten years of patent protection on new medicines, depending on certain criteria. Although this proposed patent protection period is still far short of similar periods in most industrialized countries, it is an incentive for Canadian companies to research, invent, develop, manufacture, promote and market new drugs in Canada, with some better degree of protection for their creative and intellectual properties.

In turn, these innovative drug companies are held to increasing their research and development expenditures in Canada from 4.5 per cent to 10 per cent of their gross sales by 1996. This amounts to approximately $1.4 billion, and is estimated to create 3,000 new jobs in the high levels of technical scientific and research categories. In fact, honourable senators, in anticipation of the passage of Bill C-22, over $800 million is already committed by 16 of 66 innovative drug companies and by provincial and university research units. The benefits of this massive undertaking will likely be lost if the amendments suggested by the special committee are adopted, since there is no mechanism to compel and no economic reason why these drug firms should invest that promised $1.4 billion in Canadian research under the new amendments.

• (1600)

Moreover, this major commitment of funds for research is not destined to be spent exclusively by these pharmaceutical firms. Four hundred and twenty million dollars of the $1.4 billion will be invested and distributed directly to Canadian university faculties of medicine and pharmacology, to teaching hospitals, and to private research facilities in Canada. Add to this, if you will—Senator Buckwold please take note—the many cases for which matching grants are mandated to be supplied by the Medical Research Council of Canada. This gives you some idea of the enormous enhancement to scientific drug and medical research that we should experience in Canada. Such enhanced research will enable Canada to benefit further from new world technologies in the field of biotechnology, medicine and, indeed, health care.

In that respect, I wish to bring to your attention an article that appeared in the *Globe and Mail* of August 6, 1987, written by Patrick L. McGeer. Doctor McGeer, a former provincial science minister, teaches medicine at the University of British Columbia and sits on the board of directors of Pacific Pharmaceutical Ltd., a subsidiary of the Terry Fox Medical Research Foundation. I quote and, in part, paraphrase him. He said:

> Pharmaceutical companies are expected to assume all the risk and bear all the cost of clinical research into new therapeutic agents—an estimated $100 million before a new drug is approved . . . . No pharmaceutical company can be expected to support research into drugs that are beneficial only for rare disease, nor can they be expected to investigate drugs that can be manufactured so cheaply that the costly research outlays will never be recovered.

Later he goes on in a more optimistic note when he states:

> The techniques of molecular genetics are permitting for the first time custom-made proteins to be produced in quantities sufficient for therapeutic use.

He goes on to explain this by saying:

> These natural body proteins are the first of many that will appear as a result of the powerful biotechnology revolution. If priorities change, Canadians will not only be among the first to enjoy the health benefits of the new agents, they will gain from their commercial development. If priorities remain as they are, Canadians may be among the last to benefit.

Honourable senators, dare we forsake these kinds of research opportunities? Do we wish to remain medical beggars, dependent on the alms of our western industrialized neighbours—with our highly educated researchers and scientists continuing to emigrate as unwilling refugees to foreign countries where their training and talents can be better exploited and appreciated? Does Canada, in the field of drug research and discovery, wish to be relegated to Third World status, or do we wish to be in the forefront, the cutting edge, of medical, pharmaceutical and biotechnical progress? If we forfeit or reject this golden opportunity at this time, I am sure that Doctors Banting and Best and other researchers must certainly be restless in their graves.

Linked to this thrust for a stimulus to investment in Canadian research in Bill C-22—and which, parenthetically, I might just add, is quite different from the measure of R&D of recent memory which raped the Canadian Treasury and which many of the members here will recall—is a strong element for consumer protection by the creation of a Patented Medicine Prices Review Board. It will be chaired by the well-known economist, Dr. Harry Eastman, whose report is so favourably accepted by my friends on the other side.

This board will monitor and control drug prices of all existing prescription drugs on the market, limiting increases to the inflation index or less. In recent years drug prices in Canada have been increasing considerably beyond this level.

The board will also be able to put a lid or a ceiling on the introductory prices of new drugs as they come on to the market, using a variety of six national and international yardsticks which are mentioned in the bill.

Some critics, including my friends opposite, have wondered if this board has teeth. We keep hearing this: Do they have the power to compel roll-backs of excessive prices and to penalize the offenders? Indeed, Bill C-22 authorizes the board, with the strength of a higher court, to issue orders for roll-back of excessive increases and to control the introductory prices of new drugs. Failure to comply with a report of this nature will result in a patent exclusivity of that offending drug being removed. Not only that, one other patent exclusivity on another one of their products will also be removed—double jeopardy, if you will. This very harsh economic punishment is

one that no drug company would like to suffer. There is no appeal from this board except on points of law.

Furthermore, this board will review and survey and report to Parliament and to cabinet annually on the performance of the drug industry in regard to their commitments for R&D and for conformity to board rulings. Cabinet will have the ability, at the end of four years, to review the statute, and Parliament is obliged to review and, if necessary, change or repeal the act in ten years.

I say to you, honourable senators, few consumer protection statutes or regulations in the past, in my memory, have carried this kind of strong and laudatory feature.

It is of some importance for the nay-sayers to note a survey that was done at the height of this controversy. I must refer to the survey that my friend, Senator Buckwold, has quoted, and some of his other statistics. I borrow a story from him which is that statistics, as he says, are somewhat like a lamp post to an inebriated person. I think he says that they use it more for support than for illumination. We have heard that repeated many times. It is of some importance to note that a survey at the height of this controversy shows that 81 per cent of Canadians agree that these additional consumer safeguards, the research commitments, and the employment opportunities assured by Bill C-22 will be, in their opinion, of significant benefit to Canada. I have quoted my set of competing statistics, if you will. To compensate for this horrendous loss of money that the proposed amendments to the bill would inflict is the recommendation that the House of Commons establish a pharmaceutical royalty fund by exacting an additional 10 per cent of royalty from the generic drug companies. This could, of course, serve to elevate the consumer's cost of generic drugs by approximately 10 per cent, if these generic firms wish to maintain the same profit level. That is obvious to most people. The amount to be collected through this 10 per cent of the new royalty would, in 1985, have been approximately $7.5 million at a maximum or, at a minimum, $3.5 million to $4 million. That sum is a drop in the bucket compared to the $1.4 billion that would be going into research and development under Bill C-22. The choice for me is quite easy.

● (1610)

This relatively small number of dollars would then be refunded to the innovative pharmaceutical firms on the basis of the amount of research they did that year. This is determined by a formula that is so complicated that Einstein himself, if he had to deal with it, probably would have given up mathematics and opted to be a shoe salesman. I have taken the liberty of circulating that formula to senators so that they can see its complexity. There are no words to describe this formula that was devised by my friends opposite, except to say that it is an arithmetic abortion. It is a credit to the legislative draftsmen that they could possibly express in words what the formula is meant to do, although no one could conceivably have any concept of what those words mean. Moreover, the distribution of these few million dollars in the royalty fund to be passed along a year or two later would not be mandated for future researches by those companies. No, indeed. What they would do is simply add that to their bottom line, which is not the sort of thing that would induce more research.

The amendments proposed by the Special Committee on Bill C-22 would do away with the Price Review Board, leaving the consumers at the mercy of those multinational pharmaceutical companies. Gone is the control over rising prices of prescription drugs; gone is the lid or ceiling that might be put on the introduction of new drugs in Canada. The industry, in the terms of some critics—and we heard this today from members opposite—could increase the cost to the disabled, the disadvantaged, the chronically ill, the sick and the elderly for all the traffic could bear. Yes, my dear friends, they might well raise their prices considerably. Instead of having seven to ten years to recover their initial heavy investments on research, they would be limited to a much shorter period of time in which to do so. There is much less protection from the generic copies of their best selling products, because these best selling products are the very drugs that have the mass sale appeal that the generic companies will copy.

As we have noted, it costs up to $100 million to research, develop and put a drug on our market. It then takes several years and hundreds of millions of dollars more to promote the drugs and to educate the profession so that doctors will have familiarity and confidence in the use of the new medication. It is at this point in a developed mass market that generic companies enter to compete. Usually they do so by importing the active ingredient or fine chemical from abroad, obtaining a notice of compliance from the health branch, and marketing this product at a cheaper price than that of the inventor, who originally made the huge investment in that drug.

Honourable senators, let me summarize what Bill C-22 in its original form would do. By giving patent holding pharmaceutical firms a guaranteed period of protection, the bill would put $1.4 billion—not $3.7 million, not $7 million but $1.4 billion—of new money into Canadian research and development.

The bill would create 3,000 high level scientific and technical positions in this country, half of which, I might add, would go to Montreal. It would strengthen consumer protection by monitoring and controlling prices of drugs on the market and new drugs to come on the market. Contrary to the scare tactics of some critics, no drug presently on the market would increase in price, and any future changes in price would be much lower than has been the case over the last seven years.

Generic companies operating under compulsory licence to copy patented drugs would be retained and would continue to compete and to bring benefit to our consumers. It has been shown that for the 3.5 per cent of drugs copied by compulsory licences of generic manufacturers, prices tended to drop anywhere from 20 to 50 per cent in the course of a few years. This will continue despite the objections of our international trading partners.

The bill as originally presented to the Senate also provides the impetus for our fledgling fine chemical manufacturing industry in this country. It provides encouragement to the

biotechnical scientists and to their companies to expand and compete in this exciting new world of science, to which Dr. McGeer referred in his *Globe and Mail* article. Finally, as I mentioned, government and Parliament would have the opportunity to review and alter this legislation if it were found not to accomplish the purposes for which it was meant.

One anomaly arises during the transitional phase-in period of Bill C-22 as a result of this guaranteed period of patent. It applies to a number of drugs for which there is currently an application for a compulsory licence, but which have not received notice of compliance. These are the so-called "pipeline" drugs. Potentially and theoretically, some of these could be delayed, in terms of reaching the market, by as long as four years. Provincial health drug plans, which may have anticipated future savings from these drugs, could be affected by their late availablility. In a worst case scenario, this future loss to the provincial plans amounts to no more than $90 million. Therefore, the government is providing extra security to these provincial drug plans by appropriating $100 million over the course of the next four years as *pro rata* compensation—a figure which far exceeds what I believe is necessary, because many of these applications for compulsory licences and notices of compliance may be delayed or dropped by the generic firms, or may not be economically feasible to market. In my opinion, only a few of these pipeline drugs seem to have the volume of mass market appeal that the immediate future would make attractive for a generic competitor. This anomaly would be corrected by the proposed amendments that have been brought to this house today by changing the operative date of amendments from June 26, 1986, to the future date of proclamation of this act.

● (1620)

The new amendments which have been brought to our attention duplicate an omission of the Eastman report in that no advantage or inducement is afforded to the manufacturing industry of the active ingredient of drugs in Canada. This is, indeed, a body blow to the fine chemical industry which Canadian scientists and Canadian chemists are beginning to develop. Moreover, it virtually eliminates any possibility of developing our exotic biotechnical industry and its progress, which was beginning to thrive recently under the brilliance of a small cadre of outstanding scientists such as Dr. John Evans and the people who support him. It is on this segment of science that the hope of future cures for incurable diseases lies.

Perhaps, honourable senators, we should give some credence to the plaintive pleas of sufferers and families of those with incurable diseases such as muscular dystrophy, Alzheimer's, cancer, AIDS, cystic fibrosis, multiple sclerosis, heart disease, many forms of arthritis, and mental illness. I could go on with other diseases that are not yet curable.

The people with such diseases, and their families, beg not for cheaper drugs but for the discovery of any new drug which might bring some amelioration of their lethal disease.

We have received many pitiful and pathetic communications from such people from Prince Edward Island right over to Vancouver and Victoria. I should like, with your permission, to read one of the sensitive and helpful letters. It was addressed to the Honourable Senator Bonnell. It is dated July 6 and comes from Vancouver. I will read the name of the writer at the end. The letter is beautifully written. I will not read the whole of it, but I will take an excerpt from it, which I hope will be as touching to honourable senators as it was to me when I read it. It is enough to bring tears to the eyes of even a Liberal.

Senator MacEachen: Tears?

Senator Steuart: Break out the violins!

Senator Barootes: The gentleman writes as follows:

> Just over 27 years ago, on June 20, 1960, my wife and I were blessed with the birth of a fine, healthy, young son. We were very proud, and as any parents had the highest hopes and dreams for him. On October 13, 1960, less than four months later, our dreams perished, with our son. Many years later in 1967, my best school friend died at the age of 32 in the very prime of his life.
>
> My son and my friend shared two things.

This best conveys the message that I want to present. The letter continues:

> Both of them died prematurely and both of them perished for lack of the drugs that would have saved their lives. It was not the fact that drugs were expensive but the drugs did not EXIST. Since those tragic events I have always had a burning desire to see new drugs invented. At no time did I expect them to be cheap or free.

Here is the pathetic part:

> I had to borrow $1,000.00 from a bank to bury my own son . . . Could anyone seriously believe that my late friend's wife and family would care what profit margin there would have been on a new drug appearing in time to save his life?

He goes on to say:

> Myself and others already owe our lives to such creators in the past. I should like to emphasize the word "creators" of the new drugs, for it is they I wish to applaud not the second-handers and the copiers which inevitably follow.

He closes a three-page letter with a touching statement:

> Nearing the close of my appeal it is important to clarify my vested interest in Bill C-22. I am not a shareholder of any pharmaceutical manufacturer. I am not an employee of any pharmaceutical manufacturer. Furthermore, I am not a card-carrying member of any political party. My vested interest is my life and my love of it and the lives of my family and friends. I want new life-saving drugs.
>
> In closing, Honourable Senator,—

It is addressed to our chairman:

> —please visualize and consider the following. I see the faces of those I know who have died. I am thinking of the faces of "life". I see the face of a brilliant young surgeon on the cover of *Life* magazine as he performed open-heart surgery in an American hospital. I recognized his face because he graduated from my high school with honours

> and many of us appreciated the great potential of this young Canadian. I no longer wonder why he took his great brain and left my country. Do you?

It is signed Rodney Wilfred Steere.

Some Hon. Senators: Hear, hear!

Senator Barootes: I think that is the message that we could drive home anywhere in Canada.

The advocates of these new amendments, and some consumer groups, base their case and concern on their fear of inordinate rises in the cost of drugs, no matter how reassuring is the logic and the reasoning to the contrary. This is nonsense. Those critics prefer, as they have said repeatedly today, to rely on drug prices being kept down by competition from generic drug firms using the compulsory licence provisions of the act. That position bears a little scrutiny. First, compulsory licences will continue. The transitional temporary phase will disappear, and they will still have the effect of the generic companies. Second, we must realize that generic copies affect only 7 per cent of the drug sales in Canada, and less than half of that 7 per cent is due to compulsory licence. In fact, more than half of that 7 per cent is for drug products for which the patent has already expired, so that a compulsory licence is no longer necessary and a royalty no longer need be paid. How then, I beg of you, could this minuscule maximum of 7 per cent of drugs safeguard the consumer from the prices of the other 93 per cent of uncontrolled sales that are on the Canadian market? It is ridiculous. Compare that, however, to the authority of the Drug Prices Review Board with its stringent protection over not 7 per cent, not 93 per cent, but over 100 per cent of all of the drugs in Canada.

Dr. Eastman found in his study that the average time for the introduction of those generic copies was eleven and a half years. It is now somewhat less. Bill C-22 allows for the introduction of manufactured copies of drugs in seven years and imported copies in ten years. Dr. Eastman also reported that compulsory licensing for generic companies had saved consumers $211 million in 1983. I have to correct the $213 million that was mentioned by Senator Buckwold. It is $211 million. Using the same assumptions, the same methodology, and the same data as Dr. Eastman's model, if Bill C-22 had been in effect since 1969, when the present law was authorized, it is estimated by those same figures that $266 million to $366 million would have been saved to Canadian consumers, chiefly as a result of the controls of the Drug Prices Review Board. This is a watchdog committee, which the Special Committee of the Senate says is no longer necessary and will be done away with.

● (1630)

In addition, the regime of Bill C-22 would have injected an additional $70 million of new money into research and development in that same year, 1983. Are we buying a pig in a poke? For the sake of some kind of contrived political expediency, are we going to adopt a report which is throwing the baby out with the bath water? We have to be reasonable and look at this.

[Senator Barootes.]

Honourable senators, this reform of the Patent Act, and in particular of the drug section, was initiated back in the mid-1970s by the Honourable André Ouellet. His successor, the Honourable Judy Erola, also concerned with revision of the drug section of this act, appointed a Commission of Inquiry into the Pharmaceutical Industry under Commissioner Harry Eastman, an eminent economist from the University of Toronto, who delivered his report in, I believe, 1984. It may have been 1985. It is now 1987. The Honourable Judy Erola, in giving testimony to our Senate committee on, I believe, May 5, 1987, indicated that draft enabling legislation similar to Bill C-22 today to extend the period of drug patents was being prepared in her department. So don't tell me that all of a sudden the people opposite have changed their opinions. I would like to quote from the minutes of that meeting. Mrs. Erola was asked if the former administration had planned specifically to change the Patent Act. Mrs. Erola answered "Yes." The questioner then asked:

> Senator Barootes: Can you tell me, was it to shrink the period or expand the period of patent?
>
> Mrs. Erola: It was definitely to expand the period of the patent. The minister who preceded me and I both felt very strongly, with the support from our caucus and cabinet at the time, that the protection of intellectual property in the area of pharmaceuticals was discriminatory and unproductive in that we had evidence to show that there had been a decline in research and development in Canada in this field.

In fairness to her, I should add the next sentence:

> However, we wanted to ensure that there would not be a rise in prices; that indeed there had to be some mechanism in place to ensure that Canadians would have access to reasonably-priced medications.

A couple of questions later, I asked if there was anything further in the form of support from the Department of Health and Welfare that could be added. I suggested that so often, when studies of this nature are done, the administration in power will prepare what we call enabling or draft legislation without specifics as to dates, time, extensions, restrictions, and so on, and asked whether any such legislation was undertaken or any draft material presented. Mrs. Erola answered "Yes." I then asked:

> Was it indeed the intention of the former administration to proceed with a bill similar to this, which expands the period but which gives protection to the consumer?

Mrs. Erola answered "Yes." So, this is not something new. It was in the mind of the former Liberal administration and had been for almost a full decade.

Now, let us turn to the testimony of Dr. Harry Eastman, the economist, when he appeared before our committee on May 12, 1987, and see how he felt about this point. Here is his voluntary statement given before the committee:

> I concluded a couple of years ago that we needed to modify our policy. When we come to Bill C-22, I consider

that Bill C-22 modifies our policy in an acceptable manner.

That was a statement made of the doctor's own volition. Later on in the hearing I said to Dr. Eastman:

> But you also ask: "Do we need to modify our policy? Bill C-22 does this in an acceptable manner." I am going to ask whether you feel that Bill C-22 is a fair and justified modification of the present status as we know it.
>
> Dr. Eastman: I do, senator.

I went on to ask him whether it was fair to researchers, innovators, scientists, consumers of the product, and so on.

Senator MacEachen: These are leading questions.

Senator Barootes: In each case he indicated his concurrence that it was a justifiable and proper thing to do.

Senator Frith: Senator Cogger, would you call that a leading question?

Senator Barootes: I do not think that anyone in our committee was able to lead either Dr. Harry Eastman or Mrs. Judy Erola along. They are very strong-minded and, shall I say, very notable people.

Senator Flynn: Good reply.

Senator Barootes: So, I say to you, honourable senators, that we know from the testimony of Dr. Eastman and of the Honourable Judy Erola that they feel that Bill C-22 is acceptable, fair, justified and operable. If that is so, do you think we can do any less in this chamber?

Honourable senators, as this debate over Bill C-22 has raged it has, frankly, surprised and puzzled me. All honourable senators and parliamentarians realize that a huge proportion of taxpayers' money goes to pay for our health care costs and programs in Canada. One third of provincial budgets and one quarter of the federal budget is designated for health expenditures. Prudent spending, cost-savings and reasonable control, without loss of quality and accessibility, are the objectives of every interested party. It strikes me, however, as excessive to be so concerned about the drug component of this health care dollar when it constitutes about 5 per cent of the health expenditure. I put the question, would it not be more effective to expend our efforts on the major cost components rather than this one 5 per cent segment? This is particularly so when one realizes that 85 per cent of all consumers of drugs are covered by some drug plan.

In the more vulnerable areas, such as high consumers of drugs, 100 per cent of all seniors and of all social needs groups are covered by provincial plans. I feel it is much more important to realize that new drug discoveries, however we decry their excessive or perceived costs, save hundreds of millions of dollars for the treasury, and maybe billions of dollars. How do they do this? They do it by negating the necessity of expensive hospitalization and doctors' fees. For example, the ulcer medications Zantac and Tagamet alone have saved literally millions of days of hospitalization and have figuratively taken the knife out of the surgeons' hands, saving millions more dollars in physicians' fees. This is an economic benefit of pharmaceutical and medical research, not to mention the untold misery and illness which is alleviated and the many millions and millions of days of lost working time which it saves industry.

Therefore, it seems to me sensible, as guardians of the public purse and health matters, that we not unduly denigrate the cost of medicines but perhaps work together to institute a climate in which these new discoveries to relieve humanity from suffering, to prolong useful life, and, at the same time, to save costs in institutional hospitalization and medical fees can be undertaken. We can do this by encouraging innovative pharmaceutical research in the future. The deadly and incurable diseases which are killing our citizens will only be prevented and cured by a regime such as the one proposed in the original Bill C-22.

● (1640)

Honourable senators, for all these reasons I cannot support the latest amendments recommended by our Special Committee on Bill C-22. I urge you—nay, more strongly, as a physician who has long been associated with health economic matters in Canada, I beg you, honourable senators, to oppose these amendments and plead with you to accept Bill C-22 as originally submitted. To that end, I propose a motion in amendment:

> That all the words after the word "Report" be struck out and replaced by the following:
>
> inasmuch as it proposes amendments to the said Bill, be not adopted but that the Bill in the terms it was originally received by the Senate be placed on the Orders of the Day for a third reading . . .

MOTION IN AMENDMENT NEGATIVED

The Hon. the Speaker *pro tempore:* Honourable senators, in amendment it is moved by the Honourable Senator Barootes, seconded by the Honourable Senator Doyle:

> That all the words after the word "Report" be struck out and replaced by the following:
>
> inasmuch as it proposes amendments to the said Bill, be not adopted but that the Bill in the terms it was originally received by the Senate be placed on the Orders of the Day for a third reading . . .

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

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I indicated to the Chair that I wanted to seek clarification from Senator Barootes as to the amendment before raising a possible point of order as to the regularity of the amendment. I do not have a copy of the amendment, but I listened to it attentively. May I ask Senator Barootes whether the effect of his amendment is to delete Part I of the report and leave the remaining parts in the report? In other words, it is not an amendment that quashes the whole report; it simply quashes Part I.

Senator Flynn: It deals with Part I.

Senator MacEachen: It deals with Part I only, and if the amendment were adopted, Part I would be deleted—

Senator Flynn: Yes.

Senator MacEachen: —but the remainder of the report would stand.

Senator Flynn: It would stand or fall, yes.

Hon. Efstathios William Barootes: Yes, that is the intention.

Senator MacEachen: Senators Barootes says that is the intention, therefore, I have no comment to make on the regularity. As far as I am concerned, I have no objection to the regularity of the motion. However, I may have some comments on the debate.

Senator Barootes: I think I can confirm that my intention was with respect to those amendments which are recommended to be adopted by the Senate and not those which are observations, and so on, for the minister and the House of Commons.

Senator MacEachen: In other words, if I understand it, Senator Barootes could easily have put his motion in the form that the report be adopted, except for Part I.

Hon. Gildas L. Molgat: Honourable senators, I have a question as to the regularity of the motion. I am referring to *Beauchesne*, page 205, paragraph 658(2), which states:

> A report from a committee may not be amended in a substantive manner by the House; it must be referred back to the committee.

I wonder how that paragraph relates to this situation.

Hon. Jacques Flynn: The motion in amendment says only that part of the report should not be adopted. It does not change it.

Senator Frith: It is a pretty substantial part.

Senator Flynn: Yes, but what I mean is—

Senator Frith: If that is not substantial, give us an example of something that is.

Senator Flynn: —there are three parts. Of course, the report is quite irregular in that it contains recommendations for amendments as well as observations, et cetera. In this respect, it is not regular in that it is not normally done; it is a practice that has grown in recent years and has come to us, I suppose, under the inspiration of the present Leader of the Opposition.

However, if we only had the report with the amendments, of course, the question would be: Why say no to the pious hopes of the report which are not dealing with the bill itself and which are, in fact, outside the scope of the bill? Of course, if they had been embodied as was first intended, they would have contravened sections 53 and 54 of the BNA Act and would have been outside the authority of this chamber.

Now the committee has reduced the amendments to questions that are within the powers of the Senate, and it is only to this effective report that we want the question to be put. In other words, we are asking the Senate not to adopt the report, inasmuch as it proposes amendments to the bill, and that, therefore, the bill in its original form—

Senator MacEachen: The bill as it came to the Senate?

Senator Flynn: Yes, the bill as it came originally to the Senate, be placed on the Orders of the Day for third reading. If the Senate wishes to adopt the rest of the report, that is another question, as the Leader of the Opposition has said.

Senator MacEachen: Senator Flynn will understand that if the motion made by Senator Barootes were adopted, Part I would be deleted, but the Senate would be recommending to the House of Commons the establishment of a royalty fund.

Senator Flynn: It would be a recommendation if, in turn, this is adopted, yes.

Senator MacEachen: So that the Leader of the Government and his colleagues are endorsing—

Senator Flynn: No, no—

Senator MacEachen: They are endorsing the establishment of a royalty fund and recommending that it be adopted by the House of Commons. In other words, Part II would be adopted by the Senate and supported by the members of the government, but Part I would not be adopted. That is what I understand the impact of the amendment made by Senator Barootes to be. Senator Flynn has made that clear.

I am seeking clarification rather than trying to raise a point of order. Our colleague, Senator Molgat, has raised a point of order, and it is up to him to decide whether he wishes to press it. However, I am not raising a point of order.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, if I may say so, I think I can speak for the supporters of the government on this matter. As the honourable Leader of the Opposition has pointed out, the report is in several parts. The concern of the government and of its supporters in this chamber is to defeat the amendments that have been proposed by the committee. With respect to the part with its recommendations which have no impact on the bill, we have no objection to that part of the report going forward as being an expression of the views of the majority of the committee. Especially do we not have objection in view of the fact that the report already contains the statement that the report represents the views of the majority of the committee, and that the members who support the government are in strong disagreement with the proposed amendments to Bill C-22.

Senator MacEachen: Honourable senators, the impact of the Leader of the Government's comment is to lead in the direction of stating that the amendment is not a very serious one because they oppose the whole report. There is no solace in quoting the last sentence. Before us is a report from the committee. Senator Barootes has moved that Part 1 of the report not be concurred in, and that the Senate, as a whole, concur in the remainder of the report, which includes a recommendation from the Senate to establish a royalty fund.

It is no relief to the Leader of the Government to say that there is a dissenting view.

If Senator Barootes' amendment were accepted, we would be saying that we do not want to amend the bill ourselves, but we strongly and enthusiastically endorse an amendment by the House of Commons to establish a royalty fund. The government is putting itself in a very odd position. I am not trying to press any irregularity against the amendment, because its impact is rather absurd.

Senator Murray: Honourable senators, I think the Leader of the Opposition recognizes the dilemma that the government and the government supporters are in. We are, of course, opposed to the amendments that have been brought forward by the committee. Members of the committee have made it clear in their dissent that they are opposed. As I have said, the important thing is to register our disapproval of the amendments themselves and to attempt to defeat those amendments.

Rather than trying to amend the motion, the Leader of the Opposition is suggesting that we should simply vote against the adoption of the report. However, I state quite flatly that I have not been able to ascertain, in consultation with various experts, what the effect would be of voting against the adoption of such a report if that vote were to carry. Would it mean the end of the bill? I do not know the answer to that question.

We are at the report stage, and this is a stage of the legislative process, as I understand it. If honourable senators had decided to vote against the bill on second reading, that would have been the end of the bill. If a majority of honourable senators voted against the report of the committee, would that have the effect of only defeating the amendments proposed, and could we then proceed to third reading, or would it have the effect of defeating the bill? That is the dilemma that the government and the supporters of the bill in its original stage are in. In frequent and repeated consultations with people whom I believe to have some expertise in the matter, I have not been able to get a satisfactory answer to that question. Therefore, we have hit upon the device of an amendment which registers our disapproval of the proposed amendments.

In this vote we will have an opportunity to vote down those amendments. At the same time, we can allow to go forward, as an expression of the opinion of the majority of the committee, with the dissenting votes recorded, the narrative, if you like, that is contained in the rest of the committee report. I do not see any other course to follow, unless somebody can satisfy me as to the procedural problems that I have raised.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the motion that is before us now does not solve the problem raised by Senator Murray. Senator Murray raised this problem with me, and I am not one of the experts. He has said he consulted others and experts, and I do not count myself as an expert. I was not able to answer the question either.

I do not see that this helps much, because if this motion is defeated, then you are right back to square one and have to consider what happens on the motion to adopt the report. However, I am sure that we can find a way to oblige each other in this matter.

Senator Murray: The positon is analogous to the situation that my friends were in last year, and may be in again this year, when, having made their point by amending a bill and sending it to the House of Commons, when the majority in the other place returned the bill, honourable senators accepted the inevitable and accepted the will of the majority in the other place. The supporters of the government and those who share our views—

Senator Frith: I do not know what brought this up. That has nothing to do with what we are doing now.

Senator Murray: I think the positions are analogous. We will have an opportunity to register our views with these amendments and to make our point. That will be sufficient.

Senator Flynn: The point raised by Senator Molgat should be cleared up first. If you refer to *Beauchesne's*, Fifth Edition, section 652, it says:

[*Translation*]

> 652 (1) When a motion is made for concurrence in a committee report . . .

This is what Senator Bonnell has proposed . . .

> . . . it is competent for the House to adopt it, reject it, or refer it back to the committee.

So he talked about referring it back to committee, but what we find in *Beauchesne* is a specific ruling. Here we can do anything. We can adopt a report in whole or in part.

What we are suggesting is not to adopt a part, and then for the rest, the recommendations, the amendments and the remarks, there can also be a vote. Possibly if the second question is put separately for the rest of the report we will be able to say "on division" and that will be the end of it.

The effect of the first question put by the amendment is: Is the bill to be adopted on third reading as originally drafted? In other words, we are against the amendments. If the Senate says no, the question can be put with respect to the rest of the report.

[*English*]

Senator MacEachen: Honourable senators, I do not have an objection to Senator Flynn's analysis. He is reluctant to vote in favour of that portion of the report which recommends changes by the Senate to the bill. That is clear. However, Senator Barootes is, by more than implication, prepared to accept the remainder of the report, which calls upon the House of Commons to adopt a royalty fund. That is the clear impact of the amendment, and Senator Murray has raised the dilemma faced by supporters of the government. I think the dilemma will become crystal clear when the motion to adopt the report is put.

● (1700)

Supposing Senator Barootes' amendment is defeated? Then the question will have to be put on the main motion. If members on the other side voted against the main motion, and

if we agreed with their position and joined with them, Senator Murray then asks what would happen to the bill. I must say that one can make a certain preliminary observation, and that is that the bill would be in serious difficulty. Indeed, the government would have put the bill in jeopardy, because the committee to which the bill has been committed will have been extinguished, and the report bringing the bill forward will be defeated, and the bill will never appear on the order paper unless some other action is taken, such as a motion to reinstate the bill at second reading. I suppose the government could put a motion asking that the bill be reinstated at second reading, and we could start over again.

If the government votes against the adoption of the report, it is making a more savage attack on this bill than we Liberals are making, because we are not putting it in limbo. We are keeping it in circulation. But the government is prepared to put the bill in limbo and leave to us the obligation, as they have done in the past, of keeping government legislation in motion.

Senator Murray: Honourable senators, I do not necessarily accept the verdict of the Leader of the Opposition. I had suspected all along that that could be the case, but even if that were not the case, honourable senators opposite have the numbers to make that happen. The dilemma is one that would confront any government in a minority position in this chamber. I candidly admit that while reserving the right to seek a second opinion, if I may.

However, I may say that to avoid that problem and to ensure that the House of Commons has an opportunity to pass judgment on the amendments that are being proposed by a majority of senators, we, of course, will not take any action that would halt the bill in its tracks.

Senator Frith: Not knowingly, anyway.

Senator Murray: To facilitate the bill's progress, we will certainly not vote it down.

The Hon. the Speaker *pro tempore:* Those in favour of the motion in amendment please say "Yea".

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Those opposed to the motion in amendment please say "Nay".

Some Hon. Senators: Nay.

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

Hon. D. G. Steuart: Honourable senators, let me first say that I was impressed, as I am sure we all were, and as I have always been, with Senator Barootes' concern for the sick. Having known Senator Barootes for a long time, I know that he has spent most of his adult life helping the sick, attending the sick and curing the sick. I might say, speaking for a great many Liberals, a tremendous number of NDP—unfortunately a growing number—and even some Tories, we sincerely wish that he had carried on looking after the sick and left the politics to someone else. Perhaps even the Conservatives would have been better off had he done that. However, I should like to point out that Senator Barootes, good as he is with the sick, and the Conservatives do not have a monopoly on concern for sick people and those who need to use drugs in Canada.

Senator Flynn: Nobody ever said that!

Senator Steuart: No one ever said that, but I was going to raise that, Senator Flynn, in case you were thinking of it. You were looking very pious over there. I also remind Senator Flynn that Bill C-22 will really hit the people the Conservatives are so concerned about, the sick people, because, unfortunately, they are the ones who use drugs on a frequent basis.

I also point out that Canada only accounts for approximately 2 per cent of the world market. So what Canada does or does not do will not substantially affect the amount of research available for new drugs. Having said that, there is nothing to stop the government, as has been suggested by the committee, from increasing the royalties by a large amount so that that money can be spent on research for new drugs here in Canada.

Honourable senators, Senator Cogger said something to the effect that the Liberals decided to work against Bill C-22 from the outset. He implied that they were following along like so many sheep. If that is true, I wonder why he did not say anything about the Conservative senators on the committee. If Liberals are sheep, I suggest that the Tories are Judas goats, leading the poor, the sick, the lame and the blind to the slaughterhouse of high drug prices.

One thing that strikes me as being strange is why the Conservatives are being so generous to mostly large American drug companies. The Americans have lately hit Canadians from one end of Canada to the other—shakes and shingles, pork products, red meat products, fish products, softwood lumber and, now, Saskatchewan uranium. Why are we handing the Americans these gifts before we get down to the nitty-gritty of free trade? I think the Americans can be excused if they think that Canadians are a bunch of patsies for giving away all the chips before the poker game has really begun.

What I will now talk about is the attitude of Saskatchewan, the province that I represent and the province that Senator Barootes represents, to Bill C-22. From the committee meeting held in Saskatchewan, and from correspondence and talks I have had with people from all over that province, I can say who is against Bill C-22. I think most of the consumers, most of the senior citizens, most of the poor—in fact, the vast majority of the people in Saskatchewan—are against Bill C-22. But who is in favour of it, besides Senator Barootes? Premier Devine and the Saskatchewan Conservative government are in favour of Bill C-22. They did not take an opportunity to appear before the committee, but that is not new. If they are against Bill C-22 and the high drug prices for the Saskatchewan people, that has been a well kept secret. They are not against it, or if they are they are not saying anything. I say that because Premier Devine and the Conservative government of Saskatchewan never say anything against Brian Mulroney and the Conservative government in

Ottawa. For some reason they are afraid that if they do they will sell their farmers out. The Saskatchewan farmers are down the drain already. I do not know who sold them out, but they are certainly not being rescued by the government in Ottawa.

I suggest to Premier Devine—and I do not think he will take the suggestion—that if he does not soon speak out for the people of Saskatchewan he will go down the drain right along with the federal Conservatives and Brian Mulroney as soon as the people of Saskatchewan get a chance to go to the polls, which will be in a very short time.

Senator Flynn: You may go down the drain.

Senator Steuart: No, I cannot go down the drain; I have what is considered to be an almost life-time contract.

• (1710)

For your information, Senator Flynn, I am here until age 75 or death, whichever comes first! Sometimes I think it will be a close call!

Senator Flynn: What about Premier Bourassa?

Senator Steuart: Senator Barootes challenged the Liberal senators of Quebec to remember their region and speak out for their region. Well, I could turn the tables around. Why is he not speaking out for his region?

Senator Olson: Yes.

Senator Steuart: If there was ever an issue that will hit the people of Saskatchewan—the sick and poor people—it is this increase in drug prices. It is a strange thing: they have already been hit with an increase in drug prices. The government that Senator Barootes supports in Saskatchewan has already changed the drug plan, starting July 1. It means that all of the people of Saskatchewan will be hit with substantially higher drug costs. On top of that, they will be hit with Bill C-22—another increase in drug prices.

Senator Guay: Shame!

Senator Steuart: They could not afford it at any time, but with the condition that the economy of Saskatchewan is in, they certainly can ill afford it at this time.

This proposal brought forward by the committee will not roll back all of the price increases, but it certainly will have a great effect. Again, I challenge the Conservative senators from western Canada and from Saskatchewan to remember the region they come from and why they are sent here. It is to represent their region. I challenge them to get up and speak out against this unwarranted increase in drug prices.

We are now told by the drug companies—most of them are American; and I am not against that—that they will do great things for Canada.

An Hon. Senator: Baloney!

Senator Steuart: They will spend tremendous amounts of money on research; they will produce hundreds of new jobs in Canada. Not, I might point out, in Saskatchewan—but then we always feed the cow and someone else always gets the milk. I would suggest to the maritimes that they will not feed it and they will not get the milk, but they will get something—it depends on which way the cow is facing.

However, why did these drug companies not do all of these wonderful things years ago? That was one of the reasons the Liberal government, ten or fifteen years ago, took away their free ride—their patent protection—on the people of Canada, because they were not spending enough and they were not doing what was right for Canada. So the Liberal Government of Canada struck out for Canadian people.

Senator Guay: Right.

Senator Steuart: Someone said that Judy Erola said that the Liberal government was thinking of changing it. I wonder when she changed her mind. It certainly was not when she was a member of the Liberal government.

Senator Guay: The job!

Senator Steuart: It may have been lately. I think I know why, but I will not mention it.

Senator Barootes also mentioned that great research had taken place in Canada. Doctors Best and Banting are great Canadian heroes, and so they should be! They were not working for any international drug company, they were Canadians who developed this research in Canada—and I suggest without any help from the multinational drug companies. I also suggest that even if this amendment and report is accepted by the Government of Canada—and I do not think that it will be—it does not mean that they have to shut the door on increased research in Canada. They have the right, and we are suggesting that they raise the royalties and then send the message to the drug companies that the increase in these royalties shall be spent on research and shall be spent in Canada.

Finally, I want to come back once again to why we are giving this away to the Americans on the eve of free trade. I find it totally unbelievable, just as I find it unbelievable that we have been hit unfairly by the Americans with potash; we have been hit by the Americans with lumber—and we deal in lumber—unfairly; and we will now be hit unfairly by the Americans through our uranium; we have been hit by the Americans through our red meat products. Why in the name of God do we lie down and say, "Okay, we will let them ride roughshod over Saskatchewaners and Canadian consumers in the matter of drug prices," when we will not get back anything in return? What kind of bargaining is that? I think that Bill C-22 is a bad bill.

An Hon. Senator: Hear, hear!

Senator Steuart: The government whines about spending $300,000 to go across Canada and hear what the Canadian people think. For God's sake, Bill C-22 will take hundreds and hundreds of millions of dollars out of the pockets of sick Canadians because of higher drug prices in Canada. What is $300,000? If that is the worst $300,000 that this Senate ever spends or this government ever spends—hell, this government

spills that much on the way to the bank every day—it is still well spent.

Some Hon. Senators: Hear, hear!

Senator Steuart: I think that we should be proud of what we have done in this Senate. I hope that the senators, and then the House of Commons, support this recommendation.

Some Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Does anyone else wish to speak?

Honourable senators, it is moved by the Honourable Senator Bonnell, seconded by the Honourable Senator Cottreau, that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion please say "Yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are opposed to the motion please say "Nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "yeas" have it.

Senator Roblin: On division.

The Hon. the Acting Speaker: On division.

Motion agreed to and report adopted, on division.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Senator Doody: At the next sitting.

Some Hon. Senators: Now.

The Hon. the Acting Speaker: Honourable senators, is it agreed that the bill be read the third time now?

Senator Doody: At the next sitting, Your Honour.

On motion of Senator Doody, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, since it is getting late and given the fact that the Committee on Fisheries will be meeting very shortly, I will postpone my remarks, probably until tomorrow.

Order stands.

The Senate adjourned until tomorrow at 11 a.m.

APPENDIX

(*See p. 1704*)

PATENT ACT

BILL TO AMEND — REPORT OF SPECIAL COMMITTEE ON BILL C-22

WEDNESDAY, August 12, 1987

The Special Committee of the Senate on Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, (formerly entitled the Special Committee of the Senate on the subject-matter of Bill C-22) has the honour to present its

SEVENTH REPORT

The Committee, to which was referred back its Sixth Report on Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, has, in obedience to the order of reference of Tuesday, 11th August, 1987, completed its examination and now reports again on Bill C-22 as follows:

The Committee wishes to propose amendments to Bill C-22 in accordance with recommendations of The Report of the Commission of Inquiry on the Pharmaceutical Industry (the "Eastman Report"). Because of procedural questions raised in the Senate, this Report presents the Committee's proposed amendments in two parts.

The first Part consists of amendments proposed to the Senate for adoption.

The second Part consists of amendments to be recommended to the House of Commons for adoption.

In addition, the Report contains observations, and recommendations on general patent law amendments.

PART I

AMENDMENTS	EXPLANATORY NOTES
1. *Page 10, clause 15:*	
(a) Strike out lines 21 to 23 and substitute the following: "**41.1** In sections 41.11 to 41.15,"	
(b) Strike out lines 29 to 34.	The special definition of "patentee" in the Bill, which includes voluntary licensees, in order to support the powers of the Patented Medicine Prices Review Board (the "Board") is deleted.
(c) Strike out lines 35 to 42.	This amendment would delete the requirement that a notice of compliance be considered to be first issued only in respect of a medicine that is an original and distinct chemical composition and not for an obvious chemical equivalent of a medicine for which a notice of compliance (NOC) has been previously issued. The deletion of subsection 41.1(2) removes an anomaly found in Bill C-22 that would, in essence, allow patents for certain medicines (that is, obvious chemical equivalents to medicines for which NOCs have been previously issued) to have unlimited protection against the operation of compulsory licences to import for their entire patent term.

2. *Page 11, clause 15:*

(a) Strike out lines 12 and 13 and substitute the following:

"been used; or"

(b) Strike out lines 17 and 18 and substitute the following:

"duction of medicine."

A four year period of exclusivity with respect to statutory licences to import will apply both for medicines consumed in Canada and exported. The Eastman Report did not propose separate treatment for exclusivity in relation to the domestic and export markets.

3. *Pages 11 and 12, clause 15:* Strike out lines 19 to 49 on page 11, and lines 1 and 2 on page 12 and substitute the following:

"(2) The prohibition under subsection (1) expires in respect of a medicine four years after the date of the notice of compliance that is first issued in respect of the medicine."

With this amendment a four-year period of exclusivity running from the issuance of the first notice of compliance would be guaranteed to patent-holding firms. No distinction is made between the period of exclusivity guaranteed against licences to import or to manufacture.

4. *Page 12, clause 15:*

(a) Strike out lines 8 to 14 and substitute the following:

"(4) Subsection (1) does not apply in respect of any licence pertaining to a medicine where on the date of the coming into force of this section, a notice of compliance has been issued in respect of such medicine."

The new "regime" for importation of medicines would come into effect when these sections are proclaimed into law, but will not apply to drugs for which an NOC has issued by that date.

(b) Strike out line 45 and substitute the following:

"medicine is issued after the coming into force of this section, no"

This amendment and amendment 6(a) provide that the four year restriction on manufacturing will apply only where the first NOC for a medicine is issued after the proclamation date. Where an NOC issues prior to that date, statutory licensees will be subject to the old regime.

5. *Pages 13 to 26, clause 15:*

(a) Strike out lines 8 and 9 on page 13 and substitute the following:

"until the expiration of four years after the date"

This amendment parallels amendments 2 and 4(b).

(b) Strike out line 15 on page 13 and all lines from line 16 on page 13 to line 11 on page 26 and substitute the following:

"that medicine.

41.15 No action or proceeding for any"

These amendments would delete all references to the Patented Medicine Prices Review Board (the "Board") from the Bill.

They would also delete proposed new section 41.16 which would grant longer periods of market exclusivity to drugs invented and developed in Canada. With these amendments all patented medicines under the new regime would have a four-year period of market exclusivity.

6. *Page 33, clause 28:* Strike out line 15 and substitute the following:

"arising under any of sections 41.1 to 41.15 of"

7. *Pages 33 and 34, clause 30:*

(a) Strike out line 34 on page 33 and substitute the following:

"**30.** Schedule II to the *Access to Infor-*"

(b) Strike out lines 38 to 43 on page 33 and lines 1 and 2 on page 34.

These amendments are consequential on the amendments to clause 15. They delete subsections (2) and (3), referring to the Board and re-number the remaining provision.

8. *Page 34, clause 31:* Strike out the heading immediately preceding line 3 and lines 3 to 29.

This amendment would delete clause 31 of the Bill. Clause 31 provides for the payment of $25 million annually to the provinces for each of the fiscal years commencing April 1, 1987 to March 31, 1991. It is consequential on the amendments to clause 15, which relieve existing pipeline drugs from the retroactive imposition of exclusivity.

9. *Page 34, clause 32:* Strike out line 30 and substitute the following:

"**31.**(1) Notwithstanding anything in sec-"

This amendment renumbers clause 32 of the Bill.

10. *Page 35, clause 33:*

(a) Strike out lines 3 to 8 and substitute the following:

"**32.**(1) The definition "priority date" in section 2 of the *Patent Act*, as enacted by subsection 1(2) of this Act, sections 2, 5, 7 to 13 and 16 to 25 and subsection 30(1) of this Act, or any of those sections or subsections, shall come into force on a day or days to be fixed by proclamation."

This amendment would allow for greater flexibility in proclaiming into force the clauses of Bill C-22 that amend the general patent law.

(b) Strike out line 9 and substitute the following:

"(2) Sections 41.1 to 41.15 of the *Patent*"

(c) Strike out lines 12 and 13 and substitute the following:

"(3) of this Act or either of those subsections shall come into"

This amendment accommodates the renumbering of sections.

PART II

RECOMMENDED AMENDMENTS FOR ADOPTION BY THE HOUSE OF COMMONS

AMENDMENTS	EXPLANATORY NOTES
1. *Page 10, new clause 14.1:* Add, immediately after line 17, the following:	
"**14.1** Subsection 41(4) of the Act is repealed and the following substituted therefor:	Subsection 41(4) of the *Patent Act* currently requires the Commissioner of Patents to consider giving due reward for the research leading to the invention of a particular medicine when establishing the amount of the royalty to be paid pursuant to a compulsory licence. This amendment would delete this requirement and allow the Commissioner to fix a royalty payable to the Pharmaceutical Royalty Fund.
(4) Where, in the case of any patent for an invention intended or capable of being used for medicine or for the preparation or production of medicine, an application is made by any person for a licence to do one or more of the following things as specified in the application, namely:	
(*a*) where the invention is a process, to use the invention for the preparation or production of medicine, import any medicine in the preparation or production of which the invention has been used or sell any medicine in the preparation or production of which the invention has been used, or	
(*b*) where the invention is other than a process, to import, make, use or sell the invention for medicine or for the preparation or production of medicine,	
the Commissioner shall grant to the applicant a licence to do the things specified in the application except such, if any, of those things in respect of which he sees good reason not to grant such a licence; and shall settle the terms of the licence and fix the amount of royalty payable to the Pharmaceutical Royalty Fund."	
2. *Page 10, clause 15:*	
(a) Strike out line 21 and substitute the following:	
"**41.1** In subsection 41(4) and sections 41.11 to 41.16,"	
(b) Add, immediately after line 28, the following:	
" "participating patentee" means a patentee for whom a royalty has been paid into the Pharmaceutical Royalty Fund by a licensee in respect of a licence granted under subsection 41(4);	These definitions refer to expressions used in the new section 41.16 which would establish a Pharmaceutical Royalty Fund as recommended by The Report of the Commission of Inquiry on the Pharmaceutical Industry (the Eastman Report).
"Pharmaceutical Royalty Fund" means the fund established pursuant to section 41.16;	

"research and development intensity" means the ratio of research and development expenditures incurred in Canada by a participating patentee in respect of prescription-type medicines to the total sales for consumption in Canada of prescription-type medicines by such patentee;

Prescription-type drugs refer to drugs of a type that would be sold under prescription in Canada but might not require a prescription elsewhere.

"royalty" in respect of a licence granted under subsection 41(4) is the royalty fixed and determined by the Commissioner from time to time; for the purposes of fixing and determining such royalty the Commissioner shall apply the following formula:

This royalty would determine both the size of the Pharmaceutical Royalty Fund and the amount licensees must pay with respect to sales under licences granted under subsection 41(4).

(*a*) the royalty shall be the product of the royalty rate multiplied by the net price of sales of prescription-type medicines sold for consumption in Canada by a licensee pursuant to a licence granted under subsection 41(4), at arm's length or at the equivalent to arm's length;

The qualification on sales "for consumption in Canada" follows the Eastman Report recommendations that no royalties be payable by generic companies on account of export sales.

(*b*) the royalty rate is to consist of a first portion of 0.04 plus a second portion, being the ratio of the total expenditures of the world pharmaceutical industry on research and development for prescription-type medicines,

The first portion (0.04) is to reflect the value to compulsory licensees of current promotion expenditures of patent- holding firms. This 4% is not based on the same criteria as the 4% royalty currently paid by licensees.

to

the total annual revenues of such industry from sales of such prescription-type medicines throughout the world."

The second portion would be set at 10% at the present time, on the basis of existing conditions in the world pharmaceutical industry. This portion would vary according to the ratio of world research and development expenditures to world sales of prescription medicines.

3. *Page 26, clause 15*: Add, immediately after line 16, the following:

This amendment establishes the rules under which payments would be made from the Pharmaceutical Royalty Fund to participating patentees. The Commissioner of Patents would establish designated periods during which payments made into this fund are disbursed out of the fund to participating patentees.

"41.16(1) The Commissioner shall establish a Pharmaceutical Royalty Fund to be composed of royalty payments made in respect of any licence granted under subsection 41(4) after the coming into force of this section.

(2) Any royalty in respect of a licence granted under subsection 41(4) after the coming into force of this section shall be paid into the Pharmaceutical Royalty Fund at such time or times and in the manner determined by the Commissioner.

(3) The Commissioner shall at such time, to such extent and in the manner that he deems appropriate, make a distribution from the Pharmaceutical Royalty Fund to participating patentees in respect of a period designated by the Commissioner.

Disbursements from the fund for the relevant period would exhaust the total of all royalty payments into the fund for the period, including interest earned on those payments. Every participating patentee would be entitled to some proportion of the fund's monies. This proportion would be determined by the product of two factors.

(4) The amount to which each participating patentee is entitled under subsection (3) shall be the product obtained by multiplying the two factors set out in subsections (5) and (6), further multiplied by the sum of the total amounts paid into the Pharmaceutical Royalty Fund over the designated period and any accrued interest in respect of royalties to be disbursed from the fund.

(5) The first factor in the calculation described in subsection (4) is the ratio of

(*a*) the total of the sales for consumption in Canada made by all licensees of the participating patentee in respect of licences granted under subsection 41(4), during the designated period

to

(*b*) the total of all such sales in respect of all participating patentees during such designated period;

The first factor is the total of all sales of compulsorily licensed drugs based on that patentee's patented drugs divided by the sum of all sales of compulsorily licensed drugs in Canada. Export sales are not included in this factor. This represents the patentee's nominal share of royalties that would normally accrue to him.

(6) The second factor in the calculation described in subsection (4) is the ratio of

(*a*) the participating patentee's research and development intensity during the designated period, plus 0.04

to

(*b*) the average research and development intensity of all participating patentees during such designated period, plus 0.04.

The second factor is calculated as the sum of 0.04 and the research intensity of the participating patentee, divided by the sum of 0.04 and the research intensity of all participating patentees in Canada. This factor takes into account a participating patentee's research expenditures.

Both factors compare the circumstances of an individual patentee to the industry. In factor two, the research intensity of the patentee is compared to the industry norm. In factor one, the amount of sales of compulsorily licensed drugs attributed to the patentee's patents is compared to the total sales of compulsorily licensed drugs. A firm's share of the fund increases as its research intensity increases in relation to the industry norm.

(7) The Governor in Council may make regulations defining, for the purposes of this section and section 41.1, the expression "research and development"."

4. *Page 33, clause 28:* Strike out line 15 and substitute the following:

"arising under any of sections 41.1 to 41.16 of"

This amendment is consequential on the amendments to clause 15. It changes the numbers of the sections to which reference is made.

5. *Page 35, clause 33:* Strike out line 9 and substitute the following:

"(2) Sections 41.1 to 41.16 of the *Patent*"

This amendment accommodates the renumbering of sections.

If the recommendations of Part II are adopted by the House of Commons, certain sections and cross references to those sections are to be renumbered accordingly.

OBSERVATIONS

The amendments set out in this report would, among other things, remove all references to the Patented Medicine Prices Review Board (the "Board") from Bill C-22. This is done because the Board is not a part of the compulsory licensing and royalty regime being proposed in this report.

The Committee does feel, however, that it is appropriate to note that some concerns were expressed by witnesses respecting the constitutional authority of Parliament to vest the Board with the power to direct that excessive drug prices be reduced. The Department of Consumer and Corporate Affairs responded to these concerns with evidence supporting the constitutional validity of the Board's powers.

RECOMMENDATIONS ON GENERAL PATENT LAW AMENDMENTS

Part of Bill C-22 is also directed to general amendments to the patent law. These amendments deal with revisions to the novelty requirements, procedures for granting patents, the term of protection and some changes to the effects of patents, after they are granted.

These amendments advance many desirable changes. Among these changes are the dating of patents from filing, with early publication of applications; the adoption of more stringent novelty requirements, with a special grace period for disclosures by inventors; and the introduction of the first-inventor-to-file system. The Bill also provides for the re-examination of patents before the Patent Office, and for the deletion of obsolete marking requirements and caveats.

These and other features advance the patent law towards becoming a more modern piece of legislation, and more in line with provisions in other industrialized countries.

However, the Committee is concerned that a considerable number of provisions in the law may have serious flaws. This is due to inadequacies of drafting and to deficiencies in the basic structure of the provisions themselves.

The novelty provisions fail to make an explicit requirement that applications be more than mere "obvious" variants on prior technology. The date for testing "obviousness" is not specified. This is a point that should be dealt with explicitly.

The novelty provisions appear also to be drafted so that applicants may file two, or more, applications for the same invention, and then theoretically obtain several patents for the same invention. The Commissioner may endeavour to prevent this from occuring, but the statutory language appears to permit it.

The provision to continue section 29 of the present Act so as to "deem" applications to have a filing date in Canada that dates back to a foreign priority date appears to have especially peculiar results. Foreign applicants claiming priority are not placed under the new regime by the Transition Provisions until up to one year later than Canadian applicants. The grace period may afford a one year longer period of protection to applicants filing on the basis of a priority claim than to Canadian applicants.

The Bill contains a "domestic refiling" procedure for Canadians which has the laudable objective of placing applications filed directly in Canada, on an equal footing with applications filed from abroad with a claim of priority. But as drafted, Canadians must give up their corresponding right to claim priority abroad, if they wish to benefit from the domestic refiling procedure. Canadians should have the full flexibility to file applications in Canada or abroad as freely as foreigners.

This domestic refiling section requires careful reconsideration as to its actual effects, and likely will require, along with many other provisions, subsequent amendment.

Submissions were made that portions of Canada's present law violate the Paris Convention, and that insufficient provisions are incorporated to allow Canada to adhere to the latest text of this treaty. These submissions merit further consideration.

The patent profession in a variety of submissions has raised a list of suggestions and concerns about the matters not dealt with in the Bill. These include requests that:

- an explicit limitation period be stated, to apply equally across Canada.
- provision be made to correct patents when some inventors have been improperly named, or omitted.

- patent claims be protected from being invalidated on the mere grounds that not all co-inventors participated in conceiving each claim.

- section 36 of the Act be amended so that the claims do not have to be recited twice, both in the body of the disclosure and at the end of the document.

- the rights of joint inventors to independently use, licence or sell their interests in a patent be defined.

- the intervening rights provision (section 58) be revised to define clearly the scope of immunity, and to limit it to *bona fide* cases of independent acquisition of the invention.

- provisions be introduced to extend a patentee's rights to control persons who contribute to infringement.

Objections were also made that:

- the Act provides no explicit criteria for determining the manner of calculating a patentee's damages.

- the Act lacks any provisions to apply where a patentee threatens infringement, without suing, and causes a business to suffer cancelled orders.

- the Act makes no provision for the effects of deferred examination on Canadians who wish to seek a licence to manufacture, under the present section 67, after three years from the grant of a patent. This period of delay should now date from filing.

- the transition provision for the 1935 revision (now section 80) needs to be repealed, as it extends to "any provision in force from time to time..."

All of these items listed deal with matters not referred to in the Bill. They merit consideration, and in many cases, incorporation into a revised patent statute for Canada.

The Committee has not had the resources to deal with all of these deficiencies by proposing amendments. Faced with the alternatives of not passing a large number of clauses dealing with general patent law amendments, or approving them with reservations, the Committee has decided to adopt the latter course. This is because the general patent law amendments may be relevant, to some extent, to the drug patent amendments, and the Committee does not wish to see a delay in the implementation of its recommendations in this regard.

Accordingly, in order to enable only those essential portions of the general patent law amendments to be proclaimed into force as may be deemed fit, a revision to the proclamation provisions contained in clause 33 of the Bill has been proposed as set out above.

It is hoped that the government will proclaim only those portions of the general patent law amendments that are necessary to ensure the early implementation of the other provisions of the Act. Then, it is the recommendation of the Committee that the government then take action to consult with the public and with practitioners in this field, in order to prepare amending legislation to deal with the concerns expressed in this part of the report.

Ultimately, the Committee would wish to see a patent law for Canada designed to encourage both invention and innovation, in a manner that would best serve not only inventors but all Canadians.

DISSENTING OPINION

This report represents the views of a majority of the Committee. The members who support the Government are in strong disagreement with the proposed amendments to Bill C-22.

Respectfully submitted,

M. LORNE BONNELL

Chairman

THE SENATE

Thursday, August 13, 1987

The Senate met at 11 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SENATORS AUTHORIZED TO ACT ON BEHALF OF COMMITTEE DURING ADJOURNMENTS OR RECESSES AND BETWEEN SESSIONS AND PARLIAMENTS

Hon. Royce Frith (Deputy Leader of the Opposition), with leave of the Senate and notwithstanding rule 45(1)(*h*), moved:;

> That during any adjournments or recesses of Parliament, or any period between sessions of Parliament or between Parliaments, the Leader of the Government in the Senate, or a senator named by him from time to time, the Leader of the Opposition in the Senate, or a senator named by him from time to time, and a senator nominated by the Standing Committee on Internal Economy, Budgets and Administration be authorized to act for and on behalf of the Internal Economy Committee in matters requiring action pertaining to the administration of the Senate, subject to report to the said committee upon resumption of its sittings.

He said: Honourable senators, this motion consolidates some diverse motions or orders that the house has with reference to what the committee or its representatives can do between sessions of Parliament, between Parliaments and during adjournments.

In the Internal Economy Committee today we brought forward the concept of uniting them all into one so that we do not have to continue passing them from time to time.

Hon. Joseph-Philippe Guay: Honourable senators, in that motion we mention urgent matters to be considered by that committee.

Senator Frith: Yes, that is the reason for the word "requiring".

Motion agreed to.

[*Translation*]

PATENT ACT

BILL TO AMEND, AS AMENDED—THIRD READING

Hon. Michel Cogger: Honourable senators, I move third reading of Bill C-22, an Act to amend the Patent Act and to provide for certain matters in relations thereto.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Cogger, seconded by the Honourable Senator David, that this bill, as amended, be now read the third time.

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

Hon. Paul David: Honourable senators, since the speech I made on May 13 in this house, I travelled to our various provincial capitals with the members of the Special Committee, I listened to witnesses in Ottawa and I took part in the debate on the five different options that were finally submitted to us on July 28 this year. Three months later, again on the thirteenth—an ominous figure—I now have the privilege of recounting this experience.

It will come as no surprise to you that with my Conservative colleagues on the committee, I object to the Special Committee's sixth and seventh reports tabled by the Liberal majority in this chamber.

The information given to the media, to the effect that 90 per cent of the testimony was against the bill, was incorrect. According to my own figures, this should be closer to 60 or 65 per cent. Committee members spent over 100 hours examining the Patent Act and especially the part dealing specifically with the pharmaceutical industry.

Being unable to grasp all the intricacies and nuances of an extremely complex legal text, witnesses either agreed or disagreed with the various interpretations of this document offered by the media. Differences in statistics, extrapolations, comparisons, hypotheses, opinions, perceptions and ideologies were such that with a certain amount of mental gymnastics, it was possible to "genuinely" reach conclusions that were diametrically opposed.

I will mention briefly some of the categoric but nevertheless hypothetical conclusions that struck me most.

First, the fact that the government is prepared to transfer $100 million to the provinces over four years was for many senators and witnesses proof absolute that they expected a price increase. In fact, these payments are to compensate for the fact that a small number of generic drugs that would otherwise have been put on the market during the initial four years of transition will not be available.

Second categoric conclusion: Since the innovative pharmaceutical companies are multinational, they will automatically have a monopoly during seven to ten years, when they can accumulate "exorbitant" profits.

Third comment, since the drug prices review board is an instrument of the government, it will not be effective and in any case will not have sufficient powers to restrain the ferocious appetite of these multinational companies, a comment that prejudges these companies.

Fourth: Since no commitment for investment and employment is required of innovative companies in the act, such commitments will not be met because, again, these are multinationals.

Fifth, as in the past, these companies will continue to do fundamental research in their country of origin and the run-of-the-mill clinical research in this country.

Finally, investments and jobs will be concentrated in the central provinces which will be the main beneficiaries, while the other provinces will foot the bill for more expensive drugs.

These were the major objections raised.

All these arguments had already been made by similar organizations and federations during the hearings of the Commons committee and the debates in the other place. The special committee travelled to 10 provincial capitals only to hear the same arguments for or against the bill from branches of national groups and from various local organizations. For myself, what I most enjoyed was to get to know the committee members better and naively hope to convert some of them.

Hon. Jacques Flynn: Such as the chairman.

Senator David: Thanks to the 14 weeks of pharmacological immersion I have gone through since making my first speech on this bill, I can now make a few additional comments.

Many witnesses stated that the legislation would benefit only the central provinces of Quebec and Ontario, where the investments and the new jobs would be. Inasmuch as this is partly true, I know for a fact that any legislation which stimulates the economy of one or several provinces benefits the entire Canadian economy which is only the sum of all provincial economies.

Time and again, the state of the pharmaceutical industry in 1969 was compared to its situation in 1987. At that time, drug costs in Canada were among the highest in the world and, apparently, they are now among the lowest. The only reason for this change is the competition of generic products. As evidence, the prices of drugs in the United States are compared with the prices of the same drugs in Canada. In the same breath, these people state that, except for the United States and South Africa, all industrialized countries have a price control agency which supports reasonable prices for drugs.

I think that it is important to recall that the United States also has a successful generic product industry, which takes away some of the credibility of this argument. We should perhaps look for other explanations, and especially compare the Canadian and American health systems. As the bill, without any amendment, would establish a prices review board with the ability to withdraw one or two patents from a company which has failed to comply with an order, Canada would thus have the desired control mechanism.

According to some critics, the potential for pharmacological research in Canada in 1987 would not be more favourable than in 1969. Some people have suggested that innovating companies would continue to carry out their fundamental research in their country of origin and to carry out clinical research in Canada, only after a notice of compliance issued by the Department of National Health and Welfare. This pessimistic statement reflects what I would describe as a pathological suspicion as far as multinationals are concerned and an inaccurate perception of the challenge offered to our Canadian scientists.

Clinical research is not, as many witnesses seem to believe, a lack-lustre branch of research or a kind of pseudo-research. This is not true. Clinical research must evaluate the effectiveness of a drug, verify its dosage and note all side effects. In view of the complex action of the new drugs and the spectre of the increasing number of legal proceedings, such research requires a sufficient number of patients to satisfy statistical criteria on the one hand, and to provide the necessary caution on the other.

Throughout Canada, our hospital departments provide much better structured human and technological resources than in 1969. With more substantial investments, the Canadian hospital system can, in my opinion, play a leadership role which will benefit the pharmaceutical industry, our clinical scientists and especially the sick.

It is an admitted fact that fundamental research is usually carried out in specialized laboratories and university pharmacological laboratories. Scientists are especially dependent on the investments of innovating companies to show their dynamism and ability. Universities are well aware that they will be judged on their productivity. They are willing to take up the challenges offered. This competition is not restricted only to the two central provinces as it relies on the innovative talent, the organization and the leadership of any university department, wherever it is located in Canada.

This explains the enthusiasm and the hope of academics who, in all the provinces we visited, without exception, expressed their support for the bill.

Many witnesses mentioned the figure of 2 per cent, which represents the share of the Canadian market in drug sales throughout the world. In this case, they say, how can our country hope to develop eventually a dynamic, original and profitable pharmaceutical industry?

Let me make two remarks which might illustrate the perversity of statistics!

Assuming that all inhabitants on this planet had as ready access to drugs as Canadians do, the figure of 2 per cent would be very high indeed: since the number of people on earth has just reached the 5-billion mark, China would be entitled to 20 per cent, the United States to 5 per cent, and Canada to a mere 0.5 per cent! In this context the 2 per cent figure simply but eloquently illustrates the fact that Canadians are privileged when compared with a number of less favoured nations.

Using this kind of subtle reasoning one might conclude that Switzerland, Belgium, Sweden and Holland would have no interest whatsoever in maintaining on their soil the head offices of major multinational pharmaceutical industries since their local sales figures are lower than our own figures and their population is smaller than ours.

To counter these perhaps debatable arguments I maintain that, with the non-amended version of Bill C-22, Canada is given an opportunity to develop a strong pharmaceutical sector which might eventually make a breakthrough on the international market. The innovating pharmaceutical industry is one of high technology. I fail to understand why anyone would turn thumbs down on such a scientific and economic opportunity.

There is another percentage—very significant, I think, and indeed I pointed this out last May 13—which apparently has failed to impress witnesses and senators alike. I am referring to the 5 per cent which represents the cost of drugs in total expenditures for health care in Canada. I would suggest that this cost of 5 per cent is the most profitable in the whole care system. By itself it can prevent sickness through vaccines, for example, cure pathologies which we all know used to cost a fortune—acute articulatory rheumatism, stomach ulcers, tuberculosis, and practically all bacterial infections—avoid long and expensive hospital stays for an untold number of patients suffering from such behavioural afflictions as nervous depressions. I maintain that any illness that can be cured by drugs is an absolute economic plus for society. Not relative, absolute. Any drug which enables an individual to function normally is an economic contribution which spares expenses far in excess of medication costs. All acute, subacute and chronic illnesses for which there is no known curative drugs contribute largely to the 95 per cent of the other health expenditures about which little has been said.

Finally, one must continually emphasize the checks provided in Bill C-22 to avoid eventual abuses. They are very well known and I will go over them briefly.

An exclusive patent is granted for a maximum of ten years. I would recall that all other countries which are our industrialized trade partners have set this exclusivity period at 17 years. In other words, this is a compromise which has been accepted by the drug industry.

This means a seven-year gain for generic companies as compared to all other similar markets.

A price review board has been established and will be chaired by the same Dr. Harry Eastman who has the confidence of senators opposite, since he is proposing the amendments in this legislation. He is the same economist with an established reputation who will chair that review board.

The review board must submit a yearly report, a copy of which is sent to each house of Parliament.

In four years' time, the government will review the impact of the legislation and can amend it. In ten years' time, Parliament must make a comprehensive review. During that period, all generic drugs now on the market are not affected and will continue to be offered.

I believe it is very important that these facts be put on record because they show the degree of caution used by this government in designing the bill in order to stimulate original production by innovating companies on the one hand, without abolishing imitative competition from generic companies on the other hand. That exercise imbalance shows this government's will to develop a high technology industry, which I support. Its humanist concern is to avoid any excessive increase in the cost of drugs for the people, which I support.

The operational keystone of that policy is the Drug Price Review Board.

It is the hope of all members of the Special Committee that the board be provided with the largest possible powers of investigation, action and enforcement. But members are divided on the matter of credibility of such a review board. On the assumption that everything has been going well since 1969, why change the rules and risk a price increase? Or then, which was the solution accepted by Liberal committee members, why not accept the Eastman report recommendations? I will come back to this later.

The promises made by innovating companies, you are aware of them: $1.4 billion over 10 years, the creation of 3,000 jobs, increasing to 10 per cent of their sales figure the percentage of research and development.

Those are the three extremely concrete commitments that led me to have a very favourable view of Bill C-22.

On May 13, I attempted to show the remarkable progress made by medicine over these last four decades. It seems I attempted in vain to illustrate the importance of drugs.

Discoveries on any illness are always the product of research wherever done, whether in our universities, our hospitals, or our laboratories. And I see no reason why Canada cannot join the other industrialized nations in that effort that is beneficial to our people and also the people in the Third World.

University departments emphasized their concern and difficulty in finding adequate resources to initiate new projects and even to continue existing ones. The hope of receiving the grants promised by the industry is most important to them if they are to keep their professors, prevent some of them from leaving, hire younger ones and show the scientific worth and vigor of their teaching and research personnel. The same reaction was found in university hospitals where clinical medical professors will have more resources to prepare evaluation reports.

All medical professors—I was one for a great many years—who get involved in research, whether in a university or hospital, develop a scientific attitude which improves the quality of care and of which the most direct beneficiaries are the sick in their area.

The debate dealt essentially with the drug prices futurology. On the basis of the 1960's experience, of comparisons between Canada and our neighbour to the south, of a hostile philosophy towards the multinationals which nevertheless are responsible for the progress of the pharmaceutical industry, they have elaborated an apocalyptic scenario of skyrocketing drug prices.

Without questioning the good faith of my Liberal colleagues, whose intuitions remain nevertheless supported, I must confess that I am tempted to believe also in the good faith of the innovative pharmaceutical industry and its commitments; in the good faith of Dr. Harry Eastman who has

accepted to chair the board provided for in Bill C-22; in the good faith of a government which has surrounded its bill with a great many precautionary measures, and in the good faith of the medical profession whose compassion for the sick still remains an essential element of its practice.

I understand that there is in this house 24 seats for Quebec Senators which are occupied by 14 Liberal Senators, eight Conservative and one Independent. There is also one seat vacant. When I visited Quebec, I heard various testimonies and, except maybe for two, all were favourable to Bill C-22. We know that on three different occasions, Quebec's National Assembly has adopted unanimous resolutions calling on the federal government to amend the Patent Act. We have received a request from the City of Montreal and most urban communities urging us to accept Bill C-22. We have a request from the Chamber of Commerce in Montreal. While the committee was sitting, Minister Daniel Johnson, on behalf of the current Quebec provincial government, urgently asked the federal government to adopt this bill.

Well, if my figures are right, all these people represent the six million Quebec inhabitants. Under these circumstances, I feel it would be difficult and improper for a Senator from Quebec to go against the best interests of his province.

The Eastman amendments which were proposed or recommended by the Liberal majority within this committee would change the very essence of Bill C-22 and are, in my opinion, totally unacceptable. For in the final analysis, we would be presented with an entirely new piece of legislation.

The difference between the ten-year maximum protection of the patent provided for in Bill C-22 and that of four years suggested in the amendments is enormous. It is still more ridiculous if we compare it with the 17 years of exclusive rights granted by all the industrialized nations with which our country is doing business. Because of this, our country would maintain its image of hostility towards the innovative pharmaceutical industry, and its intellectual property, and this industry would continue to make its research and development investment elsewhere. The refusal of the negotiated and accepted compromise in Bill C-22 may result in a rupture which might definitely cause our country to lose the opportunity to develop a high technology industry, a rupture which might prove to be final. The fallout of the proposed retreat would have devastating effects on our scientific, university, hospital and medical environments. We will have neither understood nor heeded the voice of these enlightened interests as well as that of the medical associations who are just as concerned with public health issues as we are as parliamentarians. This amendment, which reduces from 10 to four years the protection afforded to intellectual property brings us back in fact to the *status quo* since it is a fact in practice that it takes at least four or five years for a manufacturer of generic drugs to copy a new product.

● (1120)

With regard to the 14 per cent royalty and the establishment of a common fund, this proposed amendment would force generic drug manufacturers to pay most of their 14 per cent royalties into a common fund administered by a government body which would distribute the proceeds according to some complicated formula. I do not know if it takes a genius to understand it, but I must say that I have yet to do so. Innovative firms would be judged on the basis of "intensity" of research in Canada, yet another criterion which would be extremely difficult to evaluate.

Personally, I must say that the purported incentive effects of such a proposal leave me quite skeptical.

In my mind, any royalty on a patent should rightly go to the patentee and in the absence of any negotiated agreement between innovative firms on the one hand and the government on the other, there is a very good chance that this recommendation will lead to court battles and, at any rate, be conducive to a very unfavorable investment climate.

I find that to remove the Patented Medicine Price Review Board is equivalent to taking the substance out of Bill C-22. The gap between the careful balance built into the legislation by the government and the proposed amendments is so great that it is totally unacceptable. I am also convinced that the Canadian population will foot the bill for the following reasons:

First, to make up for additional royalty payments which are to rise from 4 to 14 per cent, generic drug manufacturers will have to increase their prices by 10 per cent.

Second, to compensate for the loss of six years of exclusivity, innovative companies will have no choice but to raise their prices in order to make some profits in four years instead of ten. We know that 93 per cent of prescriptions and 70 per cent of the general market are for drugs manufactured by innovative companies.

Third, without a price review board, there will be no organization able to act.

Fourth, provinces will lose the 25 million compensation payment promised for the next four years.

Fifth, rejection of the agreements which are the basis of Bill C-22 will mean that innovative companies will be freed from their commitment to invest $1.4 billion, create 3,000 jobs and put 10 per cent of their sales into research and development.

For all these reasons I do not hesitate to oppose the amendments and amendment proposals recommended by the committee.

To conclude, for me, the last three months have been an extremely interesting parliamentary experience on the one hand, and a very disappointing one on the other. Interesting because it allowed me to participate actively in hearings and proceedings directly connected to medicine and health, an area where I spent some 40 years of my life; disappointing because fear of a possible price increase of drugs was practically the only topic of our discussions.

The amendments proposed or suggested, according to me, in no way improve the present situation. They go against the will of the majority of the elected representatives of our Parliament and against the will of two successive governments in Québec.

They remove the subsidies to faculties, researchers, scientists and physicians involved in research needed to promote a strong and aggressive Canadian pharmacology. They jeopardize the future of our economy which must accept the challenges of modern technology. The rejection of such an opportunity is a mistake perpetuating that of 1969 which runs counter to the development of medicine and the improvement of health care as I view them.

However, I have no illusions. All medical leaders who have testified before the committee approved the bill. They were not heard and I suppose I will not be heard either. Yet, we are experts whose sole objective is to relieve and cure those who are ill. Those are the experts whom you will eventually trust to take care of you. That day, you will listen to their therapeutic advice. Whether the pill is generic or new, I hope for the sake of Liberal senators that it will be more effective than my speech. The only way to dispel my doubts would be to vote for Bill C-22 without any amendment.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to congratulate Senator David on his well-prepared statement. I do not want to go over again the position of the committee majority and, I believe, that of my colleagues, in answer to his remarks.

I only wish to add a few words on two aspects of our position. One of the main thrusts of his intervention was the necessity of promoting research. I only wish to say, as was done previously, that we do not share his hopes concerning the commitment of multionationals to raise the level of research in Canada. Second, in the committee recommendations, we have already suggested to the House of Commons the creation of a fund to arrive exactly at the same result, that is to promote research through increased payments to corporations. There will be a distribution of those funds among the companies based on their activities in the research area.

[*English*]

Hon. Roméo LeBlanc: Honourable senators, I would like to comment on two aspects on which I do not pretend to have expertise since I was not a member of the committee. I heard Senator Cogger and Senator David speak with some fervour about the question of intellectual property. I know that this has been used by a good number of people to justify the possible or, indeed, the probable increase in drug prices.

As a layman, I am somewhat astonished to hear that the freedom of the pill makers should be greater than the freedom of the doctor who prescribes the pills. The logic of this would be that, when the surgeon is about to perform a remarkable operation, for example a hip replacement, that someone should then haggle over the price with the manufacturers of the steel or the plastic equipment that is used. In this country, during the last generation, we have seen that Canadian citizens have come to the conclusion that where their health is concerned, there can and should be some element of control so that citizens are entitled to equality of service without regard to their pocketbook. This is not an American or European experience. In fact, it is for this very reason that the debate on extra billing, which took place two or three years ago, was so important, and, in fact, the support was so strong that the present government swallowed itself and made it a unanimous vote in the House of Commons. I suspect the same thing was done here.

The question of health services and all related services, be it in the form of prescriptions, equipment or any other area involving people's health, is subject to the same collective feeling that money should not be and cannot be allowed to be, even in the name of intellectual property, the criterion for access to surgery, pills, orthopedic equipment, et cetera. When the auxiliary services to the medical profession understand that the Canadian people have now reached this conclusion, then perhaps we can have a saner debate.

Dr. Barootes, in his speach yesterday, used quotations from the testimony of the former Minister of Consumer and Corporate Affairs, Madame Erola. I wish he had pointed out that she now speaks on behalf of the pharmaceutical industry, which is her perfect right, and which she is free do. However, this information should be made known. I have not had the time to check the chronology of the events that Dr. Barootes narrated, but on page 1714 of *Hansard* Senator Barootes says:

> The Honourable Judy Erola in giving testimony to our Senate Committee on, I believe, May 5, 1987, indicated that draft enabling legislation similar to Bill C-22 today to extend the period of drug patents was being prepared in her department.

I can tell you that all former ministers, including the one who is speaking, have seen proposals come through their department which were given very short shrift when they appeared before cabinet or before caucus. In fact, I can think of a couple of horror stories that the Department of Transport proposed to us and were rejected, which were then adopted by the present government and have now become law.

Madame Erola should have told the committee that the same caucus which insisted on the ban on extra billing, and the same caucus which rejected interference with universality of social programs, would have given, I suspect, fairly rough treatment to her version of Bill C-22.

• (1130)

Some Hon. Senators: Hear, hear!

Hon. Orville H. Phillips: May I ask the honourable senator a question?

Senator LeBlanc: Certainly.

Senator Phillips: Is the senator proposing a national drug plan with the federal government picking up the tab? I ask that because he certainly left that impression.

Senator LeBlanc: If I left that impression, I did not intend to do so. Perhaps I should answer in French.

[*Translation*]

I would suggest that Canadians have concluded that anything having to do with their health—drugs, orthopedic instruments or other such devices—cannot or must not be the subject of speculation or determination on the basis of free

trade or commercial criteria. Drugs and all objects closely related to medicine must be considered as being an integral part of the objectives of health insurance.

In other words, for want of state-paid drugs—and most are so paid in the case of senior citizens—we need at least some form of control so that the sick will not be exploited.

Senator Cogger: Would the honourable senator accept a question?

Senator LeBlanc: I will try to answer.

Senator Cogger: I listened carefully to the answer you just gave to the question of Senator Phillips. Frankly, this is the most eloquent plea I ever heard in favour of establishing a prices review board.

How do you account for the fact that, in a few minutes, you will be voting against such a board?

Senator LeBlanc: Experience has taught me that in most cases this kind of board—one might consider other industries where efforts were made with a view to exercising controls, or monitoring—is not very effective. I must say that every time this government has had to choose between free enterprise and the citizen's welfare over the past three years, I am afraid free enterprise came out the winner.

Hon. Norbert L. Thériault: Honourable senators, like all my colleagues, I am sure, I listened with great interest to Senator David's speech. Throughout the Special Committee's proceedings we appreciated the senator's sincerity and his medical expertise.

He has raised a few points about which I have some questions and comments. First of all, in the past three months I found it very difficult to understand the position taken by Conservative members on the committee. They said that if we accepted the amendments before this chamber today, which include dropping the appointment of a drug price review board chaired by Dr. Eastman, this might result in a further increase in the price of either generic or innovative drugs.

Since you seem to trust Dr. Eastman's judgment, perhaps you could explain why you did not agree with the recommendations made by the same Dr. Eastman following a thorough and complete study of the problem in Canada. We also have confidence in Dr. Eastman. We have proved as much, not just by making elaborate speeches but by urging acceptance of his recommendations.

Another point I would like to raise is the following. Dr. David surprised me this morning when he said, and I will try to reconstruct his argument, that if we accept the bill as amended, it is very likely we will see a price increase because the innovative companies will have to recoup their expenses and make part of their profits over a four-year period instead of a ten-year period, and second, generic companies will have to pay an additional ten per cent. As far as the generic companies are concerned, I agree that if we adopt the bill as recommended, these prices will have to go up by ten per cent. But where is the logic of your proposals and the promises by governments and companies that if we adopt Bill C-22 as it was presented by the government, those same companies would spend $1.4 billion within the next ten years on research and employment in Canada. Where will this one billion four hundred million dollars, plus the profits these companies have always made and will continue to make, come from? Senator David, your argument does not hold water.

I realize that at various times in our lives, we all have to go to our doctors and seek their advice. I am very grateful to the medical profession, of which Dr. David is an eminent member, because it is the main reason why I am here in this chamber today. But we must not forget that doctors are human like everybody else. Legislators had to pass medicare legislation against the collective will of our doctors. Last year in Ontario, the Liberal government was faced with a general doctors' strike in that province, because it wanted to control spending and ensure that health care would be available to all.

As my colleague, Senator Roméo LeBlanc, remarked, the same philosophy applies here. We are opposed to Bill C-22 because we are afraid that in the long run, people who cannot afford the kind of care that all of us here in the Senate and many others may need will be faced with the kind of prices that will keep them from getting proper care. Some people may have to do without, especially the poor. We have seen that in certain cases, children had to do without food because the money was needed to pay for drugs.

Honourable senators, we all agree with Senator David that we need research, and that the amount of research in Canada should be increased. Our amendments suggest ways of doing so. In 1987, I should hope that we in this country should not have to be at the beck and call of the big U.S. drug companies and the U.S. government.

This morning before coming to the Senate I was reading the paper, and I read that two people, a member of Congress and a member of the U.S. Administration, said quite frankly that they disagreed with what the Canadian Senate was trying to accomplish. Personally, as a member of the Senate of this country, I will never let my behaviour or voting habits be dictated by the Americans or by any other foreign country.

Hon. Senators: Hear, hear!

Senator David: My dear Senator Thériault, that was a long speech to ask me a few questions which as far as accuracy . . .

Senator Thériault: Not as long as yours, Senator David.

• (1140)

Senator David: That is true, because I said nearly everything that I wanted to say.

I should point out that I had not hoped to convert you this morning. We have been enjoying each other's company for three months, and the arguments you have just made are about the same as your answers to our counterproposals.

However, I have enjoyed the sincerity and frankness with which we have been able to speak to each other during these long travels. I want to try to answer, without giving in to your arguments, because as you know, a dialogue should go both ways. There is none so deaf as he who will not hear.

Some Hon. Senators: Agreed.

Senator David: You refer to Dr. Eastman in relation to your amendments to the bill. Therefore you have confidence in him. We, Conservatives, also have confidence in him as we offered him chairmanship of the prices review board. As you can see, he is perhaps the only man to have the confidence of everyone here. Everyone supports him. In my opinion, Dr. Eastman is a very honourable man who deserves your confidence and ours. I therefore ask you to have confidence in him as chairman of the prices review board, even though we believe that what he proposed in his report is totally different from what is provided in Bill C-22. To follow his recommendations, we would have to start all over again.

Hon. Jean-Maurice Simard: He still said that he found Bill C-22 acceptable.

Senator David: You accept that the prices of generic products will increase by 10 per cent. I am glad that you do. This means that there will be a 10 per cent increase in the prices of the products which, according to everyone I have heard, are responsible for lowering drug prices in Canada. What you are doing is to increase these prices.

Why will the innovating companies increase their prices? They will do so in spite of their profits, and I should add that perhaps neither one of us has ever wondered what these companies do with their profits. It would perhaps be useful for their profits to be redistributed in Canada rather than sent back to other countries. This does not mean that the innovating companies are right to increase their prices. However, if they are not given an opportunity to do more in Canada, I really do not see why, faced with our hostility, they would not send their profits back to their own countries.

You say that doctors are human beings. In fact, I did not quite understand what you meant in asking this question. You say that they are human beings and, as such, probably have their own interests to defend while we Parliamentarians have other interests to defend.

The point I wanted to make is that those from whom we heard the least in the special committee were those who are the most familiar with medicine and medical and pharmacological research. They are the people who are most able to take care of us when we are sick. However, we listened very carefully to all other groups and heard nothing about the comments and complaints of the groups responsible for our health care.

That is why I concluded by saying that, when the day comes when you are in trouble, Senator Thériault, as you admit yourself, you will still put your trust in your doctor. I doubt very much that you will ask him whether his pills are generic or innovative.

Senator Thériault: Honourable senators, I simply want to tell Senator David that I am in agreement with almost everything he said. However, in my case, I probably will not have to ask the doctor whether the pill is generic or innovative because I have been fortunate to be in a position to pay the price.

[Senator David.]

I still hold the view that the remaining 75 or 95 per cent of the people do not enjoy the same favourable circumstances you and I are in.

Hon. Jacques Flynn: Honourable senators, the incredible saga of Bill C-22 nears its end. We are now at the third reading stage, that of passing it with or without amendments, probably with amendments and a message to that end to the House of Commons. There will remain the final act once the House of Commons has decided, that of knowing what we will decide in turn. I must say that the scenario organized by the Opposition in the Senate has been based on exclusively partisan considerations . . .

Some Hon. Senators: Shame!

Senator Flynn: Certainly Senator Guay for one can protest because not even once in his life did he show partisanship.

Hon. Joseph-Philippe Guay: Senator Flynn, all I can do is laugh at what you are doing.

Senator Flynn: You are still funnier than anyone else in this place.

Senator Guay: Very funny!

Senator Flynn: The St-Boniface baritone, the St-Boniface trombone!

I said partisan considerations because we have seen . . .

Senator Thériault: All this coming from a non-partisan senator!

Senator Flynn: This is something I do not claim to be I make no attempt to camouflage my colors. But I am attempting on the other hand to argument, and do not bank on prejudice. I do not resort to demagogy, even if you sometimes do not know you are doing so.

Anyway, as I said, it was partisan considerations from the start because there was a realization that there might be an opportunity to rouse the people.

For instance, we have seen those famous petitions circulating en masse, prompted by Senators Bonnell, Thériault and others with the same aims. And those people come and tell us: "Do not pass Bill C-22 because this will increase costs". Of course, if you ask someone: "Do you want to pay a little more for drugs?" He will answer: "No". But: "Do you want to pay a little more for a better drug?" I am sure he will answer: "Yes".

Are you going to ask him: "Do you want a tax increase?" What do you expect him to say? Come now! Senator Thériault refers to the poor fellow who cannot afford to buy such or such a pill. Come on! I do not know many people who could not afford to pay a little more for a better pill.

Those petitions in the background were meant to rouse Canadians. Thus the bill was sent to the Senate and the leaders of the Opposition decided that the issue should not be referred to a committee which would have considered it objectively but to one which would follow the strategy that was developed and continue to rouse Canadians.

Now, the Committee on Banking, Trade and Commerce to which Senator Olson belongs would surely have been objective especially as we know Senator Olson. We know that he would have brushed aside all partisan considerations while examining the bill.

Anyway, it was decided that the bill would be referred to a special committee. On the opposition side, Senator Buckwold of Saskatchewan who on several occasions had stated his opposition to the bill was chosen. Senator Turner who had decided that he was against the bill was also chosen. There was also Senator Thériault, of course, and we all know where he stands. Then there was Senator Bonnell who said: "I will chair the committee in order to help the government. We will help the government and try to deal with the bill before the end of June." We remember those lively times.

• (1150)

The special committee launched its campaign not to inquire about the real conditions, but to try to gather support and try and rouse Canadians once again through the media.

The committee did not learn anything that the committee of the House of Commons did not already know. The committee members did not learn anything that the other senators, including Senator Haidasz who is a physician did not know. That committee spent over $300,000 merely to try to increase ill-will against the bill. This is exactly what was done.

Moreover, a while ago, in his rather lame explanation, Senator Frith tried to convey some logic to the position of the Opposition, but he failed. How did the debate proceed? What did Senator Bonnell and all those who refused to support the bill say? They said that the bill will increase prices and that it is unfair for the poor. By how much, we do not know. They then raised the spectre of the multinationals. It was rather interesting. I heard Senator Stewart's speech. While listening and seeing him raise the spectre of the multinationals, he reminded me of his friend Tommy Douglas. It would have been the kind of speech made by Tommy Douglas. I think that he has followed in his steps.

Some Hon. Senators: Hear, hear!

Senator Flynn: Senator Argue could also have made such a speech. We heard him refer to multinationals as exploiters; we have heard many comments on that line. Then Senator Thériault again fell into the trap this morning when he said that multinationals were gobbling us.

Senator Thériault: I did not mention the multinationals.

Senator Flynn: But you mentioned American companies.

Senator Thériault: Yes, American companies.

Senator Flynn: I agree. It is another way of saying the same thing. He says that he will not submit to the dictates of Americans; I agree. I suggest that when we refer to multinationals, we mean American companies most of the time.

The debate on the side of the majority of the opposition and in the committee was limited to trying to scare people: "You are going to pay more for your medicine, you will not be able to afford them, you are going to suffocate". Senator Romeo LeBlanc arrived this morning and wanted to change the subject by dealing with the health insurance scheme.

If you want to cover all drugs in the cost of this scheme, it is something entirely different.

It is not the subject matter of this bill. You went completely out of your way in an effort to possibly distract the attention from the very weak position adopted by the opposition.

Senator LeBlanc: I said that the sick have a right to expect that their government, whatever its colour, even a Conservative government, will not limit the bill in such a way that they will be at the mercy of those who could rob them blind.

Senator Flynn: Again, if you want that all medicines come under the health insurance plan, it is an entirely different matter. For the time being, however, they do not. I suggest simply that your argument is entirely out of order and that it is not in any way connected with what we are dealing with. This may distract slightly from the weak position adopted by the supporters of the official opposition and those who oppose this bill, but it is not connected any way with what we are dealing with now.

As to the committee members representing the government, I can simply read their remarks. They made reasonable speeches and used reasonable arguments and facts. They did not try to frighten anybody, except by saying: for goodness sake, do not prevent us from encouraging the innovative pharmaceutical industry and helping research. You may be right when you say this is appealing to sentiments. I think it is more logical than trying to frighten people by telling them that they will not be able to afford the medicine they need and that they will fall victims to the multinationals and be walked all over by the Americans. You said: "We are not going to let the Americans tell us what to do. Even if what they are saying is right, even if we are going to lose, we prefer dying to giving up".

With this fantastic story, the committee travels everywhere in Canada to pick up opposition to this bill. It returned to the Senate and said: "What are we going to do with this bill?" Then they invented the famous pharmaceutical research fund which was completely out of order. It is true that I attended only one committee meeting, but according to my information, nobody ever suggested this idea to the committee. I do not remember that. We heard only the testimonies of the scientific and medical communities and the pharmaceutical industry which were in part favourable to the bill. The consumer associations, which you were reported to collect in droves, stated that they were afraid of drug price increases. That was about it.

And what did they do with this information? It was used to draft the recommendations of the sixth report, which you had to rewrite completely. Not surprising, since you adopted conclusions that were more or less makeshift. You are giving us a situation which in my view doesn't make sense at all. You are giving a protection period of four years, which is against the principle supported by Senator Roméo LeBlanc and will make the innovative companies charge the maximum price during

that period. You eliminate the drug prices review board which was supposed to prevent any unrestrained increases.

• (1200)

Senator Thériault: You don't understand what this is all about.

Senator Flynn: Not unless I can't read. I am sure I do understand a couple of things. Is it true that you are giving a protection period of four years?

Senator Thériault: We recommend the Eastman report which was recommended by all witnesses.

Senator Flynn: I am not talking about the Eastman report but about a four-year protection period. And what about Eastman?

Senator Thériault: I suppose you know who he is?

Senator Flynn: Of course I do. And I know his report. I don't care what Dr. Eastman recommends. Are you recommending a four-year protection period, yes or no?

Senator Thériault: Yes.

Senator Flynn: Is there a mechanism to monitor the drug prices review board?

Senator Thériault: We don't need one.

Senator Flynn: You don't need one. So during those four years, they will be able to change whatever they want to change?

Senator Thériault: The same as they are doing now.

Senator Flynn: It is worse, because right now we have nothing. You are recommending a four-year period. I don't know who doesn't understand what, but unless I can't read . . . I beg your pardon, the trombone from St. Boniface!

Senator Guay: First of all, if your government had appointed you to the committee you would have learned something. Second, you are getting away from your subject if you criticize other senators.

Senator Flynn: In any case, my party did not appoint me to the special committee, but it should have done, as you say, because I would have learned something. In your case, they did not appoint you to the committee because you would not have learned anything!

Senator Guay: On the contrary.

Senator Flynn: As a result, you have a situation which is worse than the present one and worse than the one which would have been created by the bill. I am certain that Senator Guay will rise in a few minutes and explain everything when he gives us his views, as he already knows everything and had no need to sit on the committee.

Senator Guay: It would serve no purpose to reply.

[Senator Flynn.]

Senator Flynn: I am trying to make you understand.

Senator Guay: You have problems understanding this yourself.

Senator Flynn: I do not know why you are getting angry! I am trying to reply to Senator Thériault.

Senator Guay: I find it amusing.

Senator Flynn: If you find it amusing, you can laugh, but you should not grumble!

Senator Guay: You are funny!

Senator Flynn: I find it a bit funny myself, but also a bit sad. This situation is created by these completely improvised amendments, because this is not what you intended. You were thinking about Dr. Eastman, as Senator Thériault has said. However, you have to look at the Eastman report as a whole. These amendments go beyond the bill. They are illegal and go beyond the authority of the Senate. You have come up with a bastardized and impractical system.

Under the circumstances, I do not see how the House of Commons, even the opposition parties there, can accept the amendments which you want to suggest to them. Without the prices review board, the payments to the provinces and the four years of protection and with no control whatsoever, I do not see how these amendments could be accepted in replacement of Bill C-22 as it was referred to us by the House of Commons.

Because of this, to allow all members of the Senate to express their views clearly, I move, seconded by Senator Roblin, that Bill C-22 be not now read the third time, but that it be amended by deleting all the amendments proposed in the first part of the seventh report of the special committee on the said bill, and by restoring the text of the bill as received by the Senate from the House of Commons.

The Hon. the Speaker *pro tempore:* Senator Flynn moved, supported by the Honourable Senator Roblin, that Bill C-22 be not now read the third time, but that it be amended by deleting all the amendments proposed in the first part of the seventh report of the special committee on the said bill, and by restoring the text of the bill as received by the Senate from the House of Commons.

• (1210)

[*English*]

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

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as this may be the only opportunity I shall have before this matter is—

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I rise on a point of order on the motion. As I heard it read, I think the motion is defective. It is defective in form, because the motion reads "that Bill C-22 be not now read a third time." Bill C-22 is not before us—it is Bill C-22, as amended, that is before us.

Senator Flynn: Then add the words.

Senator MacEachen: Therefore, I believe that the motion in this form is defective and cannot be put.

Senator Flynn: This is childish—

Some Hon. Senators: Oh! Oh!

Senator Flynn: It is childish. The senator is trying to have fun.

Senator MacEachen: No, I am just trying to get Senator Flynn to be competent.

Senator Flynn: This is only a matter of detail. I remember, when I became a lawyer about 50 years ago, that one could arrange to have an action rejected because somebody had forgotten a comma, or something like that. Senator MacEachen sounds exactly like that, himself. I accept, Mr. Speaker, that you include the words "as amended", to please the Leader of the Opposition.

Some Hon. Senators: No! No!

Senator MacEachen: Honourable senators, it is not open to Senator Flynn to do this. The motion has been put in a particular form, and he cannot now amend that motion by saying to the Speaker, in a cosy arrangement, "Just change it to please a childish member of the opposition." The motion is either in order or it is out of order, and I say that it is out of order, that it should not be put in that form, and that it cannot be changed without unanimous consent.

Senator Guay: He will learn.

Senator Flynn: That is completely in error. This is not the House of Commons that Senator MacEachen knew in 1953. This chamber has evolved and has become a civilized place, on occasion.

Hon. Duff Roblin: Honourable senators, I have learned since coming to this chamber that we really do make up our rules as we go along.

Senator Frith: When it suits.

Senator Roblin: When it suits. It has never been clear to me that we have adhered with strict formality to the rules that apply in the other parliamentary chamber across the way. When I first came here, I thought that was a bad thing. I have since come to the conclusion, since our Speaker has his particular role, which is different from that of the Speaker of the House of Commons, that we did get along rather well by being reasonable and sensible in what we do here rather than adhering strictly to the rules that appear in *Beauchesne.*

The other day, for example, my friend, the Deputy Leader of the Opposition, moved a motion about the use of television in this chamber. It was obviously a defective motion, because it would have had us do something which we had no intention of doing. So, I suggested to him that that was the case and that he should make a change to the motion by adding some words, which he obligingly did. No one in this chamber objected that that was a heinous offence against the rules and propriety of conduct in the Senate of Canada chamber. We accepted it.

Today we find ourselves in the same situation. I think the same courtesy that we extended to the Leader of the Opposition on that occasion could well be extended on this occasion.

Senator Flynn: I would not mind the Speaker making a ruling on that. We will have someone else move the motion, as amended, and we will try to continue in this fashion until we satisfy the caprices of the Leader of the Opposition, which are, I suggest, completely unreasonable.

Senator MacEachen: Honourable senators, I must say that I am impressed with the comments made by Senator Roblin that one must be reasonable. However, it is difficult to be reasonable in light of the attitude that Senator Flynn took when it was pointed out to him that his motion was defective. He reacted by accusing me—because I had noticed the defect in his motion—of a childish gesture. Then, ignoring all other senators, he asked the Speaker to fix it up. I think that if he requested the consent of all honourable senators to change his motion, he would receive that consent.

Senator Flynn: On a point of privilege, when I suggested to the Chair that the motion could be amended as suggested by the Leader of the Opposition, I did not mean to give an order to the Speaker. I said that if His Honour the Speaker finds that the Leader of the Opposition is right in asking that those words be added, then I would accept that. I did not show any contempt for the Senate.

● (1220)

Senator Frith: You used the word "childish".

Senator Flynn: I said that it is childish to have raised this as a serious objection. That is what I said—and I say it again.

Senator MacEachen: I cannot regard the absence of the expression "as amended" from the motion as an insignificant omission, because, had the motion been put as Senator Flynn moved it, and as it was put to the house, and if his motion were carried, then Bill C-22 would not be read—

An Hon. Senator: Exactly.

Senator MacEachen: —because the substantive part would be "that Bill C-22 be not now read a third time," and the rest would be irrelevant, because the amended bill would not be in the motion.

So, I do not think it is childish. If we want to be serious about our work, it would be quite ridiculous to have a motion put asking "that Bill C-22 be not now read a third time" when the motion made by Senator Cogger is that Bill C-22, as amended, be read the third time.

I am rather thick-skinned about comments from Senator Flynn. I am not arguing the fact that he addressed those words to me, but I do not consider that the substance of the argument, or the point, is childish. There is a world of difference between a proposition which states "Bill C-22" and one which states "Bill C-22, as amended." That is what I was drawing to the attention of the Senate, and I would have expected Senator Flynn to have taken a more apologetic attitude in light of his omission.

Senator Flynn: Concerning the word "omission", if the Leader of the Opposition reads the motion I made, he will find that I said, "Bill C-22, in deleting the amendments proposed in the Seventh Report." So it is obvious that I was referring to Bill C-22, as changed by the report. I agree with the Leader of the Opposition, but should not say, "Your remarks are without substance." That is wrong.

Senator MacEachen: If it is not of substance, let us not change it and see what the outcome is.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that Senator Flynn may add to his motion the words "as amended"?

Some Hon. Senators: Yes.

Senator Flynn: I have already done so.

The Hon. the Speaker *pro tempore:* The motion has been put.

Senator Murray: Honourable senators, I will take only one or two minutes—

Senator MacEachen: Honourable senators, I am quite prepared to let Senator Murray have the floor now, but I want to return later not to a defect in form but to a defect in substance in the amendment.

Senator Murray: Honourable senators, I will take only a minute or two of your time, because this may be the only opportunity that I will have in the course of our debate to complete very briefly the record of a procedural discussion which the Leader of the Opposition and I engaged in yesterday.

Honourable senators will recall that the Leader of the Opposition and I speculated about the effect of defeating a motion for adoption of a committee report on a bill such as Bill C-22. I raised the concern—or "the dilemma", as I put it—in which the supporters of the government found themselves. If we voted, and succeeded in a vote, against the adoption of that report, would that mean simply that the amendments to the bill contained in the report would be struck down, or would it mean that the bill itself was stopped in its tracks? I speculated about that, as did the Leader of the Opposition, although he was rather more categorical than I in his remarks. The Leader of the Opposition said—and this can be found at page 1717 of *Debates of the Senate* for Wednesday, August 12, 1987:

> If members on the other side voted against the main motion, and if we agreed with their position and joined with them, Senator Murray then asks what would happen to the bill. I must say that one can make a certain preliminary observation, and that is that the bill would be in serious difficulty. Indeed, the government would have put the bill in jeopardy, because the committee to which the bill has been committed will have been extinguished, and the report bringing the bill forward will be defeated, and the bill will never appear on the order paper unless some other action is taken, such as a motion to reinstate the bill at second reading. I suppose the government could put a motion asking that the bill be reinstated at second reading, and we could start over again.

Honourable senators, since that time I have finally got my hands on a couple of precedents, which I would like to bring to your attention, and which prove that my fears were unfounded, and that Senator MacEachen's interpretation is wrong.

On December 17, 1951, the Standing Committee on Banking and Commerce brought in a report on a bill with amendments. On the motion for the adoption of the report—

Senator Frith: What was the date?

Senator Murray: On December 17, 1951 the report was brought in, and on December 18 Honourable Senator Euler moved:

> . . . that the amendment made by the Standing Committee on Banking and Commerce to the Bill (249), intituled: "An Act to amend the Canada Grain Act", be now concurred in.
>
> After debate and—
>
> The question being put on the said motion,

The motion was defeated. So it was passed in the negative. Then:

> With leave of the Senate,
>
> The said Bill was, on division, then read the third time.

So the report of the committee had been defeated, but the bill moved to third reading and was resolved in the affirmative.

On June 10, 1959, Senator Hayden of the Standing Committee on Banking and Commerce reported Bill C-47 with several amendments. On that date Senator Hayden, seconded by the Honourable Senator Beaubien, moved:

> . . . for adoption of the Report of the Standing Committee on Banking and Commerce on the Bill C-47, intituled: "An Act to amend the Excise Tax Act".
>
> After further debate, and—
>
> The question being put on the motion, it was—
>
> Resolved in the negative.

In other words, the report of the committee was defeated. Then:

> The Honourable Senator Brunt moved, seconded by the Honourable Senator Horner, that the Bill be placed on the Orders of the Day for a third reading tomorrow.
>
> The question being put on the motion, it was—
>
> Resolved in the affirmative.

On August 3, 1977, Senator Argue—I would have thought that he would have intervened yesterday to help us with this procedural matter—brought in a report of the Standing Senate Committee on Agriculture on Bill C-34, intituled: "An Act to amend the Canadian Wheat Board Act respecting the establishment of marketing plans" and so on. After debate, Senator Hays, P.C.:

> . . . moved, seconded by the Honourable Senator Molgat, that the Report be not now adopted but that it be referred

back to the Standing Senate Committee on Agriculture for further consideration.

That motion was defeated. The question was then put on the main motion to adopt Senator Argue's report. The Senate divided and it was resolved in the negative. Then:

The Honourable Senator Olson, P.C.—

I am sorry that he did not intervene yesterday to help us with our procedural matter:

—moved, seconded by the Honourable Senator Eudes, that the Bill be placed on the Orders of the Day for a third reading at the next sitting of the Senate.

That question was resolved in the affirmative. So, honourable senators, in summary, if the report of the committee proposing amendments to a bill is defeated, the normal course, according to these precedents, has been to move then to consider the bill at third reading. That, of course, takes a motion, and my honourable friends could defeat it. But, then, they can defeat a bill at third reading anyway.

● (1230)

Senator MacEachen: Honourable senators, I do not think that the precedents that Senator Murray has cited are conclusive in any sense in dealing with this particular question. Presumably the Senate, by consent, can do anything, and presumably it acted in this particular case by consent.

Senator Murray: Not in one case.

Senator MacEachen: I must say, having reflected further upon the theoretical problem which arose yesterday—which was not realized because the members of the government were rescued from their dilemma by the members of the opposition—if that report had been defeated yesterday, the situation would be that Bill C-22 would not have received committee treatment or committee study, and a report on the committee's study would not have been made to the Senate as a whole. I do not want to develop the argument further, but I do not know how the Senate, if that report had been defeated yesterday, could overlook the fact that a report from a committee of the Senate had not been received by the Senate.

Senator Roblin: It had been received, and it had been approved!

Senator MacEachen: I am saying, what if it had not been received and approved by the Senate, because the intent and the purpose of Senator Bonnell was to report the bill from the committee. What would be the effect if the report was defeated and the bill was not reported from the committee? The bill would still be in committee. How you can overlook that point, and blithely say that it is automatic to move on to third reading, is beyond me.

Senator Murray: I just read the precedents.

Senator MacEachen: I say to Senator Murray that in his apparent reference to these precedents he has, in my view, revealed to all of us a very serious problem that is certainly not covered by these precedents. If the committee report had not been received yesterday, the Senate would never have had any report from any committee—be it the Committee of the Whole, a standing committee or a special committee—on the committee stage of the bill. We know that the committee stage is an essential feature of the passage of any bill—

Senator Flynn: No.

An Hon. Senator: No.

Senator MacEachen: —through any chamber of any parliament. I do not think you can just say, "Scratch that out, forget about the committee stage, and move on to third reading," when the Senate has never been advised about the results and has never dealt with the results of the committee.

Those are my comments to Senator Murray.

Senator Flynn: For what they are worth!

Senator MacEachen: Yes, for what they are worth. My previous comments were worth quite a bit in terms of having Senator Flynn admit that his procedural position was incorrect.

Senator Flynn: To the extent that I have indicated.

Senator Roblin: Honourable senators, I must say that I find the Honourable the Leader of the Opposition less convincing than he usually is when he discusses this question of what happened to the committee's report. Let us be clear about it. The motion put by Senator Bonnell was for concurrence in the report of the committee. Therefore, to say that the committee stage had not taken place, which is the implication of the honourable senator's argument—in fact, he said it in so many words—is ridiculous.

Senator MacEachen: I didn't say that.

Senator Roblin: The honourable senator can read *Hansard*.

Senator MacEachen: The committee stage—

Senator Roblin: Get up on your feet.

Senator MacEachen: I am sorry, honourable senators. My point is that the committee stage is an essential part of the legislative process. The Senate must be apprised of that committee stage in dealing with the bill. Yesterday Senator Bonnell moved the adoption of the report. If that report had not been received by the Senate, the Senate would never have had the benefit of a committee study, which it approved. That is an essential step.

Senator Roblin: Which it approved?

Senator MacEachen: Yes.

Senator Roblin: That does not follow at all. The Senate certainly had the benefit of the committee's report. What in the name of goodness has it been debating for the past two or three days? The committee's report—

Senator MacEachen: But it had to approve it.

Senator Roblin: —and the amendments it wanted to make to the bill. The Senate received the report. Not only has the report been received but the special committee has been dissolved. Surely that indicates that its proceedings have been

completed. The committee's advice is before us. Its function is completed. The procedure of Parliament is respected. The report of the committee is before us, and we have been asked to concur in it. My honourable friend says that if we reject the committee's report, it means we have not had the committee stage. That is what he said. He said that if we reject the committee's report, we have not had the committee stage. He cannot mean that. Now he is going to tell us something else, because I see it in his face.

Senator MacEachen: No, we have had the committee stage. However, it is not a valid stage unless the report of the committee stage is received by the Senate.

Senator Murray: Adopted, you mean.

Senator MacEachen: If it is not received and adopted by the Senate, that committee stage has not been completed. That is my point. I shall not argue it further today, because I have another point to make. I was drawn into this debate quite by accident, and I do not want to pursue it. However, let me tell you that the citations made by Senator Murray reveal more difficulties than they solve.

Senator Roblin: Honourable senators, my honourable friend is taking the position that unless the Senate approves the report, we have not received it. That is not the case. Obviously, it is not the case. The committee's function has been completed, the committee is discharged, and the Senate has been confronted with a resolution to debate the committee's report, and we have done so. The honourable senator says that if we do not want to receive the report, the committee stage has not been completed. I cannot agree with that point. Whether we accept or reject the report the committee stage has been completed.

I shall not go on with this argument, because we are not here this afternoon for that purpose, but I do want to make it clear that I do not accept my honourable friend's description of the correct parliamentary attitude toward this matter.

Senator MacEachen: That is all right, if you don't accept it. We can argue it again some other time.

Senator Murray: Honourable senators, I agree with Senator Roblin. I do not accept the honourable Leader of the Opposition's interpretation of the situation. How can the Senate, as such, reject amendments that are proposed in a report coming from a committee? How can we do that at the report stage, if my honourable friend is suggesting that to do so means that we must vote against or kill the whole bill?

Senator MacEachen: I never said that.

Senator Murray: Well, I think that is the implication of what the Leader of the Opposition has said.

Senator Argue: Let's go to another item.

Senator Murray: Senator Argue wants to go to another item.

Senator Frith: Like the one that is before us, for example.

[Senator Roblin.]

Senator Murray: —but I will say that I do not understand how the Leader of the Opposition can dismiss these precedents as quickly as he does by saying that they raise more difficulties than they solve. The August 3, 1977, situation in particular is almost exactly similar to the situation we face today. A committee brought in a report on a bill. A senator moved to amend that report. That proposed amendment was defeated. Then the Senate voted on the main motion, which was to adopt the report. The Senate defeated the report from Senator Argue's committee, whereupon a supporter of the government, the Honourable Senator Olson, moved that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

● (1240)

He did not ask for leave. Apparently, he did not need leave, nor was it necessary in one of the other two cases I have cited. He moved that it be placed on the Orders of the Day for third reading at the next sitting of the Senate. The question being put on the motion, it was resolved in the affirmative.

I will leave it at that for the moment, except to say that I do not think we can leave it there. The honourable senator who is chairman of the Rules Committee should take this under advisement, perhaps on his own initiative, or, if he requires a motion at some future date, we can produce a reference for him. This kind of problem should be settled and defined in our rules once and for all, because there is clearly a difference of opinion between us on the matter which I would not like to continue unresolved.

Senator Frith: Meanwhile, back to the business before us.

The Hon. the Speaker *pro tempore:* Honourable senators, there are two motions before the Senate. There is a main motion and a motion in amendment by Senator Flynn. Is it your pleasure to adopt Senator Flynn's motion in amendment?

Senator MacEachen: Honourable senators, I regret that I am obligated to make a comment or two on the substance of this motion. I want to remind honourable senators that yesterday we had a division on the question of the amendments which were made by the committee. The Senate, of course, accepted those amendments. Today we are being asked to deal with the same proposition. We had reached a conclusion yesterday, and today we are being asked to reverse that conclusion.

On an earlier occasion, when we dealt with the Parole Bill, that same point was made by Senator Frith. In that instance His Honour gave his opinion and ruled that the amendment was in order. Senator Frith then expressed the view that, although he was not going to appeal His Honour's ruling, we on this side did not regard the situation as acceptable. I presume that the Chair, if pressed to make a ruling, would be consistent and reach the same conclusion as it did in a situation which was, if not identical, quite similar.

There is a further point with respect to this amendment, honourable senators. It asks us to amend the amended bill by deleting all the amendments which were approved yesterday. That is one aspect of the amendment which I am not contest-

ing in a way different than the way it was contested by Senator Frith on the last occasion.

The proposition that is before us is to adopt the amended bill moved by Senator Cogger. Senator Flynn, in his amendment, says, "Let's take out all the amendments that were made yesterday." That is one proposition. However, there is a second proposition. If his amendment is carried, then automatically the original bill will be reinstated on the order paper. I suggest it is inappropriate to introduce that second proposition at this stage. We are dealing with an amended bill and not the original bill. To ask us in a single proposition to deal with the amended bill and the original bill is unacceptable.

I am not pressing for a ruling, Your Honour, but I am reserving my position on this matter, as well as the position Senator Frith took on an earlier occasion. I am reserving my right to raise this question again, if it does occur again, and seek a Speaker's ruling and, if necessary, a decision from the Senate itself.

I understand the difficulty of the members of the government. They are attempting to resolve this by introducing an amendment which will give them an opportunity to state their opposition to the amendments made yesterday. However, while their dilemma may be masked on this occasion, if, indeed, this amendment is defeated, when we come to the third reading proposition, which will have to be put to the house, the dilemma will be stark and real.

Senator Murray: Not really. I answered that yesterday.

Senator MacEachen: At that point the members of the government will be faced with voting for or against the amended bill. If they vote against the amended bill, and if we join them in that vote, then their bill will be defeated. Therefore, they have to make a choice between the bill and our amendments, and we intend to give them that choice on third reading.

Senator Murray: Honourable senators, I dealt with that matter yesterday. Very briefly, we will not stand in the way of having the House of Commons pass judgment on the amendments that are favoured by a majority of senators in this house. For that reason we are not going to vote against this bill, as amended, with the risk of killing the whole bill at this stage. We will let it go through, as we did before, so that the House of Commons will have an opportunity to pass judgment on the amendments.

Senator MacEachen: In the meantime the members of the government will have declared their support for the amendments made in committee when they have all voted to support third reading of Bill C-22, as amended. That is an excellent thing to discover, that when this bill, as amended, goes to the House of Commons, it carries the support of all members of the Senate.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the motion in amendment of Senator Flynn?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

• (1250)

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1300)

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	Doyle	Molson
Balfour	Flynn	Muir
Barootes	Lang	Murray
Bélisle	Macdonald (*Cape Breton*)	Phillips
Bielish	MacDonald (*Halifax*)	Roblin
Cochrane	Macquarrie	Rossiter
Cogger	Marshall	Sherwood
David		Simard—24.
Doody		

NAYS

THE HONOURABLE SENATORS

Adams	Grafstein	Lefebvre
Anderson	Graham	Le Moyne
Argue	Guay	Lewis
Barrow	Haidasz	Lucier
Bonnell	Hastings	MacEachen
Bosa	Hébert	Marchand
Buckwold	Hicks	Marsden
Cools	Langlois	McElman
Corbin	Lawson	Molgat
Cottreau	LeBlanc (*Beauséjour*)	Neiman
Denis	Leblanc (*Saurel*)	Olson
Fairbairn		Perrault
Frith		Petten

Robichaud	Stewart	Turner
Sparrow	(*Antigonish-Guysborough*)	van Roggen—44.
Steuart (*Prince Albert-Duck Lake*)	Thériault	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

• (1310)

Hon. M. Lorne Bonnell: Honourable senators, I should now like to speak to the main motion, which is already on the floor. I just want to say a few words before the debate closes to tell honourable senators that this bill, Bill C-22, is a most historic bill for Canada. It is a bill that, in the minds of most Canadians, only has to do with drugs for our people. But let me tell senators that this bill will also raise the price of drugs for the veterinarians and the farmers in this country. Agricultural costs will go up as well.

Let me also tell senators that there is another aspect to this bill with which we should be concerned. As we travel from the east to the west of this land, we find that our farmers are in difficulty. We find that some of these multinational companies have a 17-year patent on the pesticides, chemicals, fertilizers and other things that are in use on our farms, in our forests and in the agriculture industry in general. This increases the farm costs of this country tremendously. If we are trying to help our farmers today, something should be done to control the monopolies on pesticides and chemicals that are held by these multinational companies.

It is all right to talk about controls for our sick—that is good, and we are doing something about it. We are trying here, as those senators who are really concerned about them know, to help the aged, the sick, the infirm, and the poor. Some people are not concerned, though most of us are. We saw that a moment ago.

I did not want senators to go home today thinking that there is no other great need for senators to be concerned about the Patent Act. Our entire forestry, agricultural and fisheries industries are concerned because of the chemicals they need to fight diseases. Canada is now going into fish farming, and our agricultural sector, of course, is also very important. These questions are not addressed in this bill but in the Patent Act itself, which we are discussing as a whole.

I hope that those on the government side will take direction from what I am telling them, and that they will bring it to their cabinet colleagues so they can do something to help our farmers in this country through the Patent Act. I hope that they will bring in amendments to the Patent Act to assist in that regard. When they pass Bill C-22, I ask them not to forget that they are hurting not only the sick, the infirm, the aged, the crippled, and the poor, and provincial governments, but that they are also hurting the agriculture and fisheries industries because of the cost of drugs and chemicals.

Honourable senators, we hear a lot about promised jobs—3,000 jobs have been promised. I am not saying that these multinationals would not do that—I have faith. I have faith in everybody. But let me say this: If Bill C-22 is passed, we are told that $2.5 billion will be taken from our economy in Canada over the next ten years—it will go to the multinationals, 85 per cent to those in America and 15 per cent to those in Europe. If Canada loses $2.5 billion from its economy, we will be losing 9,000 jobs. Perhaps those will not be lost from the drug industry—they could be lost in the farming sector, the fishery sector, grocery stores or some place else. But if our economy loses that amount, we will have lost 9,000 jobs. If we lose 9,000 jobs to gain 3,000, in my view that is a poor bargain.

Let me tell honourable senators one other thing and then I will be quiet. The committee did not find one soul in Canada who was not supporting research. We all agree that it is great. We need more research and development in Canada, whether it be in the drug business or in any business. In our recommendations we put an extra 10 per cent from the generic drug companies into research—that is done right in the amended legislation. In the original bill there is not five cents guaranteed to go into research— there is just a promise. But in our amended legislation 10 per cent of the sales will go into research. Further, we will save, under our amendments, $100 million that the federal government will not have to pay out to the provincial governments. That amount could be put into research. If the government put that amount into grants to the Medical Research Council and other organizations, we could be putting $200 million into research. In my view it is time research and development in this country was paid for by the rich, the corporations, the banks, and the working people, the people with money. For goodness sake, don't take it off the backs of the sick, the hospitalized, the infirm, and the aged by increasing drug prices. That is not the way to get your research. Yes, we want research, but let us take it off the backs of those who can afford it.

Honourable senators, think about the farmers, the fishermen, and the poor in the poorer regions of the country. Don't forget Prince Edward Island; don't forget New Brunswick; don't forget Newfoundland; don't forget Ontario; don't forget Manitoba; don't forget British Columbia and don't forget the Yukon, which came out and said to us, "Senators, here's a chance for you people to represent your regions."

An Hon. Senator: What about Quebec?

Senator Bonnell: Not too many times have we heard provinces come out directly to say that they are not being heard in the other place, that they are not being heard by the elected representatives. They have said, "You are representing the regions—do something for us." That does not happen too often. I tell honourable senators that Ontario alone said it will lose $1 billion over the next ten years if Bill C-22 passes.

Our committee heard from the aged, nurses' unions, the teachers' federation, the Royal Canadian Legion, the governments of five provinces and that of the Yukon Territory. Others wrote letters. This is something that concerns the people of Canada. I regret that the Leader of the Government in the Senate is not in the chamber. However, let me assist him and his party to pull themselves up by the bootstraps for once in their lives and try to get a little higher in the polls by taking, for once, the advice of the Senate.

Senator Roblin: Honourable senators, I had made a promise to myself not to intervene in this debate, because I was not one of those who was actually involved in the studies that produced the Senate report that results in the amendments that we are making to this bill. I had not intended to break that promise to myself until I heard the last speaker. There is something that I must have missed in this whole proceeding. I understood that the main thrust of the amendments, or the desire of the members of the opposition, is to protect people that they describe as the poor and the sick, those who deserve our compassion and our attention. That, surely, is a commendable exercise.

• (1320)

Honourable senators, I am not certain that this bill, as it was originally proposed to us, is a perfect piece of legislation. I suspect that it is not. I suspect that it is susceptible to improvement and to change, which we might, perhaps, suggest. But when I compare what we are now doing with our stated objective, I cannot reconcile the two. We are told that we are to accept the amendments to this bill, because they will save money for those who need our help. We heard about that particularly in the statement made by the previous speaker. Yet, what are we doing? The first thing that we are doing is that we are raising the levy from 4 per cent to 14 per cent. Surely that is bound to raise the price of generic drugs, and that will be reflected, I am sure, in the pocketbooks of all those people who buy generic drugs. So much of the drug bill is paid for through the various provincial medical plans, but not all of it. Certainly someone will have to pay the bill. It will either be the taxpayer indirectly or those who are consuming the generic drugs.

So we can see that there is a price increase there. We are now told, "That's all right, because it is going to go into research." Well, I do not object to that too much. And who is going to do the research? Well, no doubt these multinational companies of which we think so poorly will be doing the research, or most of it. We do not like them, but we are going to give them a little money anyway—but not very much, I suggest; and I rather doubt whether this 10 per cent increase in the price of generic drugs will induce the kind of research that we really want to see in Canada and for the welfare, primarily, of our people. I do not think that is likely to come about. If it does, I will certainly be glad of it.

We have this situation that the first step that the Senate is taking to relieve the poor is to increase the price of generic drugs. To me that does not make much sense. There are other ways of raising the money, and it was suggested in the original Bill C-22, but it is not in this amendment.

When I get back to Winnipeg, I am supposed to tell my people what I have been doing for them. I suppose I will have to go out and say, "Well, I was in the Senate and we have decided to protect you from the machinations of the multinational corporations, most of whom are Americans, about whom we are not very enthusiastic; we are going to save you from their power to increase drug prices, and the way we are going to do it is by raising the price of generic drugs to you by 10 per cent and hand that money over to them." That is going to be a hard argument for me to make.

But there is more to come, and it is worse. One of the other things that we tried to do in the original Bill C-22 was to protect the public against all kinds of unjustified drug price increases, both in the generic and patent drugs. There was a prices review board in there that was designed to do that job. It would control at two levels: first, as I understand it, at the introductory level—when new drugs are brought in, they would be subject to their examination; and then any price increases that were proposed for any kind of drug would also be subject to that prices review board.

When I heard Senator LeBlanc from New Brunswick speak this morning and tell us that the fact that we had been accustomed to having some kind of control over medical costs constituted a distinctly Canadian feature—and I suppose it is—I had to gather that he did not understand that the amendments were abolishing the drug price control. Because we were relying on competition, we would not need this kind of protection. So, we are abolishing the drug price control board. Why? Because competition would do the job for us.

Let us look at that rather seductive idea for a minute or two. Competition in what area? Competition in generic drugs, of course. But what proportion of the drugs that are sold, particularly the high-priced drugs, are generic? Very little. Most of the high-priced drugs are patent drugs, and we have deprived ourselves in this bill of any means of controlling the increasing price of patent drugs that are now to be set, presumably, at the will of those monopolists of whom we are so critical.

Senator Frith: Not after four years.

Senator Roblin: Senator Frith says, "not after four years;" but the point is that that is the way the bill is structured—and why we would remove this prices control board, no matter whether it is four years or 44 years, escapes me. There is some missing link—

Senator Frith: Because competition will protect us.

Senator Roblin: If competition will protect us, then why is it not protecting us now? That is what I would like to know. If you take the competition with patent drugs, most of them do not get to be made generic drugs. Where is the competition there? Most of them do not get to be made generic drugs.

• (1330)

Senator Frith: They are subject to compulsory licensing.

Senator Roblin: They may be subject to it, but they don't. So why would we toss out a perfectly reasonable price control mechanism when we had it already in the bill? So when I get back home, I will have to tell my people why we have increased the generic prices by 10 per cent right off the bat, and why we have deprived ourselves of this method of controlling drug prices in the patent section and the others. So, it appears that I will have a very tough argument.

But I know when I am beaten here. I know that I have lost the argument here; but I really cannot see the logic of this arrangement. I am sure that the committee could have made other recommendations to deal with this problem. I am not one who will say that Bill C-22 is a perfect bill. I do not believe it is; but it seems to me that we have not done a very good job of remodelling it in the interests of the people whom we say we are trying to serve, namely, those who will find increased drug prices a burden. We are certainly not doing that.

There is another thing that we are overlooking altogether. I suppose I should not get into this argument too deeply, because I know that it has no weight in this chamber. There is in my mind a lingering dissatisfaction that we are not willing to recognize that intellectual property has a value and therefore should have a right. If we were talking about someone who was inventing something else besides drugs, we would understand the value of intellectual property and we would have no concern about it. We would consider it to be a natural requirement. But we are now, apparently, turning our back on that argument altogether.

It is bootless for me to mention people of some repute—Dr. Polanyi, for one, whose name might be familiar in this chamber—who are engaged in research, or who saw some advantage in recognizing intellectual property, because this house obviously is determined that this form of asset deserves no real respect in Canadian legislation. Of course, its long-term effects are, I believe, perhaps unquantifiable but certainly are identifiable—because what is the advantage of a new drug? The advantage of a new drug, no matter how we get it, is to help people who are sick to get better. But there is something more than that about it. We know that the introduction of new drugs in this country, all from foreign sources, has been an important element in restraining the price of medicine, of doctors and of hospitals. We ignore that issue entirely as though it did not matter. I say that you cannot quantify it, but experience teaches us that the introduction of new drugs, which will help people who are sick of diseases which now we cannot treat, is not only of value to them but it also has an important application with respect to the cost of medicine in this country as a whole in keeping people out of hospital—which is the most expensive aspect of the matter—and so on.

I know that those arguments have been thoroughly canvassed and have been rejected by the Senate, so it is bootless to press the point. I simply say that on the basis of the bill that we have before us now, I do not really understand how it is helping the poor in the way that it is being presented as a help to the poor. I hope it is not harmful. I will not say that it is. I was not present at all of the discussions that took place in committee, and possibly my knowledge is somewhat limited; but I can simply say as a relatively impartial bystander—if there is such a thing in this argument—that the amendments we have proposed may or may not be good, but in my opinion they are defective, and I regret that this house seems determined to support them.

Hon. H.A. Olson: Honourable senators, I rise to intervene briefly to express our appreciation to the members of the Special Committee who spent a great deal of time—particularly when some of the rest of us were away on summer recess in July—listening to the people of this country, from one end to the other, giving their views on the provisions of Bill C-22. In particular, I do so because of the speech made by Senator Flynn. He began his speech by imputing motives to the members of the committee, and, I guess, even to the supporters of the government on the committee, which he knows very well is absolutely against the rules. Nevertheless, he, the great champion of making sure that the rules are followed, begins his speech on the basis that there was no motivating concern, that it was strictly a political, partisan motivation that propelled the members of the committee representing the opposition.

• (1340)

Senator Flynn: I was never ruled out of order.

Senator Olson: No.

Senator Flynn: So try to understand.

Senator Olson: Anyway, you are always out of order—

Senator Guay: You are out of order now, Senator Flynn.

Senator Flynn: I could rise on a question of privilege, if you like.

Senator Guay: We are getting used to you anyway.

Senator Olson: I was not a member of the committee, but I can appreciate what the members of the committee have done, and particularly the timeframe in which they did it. I think the record ought to show that there are many senators here who understand that what has been reported by the committee, including the proposed amendments, is an honest and sincere response to what the committee heard across the country.

There is one other thing that should be on the record, and it is really why I am standing. I know that Senator Flynn really made his whole speech tongue in cheek.

Senator Flynn: In part.

Senator Olson: In part, yes. However, this attitude would not show up in the record as well as it does to me, as I sit right across the aisle from him. I would like people who read the record—and, by the way, several thousand do so—to understand that Senator Flynn was trying to take a politically partisan position by moving the amendment, which he knew was out of order.

An Hon. Senator: Now you are out of order.

Senator Olson: Now I am out of order! Oh dear, I am out of order, just as Senator Flynn was out of order. Senator Flynn

knew very well what was involved, and he should not have tried to belittle the enormous effort made by the members of the committee, both by senators on his side of the house and senators on this side as well. Then Senator Flynn went on to belittle the amendments—which he should not have done—by saying, "Now, what is the House of Commons going to do with this bill, because it is imperfect, or, at least, incomplete, because the amendments do not provide, for example, for the royalty fund and other things?" Senator Flynn did not go on to say that he knows very well what the House of Commons ought to do with this bill and the recommendations. They should make amendments that only a minister is competent to make to complete the bill. Everybody in this house understands that, and so does Senator Flynn. Yet, he tried to raise the point that the bill was imperfect or useless because it was not complete. We know that. It seems to me that Senator Flynn should have at least made this point for the record. We know that the committee's report was sent back to the committee to deal with that particular problem. He was aware of that, and he understands the process.

Honourable senators, I said I wanted to intervene briefly. However, Senator Flynn should not have made a speech that he knew was out of order from the beginning, even though nobody called him to order on it, and he should not have tried to confuse people reading the record by saying things about the process followed here that he knows very well are not the case.

Senator Flynn: Honourable senators, I rise on a question of privilege. Senator Olson has said that I put my motion tongue in cheek. The motion is clear and reasonable, to vote the passage of the bill as it came to us. There is nothing wrong nor funny. There are no motives there. It is clear, and I do not know why he said what he said. Senator Olson suggests that the House of Commons will have to add to the amendments adopted by the Senate. It cannot do that at this stage, and he knows that very well. Or perhaps he does not. I do not think he does. Anyway, it would require a separate bill.

Senator Molgat: Is this a speech?

Senator Olson: Senator Flynn knows the process by which the House of Commons can accommodate the requirements to complete and perfect the bill. I will not explain them to him.

Senator Flynn: You could not.

Senator Olson: He knows them, as do I.

Hon. Efstathios William Barootes: Would the Honourable Senator Bonnell accept a question?

Senator Bonnell: Yes.

An Hon. Senator: Let's get on with the vote!

Senator Molgat: Honourable senators, this is completely out of order, but if the house agrees, it is fine.

An Hon. Senator: Let's have the vote now.

Senator Olson: They do not care what is in order. They do what Senator Flynn says.

Senator MacEachen: I will consent, but it is a bad precedent and bad practice.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Cogger, seconded by the Honourable Senator David, that the bill, as amended, be read the third time now.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore:* Please call in the senators.

● (1350)

Bill, as amended, read third time and passed on the following division:

YEAS

THE HONOURABLE SENATORS

Adams
Argue
Barrow
Bonnell
Bosa
Cools
Corbin
Cottreau
Denis
Fairbairn
Frith
Grafstein
Haidasz
Hastings
Hébert
Hicks
Kenny
Langlois
LeBlanc
(*Beauséjour*)
Leblanc
(*Saurel*)
Lefebvre
Le Moyne
Lewis
Lucier
MacEachen
Marchand
Marsden
McElman
Molgat
Neiman
Perrault
Petten
Pitfield
Robichaud
Sparrow
Steuart
(*Prince Albert-Duck Lake*)
Stewart
(*Antigonish-Guysborough*)
Thériault
Turner
van Roggen—40.

NAYS

THE HONOURABLE SENATORS

Nil

ABSTENTIONS

THE HONOURABLE SENATORS

Atkins	MacDonald
Balfour	(*Halifax*)
Bélisle	Macquarrie
Bielish	Marshall
Cochrane	Muir
Cogger	Murray
David	Phillips
Doody	Rossiter
Doyle	Simard—19.
Flynn	
Macdonald	
(*Cape Breton*)	

● (1400)

Hon. Gildas L. Molgat: Honourable senators, I do not expect His Honour to decide now on the question I am about to raise, but I think this should be considered by the Senate. The Senate should give consideration to whether it is proper for a senator to move a motion and then abstain from voting, which I think would invalidate the motion in the first instance.

I do not ask for a decision now, but I ask that this point be considered seriously, as it affects the procedures of the Senate. I cannot understand how a senator can move a motion, have the motion seconded, and then abstain from voting on the motion.

Senator Murray: Honourable senators, unlike the House of Commons, there is provision in the rules of the Senate for honourable senators to abstain from voting in certain circumstances. The rules also provide that honourable senators may make a brief explanation of their reasons for abstaining.

Hon. Peter Bosa: Honourable senators, on a point of order: That rule is no longer in effect. The rule was amended, and a senator does not now have to explain why he is abstaining from voting.

Senator Murray: Honourable senators, if my honourable friend is correct, then I regret that I misunderstood the rule, but there is certainly a rule that enables honourable senators to abstain from voting. Indeed, the Speaker calls for abstentions after he calls for the yeas and nays on votes in the Senate.

With the indulgence of the Senate, I will simply state that the Senate should not be surprised, in view of the statement I made yesterday and again today, at the attitude of my colleagues and myself to this bill, as amended.

We have opposed the amendments that the majority in the Senate have attached to this bill, and therefore we are opposed to the bill, as amended. Nevertheless, the appropriate course is to let the bill emerge from the Senate so that the House of Commons may pass judgment on the bill, as amended. For that reason I and my colleagues took the decision to abstain from voting.

[The Hon. the Speaker.]

Senator MacEachen: Honourable senators—

Senator Flynn: With the indulgence of the Senate!

Senator MacEachen: Yes, with the indulgence of the Senate. I thank you for your help.

The Honourable Senator Murray stated that we ought not to be surprised at the decision taken. I must say that I am surprised, in light of the statement made just before the break by the Leader of the Government that it was not his intention to permit the bill to be killed, and that it was his desire that it be moved forward for consideration by the House of Commons. So, I am surprised at the reversal of the position in such a very short time.

However, I think what ought to be pointed out is that if all members of the Senate had taken the position taken by the members of the government— namely, to sit in their seats—of course, the bill would have been killed. The action they took would have had the effect, in the absence of responsible conduct on this side of the house, of killing the government bill.

Senator Murray: Honourable senators, the position of—

Senator Steuart: With the indulgence of the Senate!

Senator Murray: Yes, with the indulgence of the Senate. My position and that of my colleagues in abstaining on this vote was perfectly consistent with the statements I had made, namely, that we would not stop the bill from emerging from the Senate so that judgment might be passed upon it by the members of the House of Commons. The vote in favour of the bill made by my honourable friends opposite is perfectly consistent with their position. They, after all, had amended the bill to their satisfaction.

● (1410)

MESSAGE TO COMMONS

Hon. M. Lorne Bonnell: Honourable senators, with no indulgence—

Senator Frith: We must be careful not to overindulge!

Senator Doody: Too late!

Senator Bonnell: —I move, seconded by the Honourable Senator Cottreau:

> That a Message be sent to the House of Commons to inform that House of the recommended amendments, observations, and recommendations on general patent law amendments as contained in the Seventh Report of the Special Committee of the Senate on Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No. On division.

Senator Flynn: It is a bad precedent, but, out of courtesy and to obtain forgiveness from Senator Bonnell—

Senator Frith: We have done it before!

Senator Doody: To gain more indulgence!

Senator McElman: Since Senator Flynn has already requested a vote today, would he like another recorded vote on this one?

Senator Flynn: Pardon me? I did not get it.

Senator McElman: You did not get it? That is all right; you did not get a lot today!

Senator Flynn: Not from you, anyway.

Motion agreed to, on division.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, I will not impose any further on the time of honourable senators today. I ask that the item stand in my name.

Order stands.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, at the last meeting of the Committee of the Whole we distributed a proposed report which had emanated from the steering committee and was proposed to the Committee of the Whole for consideration. There were a number of amendments proposed in that report, and at the moment amended copies are being distributed to you.

Is it your wish to proceed with the consideration of this report?

Senator Doody: Absolutely!

The Chairman: Is it agreed?

Hon. Senators: Agreed.

The Chairman: Are there any discussions on the report?

Senator Doody: Yes. I have a number of problems with the report, Mr. Chairman, and one of them is the cost involved. Assuming that this carries—and things put forward by honourable members opposite usually carry—there will be a cost involved in this. I assume that the rules set forth by the Internal Economy Committee will apply to this suggested task force, which is an unfortunate name, I think, for a group of parliamentarians who are going forward. We had some problem with logistics a little while ago; I think this one is even more a militaristic than a logistical question. We might have some people who will hear some opinions; why they should be called a task force escapes me. Nevertheless, that might well be carried.

What is more important is the cost of it. When will the budget be prepared? Who will consider it? When will it be considered? And if we approve all of this today, will the Senate have some input into the budget approval? This is a Committee of the Whole, and I presume that in respect of a budget it is no different than any other committee—although perhaps it is.

I have never seen a Committee of the Whole being involved in interrogation or in an investigation before. The Committees of the Whole that I was involved in back in the legislature to which I belonged prior to coming here dealt with legislation only in a clause-by-clause examination. All of the things that we are doing here now are breaking new ground in terms of the work of a Committee of the Whole. How the budget is handled, who approves it, and how it is approved is a real question and a serious one.

Another item that bothers me is the second last item in the report. It states:

> That the Task Force be authorized to continue its inquiry even though the session may be prorogued;—

In ordinary parliamentary parlance, as I understand it, if a session is prorogued, then all committees cease to exist. I know that there is a grey area in here as to whether or not that applies to the Senate, because obviously the Senate, in some respects, continues to exist—at least, I gather at the end of every month, when the cheque arrives, that the Senate must continue to exist. My understanding was, having been appointed until age 75, that that will continue—barring some act of God or the NDP!

In any event, the fact remains that—

An Hon. Senator: The act of the devil!

Senator Doody: That is almost synonymous! I just came from St. John's East.

I would like some clarification on that point. The thought of the committee continuing on through prorogation does not terrify me as much as the thought of the Senate once again implementing some order which is incorrect, or which we cannot legally or constitutionally justify. We should be clear on what we are doing in this area before we go forward with it. If Parliament is prorogued and a Senate committee does have the authority to sit, then surely it would be foolhardy for us to publicly proclaim that we will do it anyway. I would like some clarification on that point and some assurance from knowledgeable authorities that this is in order.

The idea of travelling north has been recommended by some senators who feel strongly about it; I am open on that. I personally do not think it is necessary, but then, again, I am not from the north. I am from another part of the country. These are my comments on the matter, Mr. Chairman, and I leave other senators to say what they wish.

Senator Frith: Mr. Chairman and honourable senators, I will respond to the two points raised by Senator Doody. Considering the first one about expenses, I believe that we have a consensus that senators prefer to give final approval on work of a committee or the establishment of a committee when they have some idea as to the cost. I can see no reason why we should not have it understood that if we adopt this report, and if it is accepted by the Senate, we will stand the order until we have a budget to look at. We will not vote on it until we have a budget. That is on the first point.

• (1420)

On the second point about committees surviving prorogation, there is no question that they do not. The only question is whether Parliament or one of the houses will agree that one of their committees survive prorogation. The only example that occurs to me on the spot is that there have been agreements regarding legislation. Legislation dies on the order paper in the case of prorogation, but there have been examples of the house agreeing, by unanimous consent, that bills will not be dropped from the order paper.

Honourable senators, I do not particularly want to have a set-to about this. I would suggest we finesse the whole thing by dropping the provision regarding proroguing until we have had a chance to look at the question. Later, if we decide that it would be all right to do so, we can put a separate motion authorizing the task force and the committee to continue its work even in the case of prorogation. I suggest, for the moment, that we do not do so.

On the question of costs, I suggest that we wait until we have seen a budget from the Standing Committee on Internal Economy, Budgets and Administration. In the meantime I suggest we give the Committee of the Whole authority to prepare a budget, but that it be understood we will not actually adopt the report in the Senate until we have seen a budget.

Senator Doody: I thank Senator Frith for that. For me, at least, that is satisfactory, but there may be others who have other ideas.

[Senator Doody.]

On the question of the budget, I know that the Standing Committee on Standing Rules and Orders laboured long and hard trying to differentiate between the budgets of standing committees and the budgets of special committees. Now we are into a budget for a Committee of the Whole. I do not know if we would want to call it a standing committee or not. It certainly has never been classified as such in the list of standing committees under our rules or any other set of rules. I think we are into a completely different situation with a Committee of the Whole. How the Senate chooses to deal with a budget of the Committee of the Whole is going to be interesting. Will all 103 of us sit around and discuss the budget, or should only the steering committee handle the budget? We are into an area that has never been examined. Every step we take takes us farther down the road of changing the use of the Committee of the Whole.

Honourable senators, I hate to say, "I told you so," but we embarked on this with the reference of the fisheries boundaries question to a Committee of the Whole and now we are discussing this constitutional matter. We are now getting into a deeper morass, and I think we are not using Committee of the Whole as originally intended. These matters should really be assigned either to a special or a standing committee and not to Committee of the Whole. Having said, "I told you so," I will sit down.

Senator Frith: Honourable senators, at this stage I do not want to get into the general problems raised, because I know Senator Doody's feelings on that. That is, perhaps, as they say, "another show."

In the meantime I suggest we finesse the question of whether it is a standing committee or not by agreeing that we will apply the principle—that is, no vote by the Senate authorizing it until we have a budget.

Senator Flynn: I understand that some representatives from the Yukon and the Northwest Territories are to appear before the joint committee next week or the week after. That is a fact which may have a bearing on the budget and even on the work of the task force. Perhaps we should wait until we know what has transpired in the joint committee before making a decision.

Senator Lucier: Honourable senators, I have been in contact with many people in the Yukon on this matter. I would like to assure Senator Flynn that someone from the Yukon may be appearing before the joint committee, but there are many others who want to appear but who have been denied an opportunity to do so, which is the exact reason I want this committee to go to the north.

I would like to say to Senator Flynn that his people were represented at the signing of the Meech Lake accord by his premier; ours were not represented.

Senator Flynn: You were represented by the Government of Canada.

Senator Lucier: No, we were not. In fact, even the Minister of Indian Affairs and Northern Development, who is our representative, was not there.

Senator Flynn: The Prime Minister was there.

Senator Marshall: When we say, "a task force of the Committee of the Whole," does that mean representatives of the whole committee, or would the task force constitute the whole Senate?

Senator Frith: No, they would be delegated.

Senator Marshall: Could it be any number?

Senator Frith: The number eight is stipulated.

Senator Doody: Five Tories and three Liberals!

The Chairman: The task force will report back to the Committee of the Whole.

Honourable senators, perhaps we should consider things in order.

There has been a suggestion that we might drop the second last paragraph regarding the question of the committee operating during prorogation. I believe Senator Frith suggested he would be prepared to recommend that.

Senator Frith: Yes, I would be prepared to make such a recommendation.

The Chairman: Is it agreed, honourable senators, that the second last paragraph be deleted?

Hon. Senators: Agreed.

The Chairman: On the question of the budget, my understanding is that if you look at paragraph 5, which reads:

> That the rules and procedures applicable in committees apply to the Task Force;

I presume that would mean that the budgeting procedures would be the normal budgeting procedures for committees—that is, if this is approved, then the steering committee will approve a budget; the budget will be submitted to the Standing Committee on Internal Economy, Budgets and Administration; if and when the budget is approved by that committee, it will come back to the Senate for approval; and then we can proceed.

Senator Doody: Are those the rules that apply to a standing committee or to a special committee? As I remember it, we have two sets of budgetary rules in the standing orders. One set of rules applies to standing committees and one set applies to special committees, or even a committee that takes on a special project. Surely this is a special project that is being taken on by the Committee of the Whole which falls into neither category. I am not trying to obstruct the proceedings.

The Chairman: Honourable senators, at this point can we agree to the following procedure: Once this motion is passed, a budget will be prepared and presented to the steering committee; if the steering committee agrees with that budget, it will then be presented to the Standing Committee on Internal Economy, Budgets and Administration; and then it will be presented to the Senate for approval. Is that an agreeable procedure?

Hon. Senators: Agreed.

The Chairman: I believe that follows the rules we have for special committees.

Senator Doody: I would agree on the understanding that this does not constitute the Committee of the Whole as a special committee, that we are not going backwards into a new parliamentary procedure.

The Chairman: No, this is a procedure to cover this particular decision of the Committee of the Whole. Is that an agreeable procedure?

Hon. Senators: Agreed.

The Chairman: Are there any other comments on the report?

Senator Frith: I move that the report be adopted.

The Chairman: It is moved by Senator Frith, seconded by Senator Lucier, that the report be adopted. Is it your pleasure, honourable senators, to adopt the motion.

Motion agreed to.

The Chairman: Is there any further business before the committee?

Senator Frith: I think not. I move that the committee rise, report progress, and request leave to sit again.

The Chairman: It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Langlois, that the committee rise, report progress, and request leave to sit again. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

REPORT OF COMMITTEE OF THE WHOLE

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake accord and texts subsequently agreed to were referred, respectfully presents the following report:

> The Committee of the Whole to which was referred the Meech Lake Constitutional Accord and texts subsequently agreed to, recommends that a Task Force of the Committee of the Whole, to be known as the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories, be established to hear representations thereon;
>
> That the Task Force be composed of eight Senators, three of whom shall be nominated by the Leader of the Government in the Senate and five of whom shall be nominated by the Leader of the Opposition in the Senate;
>
> That the Task Force be authorized to send for persons, papers and records; to examine witnesses; to report from time to time, and to print such papers and evidence from day to day as may be ordered by it;
>
> That the Task Force be authorized to engage the services of such clerical, technical and other personnel as it deems necessary;

That the rules and procedures applicable in committees apply to the Task Force;

That changes in the membership of the Task Force shall be made pursuant to Rule 66(4) of the *Rules of the Senate*;

That the Task Force be empowered to adjourn from place to place in the Yukon and the Northwest Territories; and

That the Task Force be instructed to present its report to the Committee of the Whole no later than October 15, 1987.

The committee has also directed me to report progress and ask leave to sit again.

Senator Frith: I move that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

● (-1)

Hon. Gildas L. Molgat: Honourable senators, in order to permit the staff to prepare the budget, would the Senate be agreeable to the adoption of the report at this point? In that way work can carry on, and at the next meeting of the steering committee a budget could be presented.

Hon. C. William Doody (Deputy Leader of the Government): I would like to go on record as saying that, yes, we allow this to happen and, yes, it is by some grace and a little indulgence.

Senator Molgat: With both leave and indulgence, then—

Senator Doody: And grace.

Senator Molgat: —I move that the report of the committee be adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

NATIONAL DEFENCE

CONSIDERATION OF REPORT OF SPECIAL COMMITTEE ON FEASIBILITY OF "SNOWBIRDS'" VISIT TO NATO ALLIES—DEBATE ADJOURNED

On the Order:

Consideration of the Third Report of the Special Committee of the Senate on National Defence (visit by air demonstration team the "Snowbirds" to Europe), presented in the Senate on 6th July, 1987.—(*Honourable Senator Lafond*).

Hon. Peter Bosa: Honourable senators, I should like to make a few remarks on the subject matter of the third report of the Special Committee of the Senate on National Defence, which was presented in this chamber on July 6, 1987, the particulars of which are to be found on page 1618 of the *Debates of the Senate*.

Hon. Royce Frith (Deputy Leader of the Opposition): This order stands in the name of Senator Lafond.

Senator Bosa: He yielded to me.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I do not want to be difficult, but this order does stand in the name of Senator Lafond. I think that Senator Bosa or somebody ought to give us some assurance that Senator Lafond agrees to having this step taken. Once again, we do not want to establish a precedent. If everyone were to stand up whenever he or she wished to speak on somebody else's order, we would have difficulties. I do not want to ground the "Snowbirds" at all, however.

Senator Bosa: I can assure honourable senators that Senator Lafond has given me permission to go ahead with these remarks. Besides, we can still stand the motion in his name after I have spoken.

Hon. Jack Marshall: As deputy chairman of the Defence Committee, I can say that I hear those words and I give them authority.

Senator Bosa: First, I should like to thank the chairman, Senator Paul Lafond, and the other members of the committee for having considered so expeditiously the request by the Senate to examine the feasibility, logistics and merits of a visit by the Canadian air demonstration team, the "Snowbirds", to our NATO allies in Europe in the near future.

I read the minutes of the committee and I am pleased that Brigadier-General Jean Veronneau, Director General of Air Doctrine and Operations at National Defence Headquarters, was able to provide the members of the committee with much pertinent information concerning this initiative. My profound regret is that I could not be present at the committee meeting when it took place, as I was at Friuli, Italy, at the time, to receive an award from the President of the UNICEF committee of that region.

General Veronneau outlined some areas of concern, such as the costs involved in moving the Tutor, the aircraft used by the "Snowbirds", to Europe by air and the difficulties in moving aircraft from seaport to airfield if transportation were to take place by ship. He also made reference to the fact that an absence for some weeks from Canada of the "Snowbirds" would disrupt the Canadian tour season. The general further stated that a European tour could be accomplished, but that it does not have the support at this time of the Commander of Air Command or of the Chief of Defence Staff.

I am grateful to General Veronneau and Major General R.W. Morton, Chief of Air Doctrine and Operations, with whom I first discussed this initiative, and all other persons who took part in studying this matter. I would like to ask the generals and the Commander of Air Command, General Ashley, not to close the file until they have had an opportunity

to consider new information, which has come to light only today, concerning very attractive shipping costs and other logistical information which would make the proposition of the "Snowbirds" performing in Europe possible and reasonable.

I have discussed this matter with the chairman of the committee, Senator Paul Lafond, and he, too, along with all members of the committee, I am sure, would be interested in the response of the military to this new information. I am looking forward to discussing this matter with the appropriate officials in the very near future in order to bring it to a conclusion.

On motion of Senator Marshall, for Senator Lafond, debate adjourned.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

MOTION TO GIVE SPECIAL COMMITTEE POWER TO ENGAGE SERVICES WITHDRAWN

On the calling of Motion No. 3:

By the Honourable Senator Frith:

That the Special Committee of the Senate on the subject-matter of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, have power to engage the services of such counsel and technical, clerical and other personnel as are necessary.

Hon. Royce Frith (Deputy Leader of the Opposition): With leave, honourable senators, I should like to withdraw this motion. It has already been covered by the report of the committee that has been adopted by the Senate.

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

Hon. Senators: Agreed.

Motion withdrawn.

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall be moving a motion to adjourn to September 15, on the usual understanding that if legislation of importance comes to us from the other place, then we will be subject to the normal recall to which we are always subject. I simply thought I should mention that.

Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 15, 1987, at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, September 15, 1987, at 2 p.m.

THE SENATE

Friday, August 28, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

NATIONAL TRANSPORTATION BILL, 1987

CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendments made by the Senate to Bill C-18, respecting national transportation.

MOTOR VEHICLE TRANSPORT BILL, 1987

CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendments made by the Senate to Bill C-19, respecting motor vehicle transport by extra-provincial undertakings.

CRIMINAL CODE

IMMIGRATION ACT, 1976

CITIZENSHIP ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-71, to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Phillips, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

MAINTENANCE OF RAILWAY OPERATIONS BILL, 1987

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-85, to provide for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Phillips, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

THE ESTIMATES, 1987-88

SUPPLEMENTARY ESTIMATES (B) REFERRED TO NATIONAL FINANCE COMMITTEE

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending the 31st March, 1988 (Sessional Paper No. 332-557).

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

Hon. Senators: Agreed.

[*Translation*]

Hon. Fernand E. Leblanc: Honourable Senators, I understand from the Treasury Board that there is no urgency to consider the Supplementary Estimates (B) which have been tabled as the bill to follow will reach us only in December with Supplementary Estimates (C).

It is my understanding that the committee which I have the honour of chairing will be authorized to consider these estimates, but also that there is no urgency as the bill will not be tabled before December.

Motion agreed to.

● (1410)

[*English*]

ADJOURNMENT

Hon. Orville H. Phillips, with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Wednesday next, 2nd September 1987, at two o'clock in the afternoon.

Motion agreed to.

QUESTION PERIOD

[*English*]

NATIONAL DEFENCE

COMMITTEE STUDY OF CONCERNS OF MILITARY FAMILIES—STATUS OF REPORT AND NATURE OF RECOMMENDATIONS

Hon. Lorna Marsden: Honourable senators, I have a question for the Leader of the Government in the Senate. Perhaps he would permit me to preface it by congratulating the minister and his colleagues in the government on the appointment of Dr. Geraldine Kenney-Wallace as the new President of the Science Council of Canada. She is a distinguished professor of physics and chemistry at the University of Toronto, has a fine sense of organization and relations with business and other sectors, and is a first-rate person. I think it is an excellent appointment and that we will all benefit from her public service in this capacity.

My question concerns the committee which the government appointed this summer to study concerns of the families of military members. The committee was chaired by Professor Desmond Morton of Erindale College. The committee held hearings at several bases across the country and had some consultations. Can the Leader of the Government tell us whether the report of that committee has been received, and, if so, what is the nature of the recommendations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I thank our colleague, Senator Marsden, for her comments concerning the new head of the Science Council of Canada. I am glad to know that that appointment meets with the general approval of honourable senators. I must say that I am not as well informed as I should be with regard to Professor Morton's report, but I shall make inquiries to see whether the report has been received.

Senator Marsden: I wonder if the Leader of the Government could find out, when he makes those inquiries, whether the report will be tabled here or in the other place so that we can see the nature of those recommendations.

Senator Murray: I shall do that, honourable senators.

REFUGEES

FEDERAL-PROVINCIAL CONSULTATIONS ON BILL C-84—EMERGENCY LEGISLATION

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate in his capacity as Minister of State for Federal-Provincial Relations. On August 12 I asked the leader about Bill C-84. In response to my question he said:

> That bill has not been submitted to members of provincial governments nor have specific provisions been canvassed in advance with members of provincial governments.

I have since received notes of the honourable leader given to the Special Joint Commons and Senate Committee on the 1987 Constitutional Accord. On page 14 of his comments he stated, under the heading "Immigration":

> Quebec also has a fundamental concern with immigration, which is an area of shared legislative jurisdiction with federal paramountcy.

Under its rules the other place was called back this summer on the basis of a national emergency. Did the government at any time, since it shares jurisdiction with the provinces, get any indication from the provinces that in fact the issue which provoked the bill, which was the entry into Canada of 174 people, was an emergency, and, since the introduction of that bill in the other place, has the leader received any confirmation that there is or was an emergency?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first, with regard to Bill C-84, it deals with refugee claimants in Canada, and that is a matter within the exclusive competence of the federal government and Parliament. It is not a matter in which jurisdiction is shared. Second, the question of the urgency and the extent of the urgency is, I think, a proper matter for debate, and we will get to that debate when the bill arrives here from the other place.

Senator Grafstein: Honourable senators, I have a supplementary question with regard to shared responsibility. The persons who prompted the bill were, after their screening, landed, if you will, in the province of Ontario. Does the Leader of the Government not think that, because of this shared responsibility, he should have at some point canvassed the issue with the Province of Ontario or the other provinces where some of these refugee claimants were subsequently landed?

Senator Murray: Honourable senators, the nature of the emergency is again a matter for debate. What we have here is a situation in which our practices, laws and policies relating to immigration—and indeed the rights of people who come here either as immigrants or as genuine refugees—are all being cast into some doubt by the unexpected arrival of boatloads of people, many of whom have no documents showing refugee status and claim that they have come directly from a particular country when, as it has turned out in other cases, they are not coming from that country but from a third country. Such matters threaten to throw the whole immigration regime into some confusion, to put it mildly. How urgent this matter is in the mind of the honourable senator or in the minds of the members of the government is a matter we can debate at the appropriate time. The government is not in any doubt as to the need to act quickly and firmly on this matter.

Senator Grafstein: Honourable senators, I still have a problem with the leader's answer. Is he saying that it is the intent of the Lang-Cloutier agreement, the subsequent Andras-

Bienvenue agreement and the Cullen-Couture agreement with respect to immigration that, for instance, the Government of Quebec should not have prior notice with respect to the entry of immigrants into that province? I do not follow the leader's reasoning that this is not a matter for the provinces.

Senator Murray: Honourable senators, my honourable friend's several questions point up the need to discuss this matter in a more comprehensive way in the appropriate committee or, indeed, here in the chamber during debate on the bill. My friend is mixing up the situation with regard to immigrants and the situation with regard to refugees. My statement with regard to refugees is that in accordance with the law and in accordance with the agreements that we have, as it happens, with Quebec and the other provinces, it is the federal government that has the exclusive right to decide on refugee claimants in Canada, and that is what we are dealing with in Bill C-84.

• (1420)

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. Joyce Fairbairn: Honourable senators, I have a question for the Leader of the Government in the Senate. The Minister of Agriculture has indicated his approval in principle of a proposal for a $3 billion deficiency payment for this year's crop. I am wondering if the Leader of the Government in the Senate could give us an indication—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sorry; a payment of how much?

Senator Fairbairn: A payment of $3 billion. Can the Leader of the Government in the Senate indicate to us when we might expect a final decision on this matter, rather than a statement of principle from the minister or from himself?

Senator Murray: Honourable senators, I must confess that I am unaware of the basis on which my honourable friend attributes that statement to the Minister of Agriculture. I have no doubt that she has some basis for the question, but I am not aware of the statement and would have to consult with Mr. Wise on it.

Senator Fairbairn: Honourable senators, indeed the basis for the statement is some comments that were made by the minister when meeting with farm leaders in Winnipeg yesterday. I would be glad to send the report of that meeting to the Leader of the Government in the Senate.

Also, I would ask the Leader of the Government in the Senate, on behalf of those of us from western Canada, if he would support a generous deficiency payment of this nature when that matter comes before cabinet, since this matter is of absolutely vital importance to the farmers of western Canada.

Senator Murray: The honourable senator knows better than to ask me to commit myself to advocate or support a particular formula for assistance to farmers when the cabinet is studying—as I am sure it will—various options. Again, I have not seen the statement attributed to my colleague, Mr. Wise, in which Senator Fairbairn quotes him as committing the government to a $3 billion payment. I think I would want to discuss that matter with Mr. Wise before replying further.

Hon. H.A. Olson: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. In order that the public at large and the farmers in particular may know, I wonder whether the Leader of the Government in the Senate would advise us whether or not a deficiency program is under active consideration now by the government.

Senator Murray: Honourable senators, in view of the statements that have been attributed today to my colleague, I think I should take that question as notice.

Senator Olson: Honourable senators, the Leader of the Government in the Senate can again take that question as notice, as he has been doing for the last four or five months, while the patient starves to death. The farmers would like to know whether this government intends to institute a program similar to last year's program. I am not asking about the amount, since it seems to disturb the Leader of the Government in the Senate whether the amount is $1 billion or $3 billion. However, he will recall, I am sure, that the provincial premiers had a meeting in Humboldt, Saskatchewan, earlier this year, where, after consideration, they announced that the absolute minimum payment would be $1.6 billion, simply because the price of grain had deteriorated by at least that much since the 1986 crop year. I am now asking the Leader of the Government in the Senate whether or not the government is actively considering a program of this nature, the details of which, of course, can be announced when they are ready.

I might also tell the minister that the Province of Alberta has, in fact, restored the assistance that they provided in 1986 under the Crop Insurance Program. I will not go into the details of that, but it simply means that they have restored the level of the Crop Insurance Program for 1987, as they did in 1986 and 1985. Will the federal government have a program for the 1987 crop? Is it under active consideration? Surely the minister will realize that it is time the farmers were given some indication of whether or not this government is going to have a program.

Senator Murray: Honourable senators, the farmers will be given a timely indication of what the policy of the government is in this regard.

Senator Olson: Then the obvious question is: What does "timely" mean? The minister is probably not aware—and I would be very happy to help him understand—that we have now arrived at the harvest season of the crop and the price has not changed. In fact, on August 1 it went down a further 18 per cent. It was low enough before, but the government reduced the price by a further 18 per cent on August 1, and as much as 27 per cent on barley on the initial payments, which is the only floor price in existence.

Therefore, could we have some indication of what he means by "timely?" When can the farmers expect to know whether or not they are going to have this kind of program?

Senator Murray: Honourable senators, my friend cannot expect me to go beyond the statements that have already been made by Mr. Mayer and Mr. Wise on this matter. The Prime Minister has met with the farm leaders and the ministers have met with the farm leaders and with their provincial counterparts. When we are ready to announce a program in this respect, it will be announced. Meanwhile, I certainly intend to verify the remarks that have been attributed to Mr. Wise by the newspapers and by our colleague, Senator Fairbairn.

ANSWERS TO ORDER PAPER QUESTIONS

CANADA DAY

PROVINCIAL/TERRITORIAL COMMITTEES—NOMINATION OF PRESIDENTS AND VICE-PRESIDENTS

Question No. 20 on the Order Paper—**By Hon. Jack Marshall**

26th May, 1987—With reference to News Release S-04/87-130 from the Office of the Secretary of State naming Canadians to serve as Presidents and Vice-presidents of the 1987 Canada Day Provincial/Territorial Committees, what are the names of those Canadians or organizations who are asked to submit nominees?

Reply by the Secretary of State of Canada:

Given that the Canada Day program operates on a decentralized model, emphasis is placed on the decision-making process being exercised at a regional level. The intent is to strengthen the role of the regions in the three key stages of development—planning, celebration and evaluation.

From region to region, the concerns and needs vary with regard to the planning and actual delivery of Canada Day events. Therefore, the position of president must reflect this reality and be able to draw on the strengths of the many communities within the province or territory. In this regard, the regional directors of the Department of the Secretary of State, who have daily contact with these client groups, are actively consulted and their views sought as to those individuals who could provide such leadership. In many instances, the presidents were reappointed, having served in the position in previous years.

In appointing vice-presidents, both the regional directors and the presidents were consulted. Once again, a key consideration is the strengths that he or she can bring to the committee with regard to encouraging as broad a base as possible for involvement from all groups and regions of the province or territory.

POST-SECONDARY EDUCATION

BREAKDOWN OF FUNDING AND MONITORING OF DISTRIBUTION

Question No. 21 on the Order Paper—**By Hon. Jack Marshall**

26th May, 1987—1. What is the breakdown of funding for post-secondary education of $93.7 million by federal district in the Province of Newfoundland?

2. If the allocation of funding is directed to provincial governments, under what arrangement is monitoring of distribution of funds made to insure equality?

Reply by the Secretary of State of Canada:

1. Federal support is provided on the basis of clear respect for provincial jurisdiction in the area of post-secondary education. The Government of Canada recognizes the constitutional right of provincial governments to determine how educational institutions within their boundaries are operated and financed. Accordingly, Established Programs Financing transfers to each province in respect of post-secondary education are provided as part of a block contribution which is allocated by the provincial governments according to their own priorities. The following table provides a breakdown of the funding for post-secondary education provided to the Province of Newfoundland in the form of cash payments and tax transfers during the last four fiscal years:

(millions of dollars)	*1983-84*	*1984-85*	*1985-86*	*1986-87*
Cash 56.1	59.7	60.6		60.2
Tax 37.6	40.6	42.9		47.1
TOTAL				
93.7	100.3	103.5		107.3

2. In accordance with the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977, the Secretary of State must present before each House of Parliament not later than the fifth sitting day of that House following the end of each fiscal year a report for the previous fiscal year. The Minister must report on: (1) cash contributions and total equalized tax transfers in respect of the post-secondary education financing program applicable to each province; (2) expenditures by each province on post-secondary education; (3) any other federal programs of support to or involvement in post-secondary education; (4) the relationship between such federal contributions, transfers and programs and Canada's educational and economic goals; and (5) the results of any consultations by or on behalf of the Secretary of State with the Council of Ministers of Education, Canada relating to the definition of national purposes to be served by post-secondary education and the means by which the governments of Canada and the provinces will achieve those purposes. The 1985-86 report on Federal and Provincial Support to Post-Secondary Education in Canada was tabled in Parliament on February 6, 1987.

BUSINESS OF THE SENATE

Hon. Orville H. Phillips: Honourable senators, may I request that Bill C-85 be dealt with as the first order of business?

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that we deal with Bill C-85 now?

Hon. Senators: Agreed.

MAINTENANCE OF RAILWAY OPERATIONS BILL, 1987

SECOND READING

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations) moved the second reading of Bill C-85, to provide for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees.

[*Translation*]

He said: Honourable Senators, first, on behalf of the government, I wish to thank you for having accepted this unexpected recall so readily. I also want to beg your forgiveness for this fast recall.

As you may know, the negotiations between the parties involved broke off definitely only yesterday morning.

I therefore ask your indulgence in the knowledge that you will support the bill introduced by the government to put an end to this labour conflict.

[*English*]

Honourable senators, this bill is in four parts, which reflects the fact that there are four labour disputes between the national railways and their unions that have now reached a critical stage. One of those disputes has culminated, as honourable senators know, in a national rail strike.

● (1430)

This bill, on the day after it receives Royal Assent, will end that strike. It will extend the previous collective agreement which expired on December 31, 1986. It will provide arbitration of the collective bargaining dispute by an arbitrator, who will bring in recommendations on the outstanding matters within 60 days, recommendations which will be incorporated into the previous collective agreement with the amended agreement taking effect January 1, 1987.

This bill also contains provisions to settle the other three disputes, if necessary. Those provisions are the same as those which apply to the strikers—in other words, by arbitration. Those parts of the bill dealing with those three disputes will come into force not on the day after Royal Assent but following proclamation.

The four disputes comprise the main Associated Railway Union group, representing some 48,000 railway workers in nine separate unions and negotiating jointly with CN and CP. This is the group that is now on strike. Then there are two smaller groups of railway shopcraft employees represented by member unions of the Canadian Council of Railway Shopcraft unions, which is negotiating separately with each of the two companies. Finally, the Brotherhood of Locomotive Engineers is negotiating separately on behalf of its members employed by CN.

The Associated Railway Union group declared a strike at midnight, Sunday, August 23. This strike, as honourable senators are aware, has paralyzed rail transportation and placed key sectors of the Canadian economy in jeopardy. It is the conclusion of the government that, notwithstanding every effort and every assistance provided to the parties to encourage them to lead them to reach an agreement on their own, no reasonable prospect exists for a negotiated settlement to this current work stoppage. So the government had no alternative but to introduce this bill.

In the case of the shopcraft unions, the members of those unions have now acquired strike rights, although they have not exercised those rights. Their members are now subject to lay-off as a result of the shutdown of railway operations. With regard to the dispute involving the International Brotherhood of Locomotive Engineers, those parties will acquire strike and lock-out rights at midnight, August 31.

Honourable senators, let me briefly take you through a chronology of the events that have led to the strike with which we are dealing immediately. The previous collective agreement, as I indicated, expired on December 31, 1986. Following notices of dispute filed by the parties in January of this year, a conciliation officer was appointed. He endeavoured to assist in the resolution of the dispute, but no settlement was achieved. Then on March 4, Mr. Douglas C. Stanley of Fredericton and Ottawa was appointed as a conciliation commissioner. In the ensuing months Mr. Stanley did his best to conciliate the differences between the parties, again without success. On August 10 Mr. Stanley's report was released. It was definitive with respect to wages, rejecting the positions of both parties and, instead, recommending a monetary settlement that had been already agreed to in other segments of the railway industry, in VIA Rail and the Ontario Northland Railway. In other areas, notably contracting out and employee security, the commissioner was less definitive, but he still suggested some constructive avenues for pursuing the compromises and trade-offs that would be necessary to reach an agreement.

The initial reactions of the parties to Commissioner Stanley's report were somewhat encouraging. In fact, on August 13 the parties made a joint request for mediation assistance. On the very next day the minister, Mr. Cadieux, appointed Mr. M.K. Carson as mediator, pursuant to section 195 of the Canada Labour Code. Mr. Carson, as many honourable senators know, is an experienced mediator, especially in the railway field, and is a former railway employee himself. He commenced mediation meetings in Montreal on Monday, August 17, and worked constantly with the parties throughout that week. I am informed that some significant progress was made in the early part of the week, but that it became clear to him on Saturday, August 22, that a settlement could not be reached before the strike deadline that had been set by the

unions for midnight, August 23. So Mr. Carson regrettably adjourned the mediation meetings.

Then on Monday of this week, in the face of the present strike, the parties were summoned to Ottawa for one final attempt at mediation. Mr. Carson's services were made available to the parties. In addition to that, the Associate Deputy Minister of Labour, Mr. Bill Kelly, joined the meetings. Mr. Kelly led this week's meetings in characteristic fashion, keeping the railway and the union negotiators hard at work through Tuesday night and well into Wednesday evening. I am informed that no reasonable avenue for settlement was left unexplored during the intensive and exhaustive mediation sessions. In spite of the urgency, the parties did not take advantage of that final opportunity to settle their differences and end the dispute.

I may say that in the case of the three other disputes, for which we are providing an imposed settlement, if necessary, there is also a history of eight months of attempts to conciliate. Unfortunately, these efforts have not yet succeeded in achieving settlements. We do not wish to remove from the parties in these other three disputes the prospect, even at this late hour, of freely negotiating their own settlements, but the government and Parliament cannot ignore the potential for further disruption of the nation's rail services and of the nation's economy, which these disputes represent. Hence, if necessary, the provisions in this bill will deal with these three disputes, as the provisions of the bill deal with the strike that is under way, by having proclaimed at an appropriate time the three relevant sections of the bill.

Let me take just a moment to summarize the provisions of the bill. Initially, the bill provides that each affected railway company shall forthwith resume operations of its railway and subsidiary services; every employee shall forthwith resume his or her duties when so required; each affected union and officer or representative of those unions shall forthwith give notice to their members to facilitate the required resumption of railway operations and of employment duties; no railway company or any of its officers or representatives shall impede an employee from resuming employment duties when required or in any way discipline any employee for having been on strike prior to the coming into force of this legislation. These provisions are designed to fulfill the main purpose of the bill, to restore the rail service operations that are of key importance to our economy.

Beyond the resumption of rail operations, the bill, as I have indicated, provides for the extension of each relevant collective agreement and for the settlement of the collective bargaining disputes by arbitration. Initially, each collective agreement will be extended for two years, that is, to December 31, 1988, with the provision that this term could be extended at the discretion of the arbitrator for a period of up to one additional year.

● (1440)

The arbitrator, as I have indicated, will be required to decide all matters referred within 60 days, although there is discretion vested in the minister to extend this period, if necessary. The report of the arbitrator shall be prepared in a form that will enable its incorporation into the appropriate collective agreements and, as I have said, the amended agreement will be deemed to have effect as of January 1, 1987.

Honourable senators, I am sure I need not take your time to discuss at any length the importance of the railways to our national economy or the terribly disruptive effect that a rail strike has on our economy. Suffice it to say that in this country some 40 per cent of all freight tonnage moved is accounted for by the railways. More importantly, the producers of some commodities are virtually tied to rail transportation in order to move their products to markets economically. Western grain farmers are the obvious example of this. The producers of other bulk products in western Canada and in other regions are also seriously affected by a disruption of rail traffic. Manufacturers, exporters, importers and just about every sector of the economy are in some significant way harmed by a cessation of rail services.

Increasingly, commuters in our large urban centres have come to rely on rail passenger services to take them to and from their places of work. The situation in this respect is very serious, especially in Montreal and Toronto.

In addition to the direct impact of the halting of rail services, there is also the immeasurable harm done by the so-called ripple effect of a rail strike. Industries which cannot obtain parts or which cannot ship their goods are required to shut down production and lay off employees. This ripple effect is probably the most insidious and the most damaging to the overall economy. The longer a rail strike lasts, the more far-reaching the impact on Canadians throughout the country.

VIA Rail employees, who have already reached an agreement and renewed their collective agreements without any work stoppage, have already been subject to layoffs. Seafarers on the Great Lakes system and in our coastal waters could be among the next groups to feel the effect. Then there are longshoremen and other port workers. It may take somewhat longer for the impact to be felt in other areas of trade and commerce, but we all know that if a work stoppage is allowed to continue, the effect will inevitably spread throughout the production and distribution chain.

Interfering with the collective bargaining process is a very unpleasant duty that parliamentarians are sometimes called upon to perform. None of us likes it. All of us who are proud of Canada's record in labour management relations, including a pretty good record on the railways, regret the necessity to have to take this kind of action. Indeed, this is only the fourth time in 37 years that Parliament has been asked to terminate a railway work stoppage. Parliament—in those cases in the past, as in the present case—is called upon to act only after the parties to the dispute have been given every opportunity and every assistance to settle the dispute by themselves. Parliament—in those cases in the past, as in the present case—is called upon to act only when it is obvious that a continuation of the dispute would be at the expense of the national interest. That is what is at stake here.

Our colleagues in the House of Commons have acted expeditiously on this bill. It is because I am convinced of the urgency of the matter and of the reasonableness of the government's position with this bill that I appeal with some confidence to the Senate to do likewise, and I commend this bill to your support this afternoon.

I may say, honourable senators, that my colleague, the Minister of Labour, is on call—indeed, is in or near the gallery, and is prepared to come into the chamber at the invitation of honourable senators, if it is their wish to have this matter referred to Committee of the Whole this afternoon.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, at the outset I will comment on Senator Murray's appreciation for our attendance, as I think he put it. I think we all know that there has been some doubt whether the House of Commons ought to have been called back some weeks or so ago with reference to Bill C-84, and whether there were other reasons for calling the House of Commons back. There can certainly be no complaint about Parliament being called back for the purpose of dealing with the emergency that is the subject matter of Bill C-85. Historically, this is exactly the kind of situation in which government finds it must recall Parliament.

As Senator Murray has pointed out, what we have—and I need only touch on it, because I am sure it is evident to all of us—is a clash of two important principles. That is what we are here to deal with. We have all heard the expression, "Two wrongs don't make a right," and, of course, two rights do not make a wrong. But two rights do create problems for legislators, and there are two rights in play here. One is the right of the public to the service of the railroads, and Senator Murray, in some eloquent detail, outlined the many effects of a rail strike. Probably no one person can imagine all the effects that a rail strike has. On the other hand, we have in our country a very important principle, and that is the right to settle industrial disputes by collective bargaining.

The last time these two principles were before legislators was in 1973. Exactly the same problems existed then. On August 31, 1973—almost exactly 14 years ago—the Senate was asked to pass emergency legislation to legislate railroad employees back to work. That was under a Liberal government at the time. From the research I have done I am bound to say that the Conservative opposition in the Senate was most cooperative then, as we Liberals intend to be now.

Another problem, other than the clashing of these two principles, relates to the question of time. Because there is emergency in these cases, the government always asks for fast action. The Liberal government did so in its time and the Conservative government is doing so today. If we have to decide that, on the balance of these two competing principles, the one that must yield is the right to continue collective bargaining, the additional problem that leaves us with is to decide how we, as responsible legislators, can give the workers some assurance that, in sacrificing the principle of continued collective bargaining, we are not excessively interfering with their position. As a matter of fact, that very point was raised on August 31, 1973, when a member of the Conservative opposition in the Senate said:

● (1450)

> We are here, of course, because it is urgent for us to legislate an end to this strike, which is seriously damaging the economy and causing significant personal hardship to a great number of Canadians.
>
> This problem should have been dealt with by the government many, many weeks ago. The situation we are now faced with is not new. We knew it was coming . . . We knew that there was not one chance in a thousand that this dispute between the railway employees and the companies would be settled in the ordinary process of conciliation and mediation. But the government waited and was telling everybody, "We will not interfere; we respect the right to strike. We do not want to do anything about it."
>
> The government was not being sincere. I am convinced the government knew then that it would have to intervene at some time or another.

Honourable senators, that was the criticism that the Conservative opposition in the Senate had of the government of the day in 1973.

Senator Murray: That was before my time.

Senator Frith: I wasn't here either, so I don't know whether that criticism was justified. Since it was a criticism of a Liberal government, the chances are it was not. Senator Flynn, however, was here, and that is what he had to say at the time. He spoke with his usual prescience and his words might very well be applicable here today in criticism of his own government.

Senator Flynn: The minister has always said that he would intervene—that is quite different.

Senator Frith: Senator Flynn went on to say:

> We are going to vote for this bill, of course, because we want to end the strike. But how do we know, how can we know, that the conditions under which we are asking the employees to go back are fair? We are just shooting in the dark.

Senator Flynn: That's right.

Senator Frith: The problem underlined by Senator Flynn is the problem that always faces us at a time like this—the dilemma that arises when we have to act quickly because we are facing an emergency, yet we need to know that we have examined the matter carefully enough to ensure that we act with a minimum of damage to the workers.

Honourable senators, there is one other aspect to the problems facing us which is different from the situation in 1973. It is rather ironic that Bills C-18 and C-19 will probably receive Royal Assent today, because those are the two deregulation bills. We know that if we are to take the union's word for it,

deregulation is a factor in this strike. Yesterday in the House of Commons the Minister of Transport said that deregulation had nothing to do with this strike. As I recall his words, he said that it had as much to do with this strike as the member from Papineau has to do with the moon. I am not quite clear what particular literary or other reference might be drawn from the relationship between the member from Papineau and the moon, but I am sure the Minister of Transport meant to say that there was very little relationship between them.

Senator Flynn: Well, he has a moon face.

Senator Frith: So does the Minister of Transport, for that matter.

The minister later modified that statement, indicating that he was not prepared to say that deregulation had nothing to do with this legislation but that it was not the sole factor in the strike. If we are to believe the unions, honourable senators, the deregulation program of the government has a great deal to do with this strike. Is that, therefore, an argument against deregulation? I am not advancing at this point any such argument, because those arguments were advanced when we dealt with Bills C-18 and C-19. But I think it would be fair to the unions, honourable senators, if the government were to accept criticism, which was put forward in the consistent and persistent suggestions that were made during the legislative history of Bill C-18 and Bill C-19 suggesting that the government bring in some worker adjustment policies to assist those being harmed by deregulation. Thousands of jobs are at stake here, and the government denies any connection between the absence of worker adjustment policies in its programs, the strike and the unfortunate need for this legislation, which interferes with the collective bargaining process.

Honourable senators, I know that some of my colleagues will have other things to say. Our principal concern is that we are having to interfere with collective bargaining when we wish we did not have to. We are disappointed in other aspects of government policies that may have contributed to the unfortunate need for legislative interference. In particular, however, I repeat that there is a big role played in all of this by the deregulation program, particularly the absence of adjusting programs between the effective date of the deregulation program, which is the first of next year, and the full implementation of it.

I will have some questions for the minister, honourable senators. Regretfully, and with no pleasure at all—except for that to be taken in solving a serious problem, I intend to support this bill.

Hon. Charles Turner: Honourable senators, let me first say that I will vote against Bill C-85. On August 4, 1941, I hired on as a CNR fireman. For ten years I shovelled coal, and I am proud of the fact that a blue collar worker is sitting in the Senate of Canada, the greatest house in the world.

Hon. Senators: Hear, hear!

Senator Turner: For ten years I shovelled coal and ran automatic stokers, yard engines and passenger trains running between Toronto, Niagara Falls, Sarnia, Owen Sound, Belleville and all points in between. In those days we worked seven days a week. As Senator Sinclair knows, during the war we worked 30 and 31 days a month. If you got your 3,800 miles in and you wanted the day off, the boss would tell you to go to work or sign your resignation form.

Senator Frith: Shame!

Senator Turner: So we worked. I worked 30 and 31 days a month. We had no holidays, because in those days there were no holidays. We had to take a strike vote, as Senator Sinclair knows, to get one week's holidays. The old-timers on the railroad I fired for didn't know what to do with the holidays once they got them.

Honourable senators, I just arrived in town at 3.30 this morning and have not had time to read this bill. But I did receive a couple of calls this morning from the picket line in London, Ontario. The boys there are good, law-abiding citizens. As the late Donald Gordon used to day, "When there is trouble in London, Ontario, there is something wrong, because those boys and ladies are law-abiding citizens."

I have never been on a picket line as far as running trains is concerned, but in 1959-60 Senator Sinclair and I were on opposite sides of the fireman dismissal issue. However, Senator Sinclair suggested, and it was put into the bill, that no employee would lose his job. He had a heart, because he knew that the firemen who would be laid off would lose their homes, would have to leave their wives and families, and possibly many would never get another job because of their age. Senator Sinclair took care of the employees.

• (1500)

Some Hon. Senators: Hear, hear!

Senator Turner: Senator Sinclair was tough—

Senator Leblanc: He still is.

Senator Turner: —but he was fair. This bill is not fair to the workers of the CNR, the CPR and the smaller railroads. That is one of the reasons why I oppose it.

This morning I was asked why the caboose issue was on the table during these negotiations. As you all know, the railways want to run trains without cabooses. The Canadian Transport Commission has held hearings across this country on the matter. Those hearings have been completed, and it is now writing its report. I ask Senator Murray why this issue is on the collective bargaining table. That is question No. 1.

Question No. 2 is: Why was Bill Kelly, who was the highly respected former union leader of the Canadian Trainmens' Association and who is now an Associate Deputy Minister to the Minister of Labour, not put into this dispute at least two or three months before the issue came to a head? Once the boss gets mad and once the union leaders get mad, it creates too much heat out in the country. By that point, and once the employees get thinking about the issue, it is pretty hard to control them.

There are rumours in south-western Ontario that this bill will take effect in 48 hours. If that is true, why the delay? There are other rumours that say that the bill would take

effect in 12 hours. In a strike in which I was involved we went to work at midnight, soon after the legislation received Royal Assent.

This bill gives the employer the right to recall workers. Say that a department in London, or for that matter in any city, has 20 employees out on strike; once the bill is given Royal Assent and the strike is over, the companies will begin to recall workers. Suppose the company decides to recall only ten workers. What will happen to the other ten workers? They are not laid off. What will happen to them? Can they collect unemployment insurance? These questions have never been answered.

Another question is: Why are there no guidelines for the arbitrator? Any similar bill introduced by the former government covered the issues that could not be settled by negotiation so that they could be put before the arbitrator. In 1949 both railways struck, and the big issue was the 40-hour work week. What happened? The Prime Minister of the day put the 40-hour work week issue in the bill. It was the irritant, and he took it out of the negotiations and what was left went to the negotiator. Does that not make sense? At the time the railways said that they could not survive, that they would go broke. It is almost 30 years later, and both railroads—in fact, all railroads—are still operating. Why are there no blanket guidelines for the arbitrator? This is another issue which the boys back home would like to know something about, because usually such legislation includes guidelines for the arbitrator. We want them in this bill.

This matter has been going for some time. In September 1986 the unions submitted their demands to the companies. It is almost September 1987. Why has it taken almost one year to settle this dispute? Even at that, it had to go before the House of Commons and is now before the Senate of Canada. Where are the negotiating policies of this government with regard to the railway unions?

Railways will call up an employee and say, "We have to cut you off." That is the term used when they lay off an employee. If that employee were in the Toronto-Belleville-Windsor region, he could bump another employee at another terminal. That employee would have to leave his wife and family—and perhaps his kids are in university—and go from, for example, Belleville to Windsor to work. He has to pay room and board, which comes out of his pay—and let us not forget that the pay is not what you make but is what you take home that pays the bills. After about six or seven months, the employee is called into the office and told, "Sorry, you have to go to Toronto." What does he do with his wife and family? Expenses are high in Toronto. If he sells his house in Belleville and moves to Toronto, he cannot afford the payments on a house there. Rent in Toronto for a two-bedroom is about $1,000 a month. We in this chamber do all right. I look around and I see many distinguished gentlemen with distinguished business careers. I am sure that they would not like to try to live on $25,000 in Toronto. It just cannot be done. There are millions of people, including railway workers, who are trying to survive on a few dollars per year, and it cannot be done. All the employees in

[Senator Turner.]

the CNR, the CPR and the other railways in Canada are asking for a just and fair deal. This bill does not give them that deal.

The railroad companies are dragging this issue on because they have no desire to settle the dispute that has been on the collective bargaining table for one year. Railroad employees are law abiding citizens, but they can only take so much. I say to Senator Murray and the Conservative Party: You had better make up your mind to amend this bill; otherwise you will not survive the next election.

Hon. H.A. Olson: Honourable senators, I would like to intervene briefly in this debate. The consequences of a railway strike and shut down of the railways are particularly disastrous in western Canada because of the bulk commodities that are moved by rail, and can only be moved economically by rail, such as grain, which is a well known story. However, grain is not the only commodity. There are coal, sulfur and lumber, and many other resource industries also depend on the railways to move their products. Of course, these industries are shut down immediately, or almost immediately, when the railways go down. I agree with those who spoke earlier that intervening in any labour dispute in the way Parliament is called upon from time to time to do is not a pleasant business. The conflicts that Senator Frith mentioned are certainly valid and trouble me as much as they do any other member of this chamber.

• (1510)

I would also like to point out that in some sectors of the economy as soon as the railways go back to work the crisis is over and further damage is at least avoided. However, that is not true in the case of a number of commodities. For example, in the grain trade, when there is such a tight and difficult world market for grain, the sales that are lost now will have consequences for a long time into the future. They will affect farmers' incomes for a year and perhaps longer, because we know that there is competition going on at the moment between the United States and the European Economic Community to gain a larger share of the world market. In fact, already some sales have been lost in certain areas, although I suppose an accurate accounting cannot yet be done.

For example, in several other commodities, such as dehydrated hay, which has become a very important export crop in many parts of my province, suppliers have lost significant amounts of money and there is no way of getting that market back. Supplies of those commodities must be available for steady customers every single day; and if those shipments are interrupted, the customers find some alternative source of supply.

In any event, I think most senators are aware of the long list of damages that can be done. Therefore, I want to say that I intend to support the bill in order to have the service restored, though I do have some of the same reservations as were expressed by Senator Turner a few minutes ago. For example, there are no guidelines in this bill for the arbitrators. I can remember that on at least two or three occasions in the other chamber when the restoration of railway service was contained

in a bill and brought before that house, the bill was rejected until the government accepted an amendment that included some guidelines as to what the consequences of the arbitration would be. I see Senator Flynn wrinkling his brow as though that were not so, but I say to him that he is not remembering what happened.

Senator Turner: He has a short memory.

Senator Olson: I know that in one case a bill was brought in by the then Liberal government. I was not in the Liberal Party at that time—

Senator Flynn: It has changed a lot.

Senator Olson: Yes, it has changed a lot, but the principle involved in back-to-work legislation has not changed, and Senator Turner pointed that out very well. The problem is that this bill restores the previous agreement for a minimum of two years, and perhaps up to three years. However, if the railways can be the beneficiaries of a delay, that is not fair to the workers, and Senator Turner pointed that out very clearly.

I can remember on one occasion in the past that a bill was brought in which did not even guarantee to the workers that they would receive what the railways had offered. Therefore, it was in the interests of the railways to restore or extend the previous agreement for whatever term, and every day they made hundreds of thousands of dollars. In my opinion, that is not fair, and unfortunately that is the way this bill is also constructed.

Senator Flynn: No!

Senator Olson: It is the way in which this bill is constructed. Senator Flynn can say no, but, although I have not had any longer than anyone else here in this chamber to look carefully at this bill, I am sure that there are no guidelines to the arbitrator in this bill. It says he can do a lot of things, but it does not tell him that there is a minimum of improvements that must be taken into account.

Honourable senators, I will now get back to the point I was making a few minutes ago, and that is that there was a minority government in the House of Commons at the time I was previously speaking of, and the Liberal government could not get the bill passed without the support of some of the members of the opposition. Honourable senators, I am happy to say I was one of those members who supported the government after it proposed the amendment that made the legislation at least reasonably acceptable to the workers who had gone on strike.

Senator Frith: It is a minority government here in the Senate.

Senator Olson: Yes, I understand that, but I am not quite sure I can draw the same parallel.

Senator Flynn: It is not a government at all.

Senator Frith: Good. I hoped you would say that.

Senator Olson: Honourable senators, I say quite frankly to the Leader of the Government in the Senate that it is clearly a cop-out for the government to come back with a bill and say, "We are ordering everybody back to work," without any undertakings as to what the consequences will be for the arbitrator to consider both sides of the argument. As I have said, I think the government could have been a little more forthcoming with some ideas of what is "reasonable" and "fair" and put those definitions in the bill so that the workers would know what those expressions meant. I know that there are all sorts of nice words in the bill, but it does not say that the workers are to have a 4 per cent increase or a 1.5 per cent increase; it does not say anything about job security.

Senator Flynn: Are you suggesting that the arbitrator might decide to give the workers less than the minimum that was agreed to during the negotiations? Do you think anyone would be that crazy?

Senator Olson: No. Senator Flynn is the only one who is crazy. He is talking about some agreement that was reached during the negotiations. The reason this bill is before us today is because nothing was agreed to during the negotiations.

Senator Flynn: No doubt some offers were made on both sides.

Senator Olson: I understand all that, but I also understand that we expect competent people to be put in charge of the arbitration process. However, there is no assurance given to the workers that, by passing this bill, that will happen. In other words, they must take it as an act of faith that the government will appoint good competent people to do this job. However, no assurance is given, and I think that the workers have a right to expect that the government will put in some guidelines that will guarantee them the minimum improvement, however it might be based.

However, I do not want to have this argument with Senator Flynn, because he has changed course 180 degrees since the last time we debated this kind of bill.

Senator Turner: So what's new?

Senator Olson: I think Senator Flynn pointed out very precisely where he used to stand, and his stand today is 180 degrees different.

Senator Flynn: I still stand where I used to stand.

Senator Olson: You may stand where you used to stand, but now you are looking in the opposite direction. In any event, honourable senators, I did not enter into this debate in order to have an argument with Senator Flynn. The last time we went through this exercise Senator Flynn's advice was not worth very much and probably is not worth very much today. I say to the government that I think that workers have the right to expect that guidelines will be provided in the legislation so that they can take comfort in knowing that there will be a minimum guaranteed to them. That is simply not there in this bill.

● (1520)

Senator Flynn: The minimum would become the maximum. You know that very well.

Senator Olson: No, I do not know that. Honourable senators, I am not going to continue this debate with Senator Flynn.

Senator Flynn: You might as well.

Senator Olson: I think that there are some very serious weaknesses in this bill. There are things that have been left out by a government that ought to have taken the time and effort to construct the bill so that both sides in the dispute could take some comfort from the fact that they were provided for in the legislation. The legislation provides that they be ordered back to work, that the strike be declared terminated and invalid. There should be something in there, and it just simply is not there. That is an indication of some weaknesses and incompetence by the government that put this bill together.

The Hon. the Speaker *pro tempore:* I wish to inform the Senate that if the Honourable Senator Murray speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Murray: Honourable senators, for the record, let me state that since 1950 Parliament has enacted emergency labour legislation on 18 occasions. On all but three occasions Parliament has extended the life of the previous collective agreement either for a specified period or until the dispute settlement mechanisms that had been put in place had produced a report.

I make that point simply to underline the fact that the legislation that is before honourable senators now is perfectly consistent with the legislation that has been passed by Parliament on most previous occasions. I have said that on all but three occasions Parliament has extended the life of the previous collective agreement.

Let me also state that the dispute that we are dealing with today—I referred to this earlier—has gone from negotiation to very intensive conciliation efforts, and to mediation assistance requested by both parties as recently as two weeks ago. There can be no justifiable criticism of the government for acting too late or for sending in its top relief pitcher too late in the game. The parties themselves were asking for mediation assistance as recently as a week or two ago, and that was done.

It has happened in the past on four occasions, I believe, that Parliament has passed legislation that imposed some kind of monetary settlement. I wonder whether that is what my honourable friends opposite are suggesting today. I am not sure that it is appropriate in a dispute of this kind, where there appear to be quite a number of matters still in dispute, for the cabinet and then Parliament to busy themselves with the details of the settlement. I think that what is being suggested by Senator Turner, and perhaps by Senator Olson, is that we, as a government and as a Parliament, should immerse ourselves in the process so deeply as to substitute our judgment for the judgment that might be made later by an arbitrator as to all the items that are in contention. It seems to me that that is not an appropriate role for the government or Parliament and may create a great many more problems than it solves.

Senator Olson: I did not say that. I said there should be some comfort.

Senator Murray: I would like to make this point. I obviously have not been, nor to my knowledge has any member of the cabinet been, in the room where the negotiations took place or where the conciliation efforts under Douglas Stanley took place or where the mediation assistance under Mr. Carson and Mr. Kelly took place. However, we are informed that significant progress was made on various items. If the parties had made such progress that they could have signed off on a great many matters, then I suppose it would have been open to us to provide for arbitration in the few matters that were left. But that was not the case. The parties were not prepared to sign off, even on those matters where it appears some significant progress was made.

We are left with a situation that none of us likes, where Parliament is called upon to interfere, as it were, in the collective bargaining process, once the parties, after all efforts had been made and all assistance had been given, had found it impossible to come to an agreement. We have the option, as I indicated, of immersing ourselves so deeply in the details as to substitute our judgment for the judgment of a mediator that would be appointed or the option of appointing a mediator and asking that mediator to bring in a report within 60 days, which is the case.

With regard to the criticism made by Senator Olson, may I say that this is unfair to either party in the dispute. The fact is that the arbitrator will bring in his report within 60 days. The amended agreement will become effective as of January 1, 1987, the day after the expiration of the previous agreement. So, really, there is no question of either side—certainly not of the company—profiting from some delay in the implementation of, let us say, a wage increase. The arbitrator will be starting his or her duties almost immediately, as soon as the minister can appoint him or her. The arbitrator will not be completely ignorant of or insensitive to the history of the negotiations. He or she will study the matters and will bring in his or her report, which, if history is any guide, will be a report that company, unions and public can all live with and which will have the effect of reinforcing the decision that we make today to resume operations on our railways.

I need only support that part of Senator Olson's speech in which he referred to the very serious effect on our national economy of any disruption of railway services. It is a most serious matter for our economy, especially, as he points out, in the west where producers are already facing problems with grain prices, potash prices and world market conditions generally. They do not need this extra burden to carry.

The government, after exhausting every effort, has acted in a timely fashion and has brought in this legislation. The House of Commons has acted expeditiously. I do ask the Senate to do likewise and to hear immediately from my colleague, the Minister of Labour, in Committee of the Whole, if it be the wish of the Senate that we proceed in that way.

Motion agreed to and bill read second time.

● (1530)

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I move, seconded by the Honourable Senator Phillips, that the bill be committed to a Committee of the Whole.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Murray, seconded by the Honourable Senator Phillips, that this bill be referred to Committee of the Whole.

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

Hon. Senators: Agreed.

Hon. Charles Turner: Honourable senators, I would like to register my opposition to this bill. I would like that recorded.

Senator Flynn: You may say, "On division," and that is all.

The Hon. the Speaker *pro tempore:* That can be mentioned on third reading.

Senator Murray: Honourable senators, with great respect to my honourable friend, Senator Turner, I think his opposition to the legislation has been clearly articulated on two occasions this afternoon. We have had second reading of the bill and we have had passed a motion to refer the bill to a Committee of the Whole.

With leave, I would like to move that the—

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as long as it is understood that Senator Turner will have the opportunity to vote against the bill on third reading.

Senator Roblin: Certainly.

Senator Murray: Absolutely, although I hope and expect that the arguments that will be deployed by the Minister of Labour in Committee of the Whole will succeed in persuading Senator Turner to support the legislation on third reading.

We now find that Senator Sinclair is going to vote against the bill.

Senator Sinclair: No!

Senator Murray: I am pleased to hear that we can count on his support this afternoon!

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Gildas L. Molgat in the Chair.

Senator Murray: Mr. Chairman, with leave, I would like to ask that the Honourable Pierre Cadieux, Minister of Labour, be invited to participate in the deliberations of the Committee of the Whole.

The Chairman: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Murray: I think all members of the committee are acquainted with the Minister of Labour, the Honourable Pierre H. Cadieux.

[*Translation*]

Mr. Chairman, I am pleased to introduce to you Mr. P. H. Cadieux, who has been the member in the House of Commons representing the Vaudreuil riding since 1984, and Minister of Labour since June 1986.

[*English*]

I also believe that members of the committee are well acquainted with his associate deputy minister, Mr. Bill Kelly.

I believe the minister has an opening statement, after which, of course, Mr. Chairman, he will be available to answer questions from honourable senators.

[*Translation*]

The Chairman: Mr. Minister, I wish to welcome you to the Senate and the Committee of the Whole. I think it is your very first visit.

The Hon. Pierre H. Cadieux (Minister of Labour): My second.

The Chairman: Your second. You are, therefore, one of our regulars. You have the floor.

Mr. Cadieux: Thank you, Mr. Chairman.

[*English*]

Mr. Chairman, it may be a little odd for me to give the following comments as an introduction, because they were my final comments in the House of Commons yesterday, after a long study of the bill, but I think they are fairly appropriate, and with your permission I should like to read them. They are as follows:

> —it is never with great joy that as Minister of Labour I introduce in the House back-to-work legislation. Unfortunately, it is the second time that I have had to do this, and I do not find any joy in it.
>
> I still believe that our collective bargaining system is probably one of the best in the world. To attest to this fact, and the fact that the parties usually use it to come to an agreement, last year out of 11,000 collective agreements that were reached and signed in Canada, 94 per cent were reached without one single day of strike or lock-out. Obviously, our system works very well. I am proud of the system that we have which falls under the Canada Labour Code. We are always there to provide the services of conciliation and mediation in order to assist the parties to achieve those agreements.
>
> Unfortunately, in this instance it did not work. Because of the impact upon the public interest, and because of the

stoppage of the most important transportation system in Canada, we indicated that we could not and would not tolerate such a work stoppage. We had to step in. It is never pleasant, but we had to do it. We did it, and hopefully we will not have to do it again.

The Chairman: Thank you, Mr. Cadieux.

Honourable senators, I will introduce the procedures and then we will go into the bill itself.

Honourable senators, the Senate is in Committee of the Whole to consider Bill C-85, for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees.

Shall the title be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1 respecting the short title stand?

Hon. Senators: Agreed.

The Chairman: We are now into the bill.

• (1540)

[*Translation*]

Senator Frith: Thank you, Mr. Chairman. For clarification purposes, Mr. Minister, I should like you to answer first a few questions several of which were raised at second reading.

I noticed that you were present in the gallery. Some aspects of the questions raised during the debate provided your colleague, the Leader of the Government in the Senate, with an opportunity to provide some explanations and answers. I am asking these questions not to take sides, but to give you an opportunity to explain the government's position and especially your own position as the responsible minister. Several of these questions are based on a comparison between the 1973 bill and the one which is now before us.

Wage increases had been included in the 1973 bill. For instance, there were, for non-operating employees, a 34 percent increase effective January 1, 1973, and an increase of 6.5 per cent an hour, effective January 1, 1974, and so on.

Why is there no wage increases provided for in this bill?

Mr. Cadieux: Senator Frith, if you are acquainted with yesterday's debate in the House of the Commons, I think you know that we dealt at length with this issue and especially the circumstances of the strike we are faced with now. We are dealing with a conflict in the same industry as in 1973, and things have naturally evolved somewhat since then. The contentious issues may not necessarily be the same.

Without comparing each such issue we have here a negotiation which has been going on for quite a while and I think that—

Senator Frith: There is no detail.

Mr. Cadieux: I think that all senators who have spoken here today have referred to the efforts made to settle the dispute especially by the parties themselves, of course, but also through the mediation and conciliation services of the Department of Labour.

During the negotiations, there have been proposals made by both sides. There has been the contribution of conciliator and that of a commissioner. There has been also a conciliation report which was extensive enough and specific on certains points but rather vague on certain others, making suggestions on certain points, etc.

However, you must consider as a whole what has been done up to now and perhaps also the uncertainty about what has been agreed by the parties. Unfortunately, although the process has been going on for some time, there is no document to our knowledge that spells out that the parties agreed on such and such a point.

In order to give more flexibility to the arbitrator who will be appointed to settle the conflict, we have deemed it advisable to leave points such as wages and job security to the discretion of the arbitrator, indicating to him, of course, on his appointment that all those factors which are in dispute in this conflict should be taken in consideration, including wages, job security, contracting out, etc.

I think that it was in the interests of the parties and of the bargaining process as such to proceed in that manner.

Senator Frith: I imagine that answer also applies to other similar issues, for instance the job security program for employees who were included in the other legislation. Also, the matter of not changing work rules.

In principle, do you want to grant more flexibility in this bill than in the 1973 one?

Mr. Cadieux: You are right, Senator Frith. If I may, some colleagues put forward very specific amendments stating specific items which they wanted the arbitrator to look into.

The way the legislation is worded, the arbitrator shall look to all matters that are in dispute, including those you just mentioned, and those that were specifically suggested yesterday. In view of the inter-relation between all those items and the negotiating principle of trade-off, it is indeed to enable the arbitrator who will have to look into that specific situation to arrive at a fair settlement on all items by considering them all.

I assured the House of Commons yesterday and I am now assuring the Senate that when I appoint the individual who will be responsible for acting as arbitrator, specific indications will be issued in order that the Commissioner's report be taken into consideration. It includes suggestions and also recent precedents applying in similar industries. It referred yesterday for instance to settlements arrived at without work stoppage in the case of Ontario Northland Railway and VIA Rail.

Senator Frith: The provision in Bill C-85 that deals with the 60-day limit has been raised also during the debate. Your colleague, the government leader in the Senate, gave certain explanations on that provision.

Is there something you can add, because again there is a difference between the two bills, the 1973 one and the one now before us?

Mr. Cadieux: If I may make this comment, you know one always learns over time. That may be one of the reasons why this bill is slightly different. The 60-day time limit is relatively short. Should you care to read the whole clause you would see that, if necessary, the Minister of Labour is empowered to grant an extension.

The reason the 60-day time limit is specified is that, if you look at Canada Labour Code, section 157 or perhaps 173, pertaining to the arbitrator, you will find there is a similar time limit.

I would hope that within 60 days the arbitration might be completed in this case, precisely to limit the additional time this might take after the seven and a half months since the collective agreement has expired.

I think that the question of the time limit was raised in speeches in the House of Commons. I do not recall this point having been specifically mentioned during the proceedings of the Committee of the Whole.

Senator Frith: With respect to the issue of wages, it was noted during second reading debate in the Senate that there is no provision to guarantee that wages will not be reduced.

In response Senator Flynn pointed out that the reason is that we cannot imagine being in a position to cut wages.

Is that the only reason why you did not include this clause in the bill, for you know there is no danger? Is there another reason to eliminate this provision of the other legislation?

Mr. Cadieux: The main reason is the one I gave earlier when referring to job security. I want the arbitrator to have much more leeway so he will be able to examine all contentious issues. Wages are one such issue, as are clauses on job security, contracting out, and so on.

The arbitrator will rule on that. I indicated a few moments ago that I would recommend to the arbitrator that he look closely at precedents, including, among others, the 3 per cent Ontario Northland Railways and Via Rail negotiated settlements.

I believe a wage reduction would be highly unlikely.

Senator Frith: I have noticed that the fines are rather stiff. The maximum is set at $100,000 a day.

Are there reasons to fear some resistance to this legislation? Is this why the fines are so high or is it simply a matter of inflation?

Mr. Cadieux: First, I would like to point out that the fines set in Bill C-85 are identical to those in Bill C-24 passed by Parliament in 1986.

There was a very long debate on this specific issue. I remember Senator Lawson saying to me that, in his opinion, it was the first time in Canada that such fines were included in a bill. I pointed out that, being from Quebec, I was perhaps more familiar with this matter, but that in Quebec, such fines were included in most bills which have to be passed under similar circumstances.

I am not presuming that the parties involved will not comply with the legislation. I think that Senator Turner or Senator Olson, or both of them, said earlier that we are in the presence of law-abiding citizens. I sincerely hope that all the parties involved will comply with the legislation once it has been passed and given Royal Assent.

Senator Frith: You have no information or evidence that we can expect illegal actions or a refusal to comply with the legislation. You have no specific or particular reason to anticipate such a thing.

Mr. Cadieux: You know that we are dealing today with a matter of absolutely vital importance for the Canadian public and our economy. We cannot tolerate a complete stoppage of the most important transportation system in Canada.

I believe that we must take all necessary action to ensure that work will resume after this legislation is passed. I believe that I made the same comments in November 1986 in this place, and I trust that we shall never have to impose such sanctions. However, they are there, and ignorance of the law is no excuse.

On the other hand, I should say that there was an additional clause in Bill C-24 adopted in 1986 which is not contained in this one. This clause referred specifically to prohibition, on conviction of course, from holding a management position either with the employer or with the union for a five-year period. We did not retain that clause in this bill.

Senator Frith: I have one last question, Mr. Chairman. It concerns clause 4 which reads as follows:

> 4.(*b*) Every employee shall, when so required, forthwith resume the duties of that employee's employment with the railway company.

Senator Turner also mentioned this clause. In the phrase "lorsqu'on le leur demande", I think we can assume that "on" means management. There is no reason for using a term to indicate that persons other than the government can require the employee's return to work.

There is another aspect to this question. Could you provide an explanation for the use of the words "lorsqu'on le leur demande", which translates in English as "when so required"?

Mr. Cadieux: Yes, we had a long debate that on that point yesterday. You did not raise it, but since it was raised in debate yesterday, I can repeat it here. Yesterday, the point was raised that in the 1973 bill to which you referred earlier, the terms were not quite the same.

I will say what I said yesterday. It is quite true. However, we do find the same terms in Bill C-24, passed in November 1986.

Senator Frith: And here today.

Mr. Cadieux: Yes, the explanation is that there is a complete work stoppage. I am going to mention a point that was raised by Senator Turner earlier. Clause 39 provides that the legislation shall come into force the day after the day on which this act is assented to, but not before the twelfth hour after the time at which it is assented to. That is because we cannot be sure of the time when Royal Assent is given.

Today is Friday. Let us assume that the bill will be passed in this chamber and that Royal Assent will be given within the next few hours. According to the bill, work should resume tomorrow.

It is almost certain that operations will not fully resume tomorrow, so that the companies are going to recall people as operations resume. That is the reason for the words: "When so required". I assume that within a matter of days, volume will increase and employees will be gradually recalled. This is just to avoid a situation where everyone goes back to work tomorrow when operations would not justify this.

Senator Frith: Maybe Senator Turner would like to ask some more detailed questions about this bill, as he mentioned earlier in his speech. Thank you, Mr. Minister.

● (1550)

[*English*]

Senator Olson: I believe the minister heard my comments at second reading. I want to raise a question now specifically about the concern that I had at that time. Where in Bill C-85 are the workers and the union leaders going to look to find the assurance that Senator Murray tried to give us that there will be something reasonable and fair done? I assume that that will be the case, but is it simply an act of faith on the part of the unions that the arbitrator is going to be fair with them? I heard the minister say that the arbitrator will come to an agreement. Of course, if this is an agreement between the parties, there is no problem; I understand that. But we are writing the law now, and he is going to make some decisions whether the parties come to an agreement or not.

Clause 24 of the bill, which has to do with the extension of collective agreements, sets out that we have agreed to extensions up to two years, and I suppose up to a third year, if there is agreement to do so. There is no question about that. The collective agreement that will be extended is the same as that which expired, unless the arbitrator makes a decision to modify it. But then subclause (2) of clause 24 states:

> The terms and conditions of each collective agreement, as amended by or pursuant to this Part, are effective and binding on the parties thereto for the period for which the agreement is extended by or pursuant to subsection (1)—

which deals with the two-year term,

> ... notwithstanding anything in Part V of the *Canada Labour Code* or in the agreement,

That is a little confusing; but at any rate I do not think it reassures anyone that there will be a provision in this law ensuring fairness—or that there is anything but an act of faith. The workers just have to believe that the government will find somebody who will be fair and who will do things in their interest.

The point I am trying to make is that, except for the extension of the agreement that has expired, there is nothing in this bill to guarantee anything to the workers.

Mr. Cadieux: Senator, as I think we all indicated earlier and as I am sure we would all agree on, the best settlement is the

settlement that the parties can make themselves for themselves at the negotiating table, with or without the help of conciliators, mediators, et cetera. In this particular case the parties had the opportunity to make sure that they got the best conditions possible by coming to an agreement themselves. They failed. They have abdicated their responsibility to come to this particular agreement, and it is now up to the government to solve the deadlock in which these parties find themselves. I do not think it is the role of this government or this house or this Parliament to write the collective agreement. We have the power to pass legislation and to appoint an arbitrator who will take into consideration all of the issues that the parties have been negotiating over which they are unable to reach an agreement. It is hoped that he or she will bring the parties to agreement. I am sure that any arbitrator in such circumstances would endorse it, and I, of course, would encourage the arbitrator to do so. Where there is a deadlock, however, somebody has to take that decision, and that will be the mandate of the arbitrator. I have no reason to doubt that the arbitrator will be fair.

Senator Olson: I have no reason to doubt that he will be fair, and I express a high hope, just as high as that of the minister, that he will be fair. But when the Parliament of Canada passes this bill into law, it will, in fact, make an agreement that is imposed. There has not been an agreement since January 1, 1987, when the previous one expired. Now we are going to bring that agreement back and impose it by law. Many workers are really aggrieved over this issue, aggrieved to the point where they could not come to an agreement with their employers. Where will they get the comfort that there is something in law other than an extension of what they have had?

● (1600)

Mr. Cadieux: I think the law is very specific. It indicates specifically that as of the proclamation of this particular act the collective agreement is extended and will be amended by the conclusions of the arbitrator within a period of 60 days. I believe that this arbitrator will be fair and will take into consideration the suggestions of the two parties since they started the negotiations more than seven and a half months ago; the arbitrator will take into consideration the recent or not so recent precedents, such as the settlements reached with VIA and the Ontario Northland Railway, where the parties reached agreements on increases in wages, just to use that example, and where, with regard to the Ontario Northland Railway, there was a package with respect to job security. I have no reason to believe that the arbitrator will not be fair. I think we have the most appropriate mechanism in the circumstances. It would have been more proper and much easier for everybody, and particularly the system itself, if the parties had agreed between themselves.

Senator Olson: I do not disagree with your final sentence. However, you say that the arbitrator will be fair. I think "fairness" in this case is a matter of perception, depending on which side you approach the argument from. I have not had a chance to read the bill thoroughly, but as I interpret it there is

no provision in it to give any guarantees to the labour unions that they will be treated fairly, or that it is anything more than an act of faith?

Mr. Cadieux: I have read this bill very carefully.

Senator Olson: Of course you have.

Mr. Cadieux: I have come to the conclusion that the bill is fair and that it provides the appropriate mechanism in the unfortunate circumstances in which we find ourselves, where the most important transport system in Canada has come to a stop and the parties have abdicated their responsibilities.

Senator Olson: Mr. Chairman, I wish the minister well. I hope that all the hopes he has expressed about what the arbitrator will do, particularly the hope as to the actions of the arbitrator, will be perceived by both sides, and particularly the workers, as being fair. I wish him well in his pursuit. I know it is a difficult one. I think I have a slightly different view of what the pursuit should be, but I wish the minister well in achieving what he has just explained.

Senator Bosa: Mr. Chairman, before I put my question to the minister, I would like to elicit some information. How many strikes have the rail workers had since the last war, and how many times were they legislated back to work?

Mr. Cadieux: To my recollection—and I am sure that my associate deputy minister would have a better recollection than I—there have been three. There was legislation in 1973, in 1966 and in 1950.

Senator Flynn: Senator Sinclair might be the person to inform you.

Senator Frith: He would make a great minister, that is true.

Senator Bosa: But Senator Sinclair is not the minister on this occasion.

Mr. Minister, in at least one of these instances were the railroad workers legislated back to work?

Mr. Cadieux: Yes, they were.

Senator Bosa: Do you not think that it is rather hypocritical to give the railway workers the right to strike and to legislate them back to work every time they exercise that right? What is the point in giving them the right to strike when they cannot exercise it, or as soon as they do exercise it, they are legislated back to work?

Senator Frith: It is like the Senate—it can veto bills, but let it try!

Mr. Cadieux: In that period of some 40 years this very sensible industry has been legislated back to work three times. I think that is a very good record, notwithstanding the unfortunate situation we face today. However, since 1973 the parties have always agreed. I think that is a good indication that the system works very well.

Senator Bosa: But since transportation by rail plays such a vital role in the economy of Canada, has the minister ever considered classifying the railway service as an essential service and setting up a mechanism for providing these workers with an adequate method of compensation?

Mr. Cadieux: Do I understand that it is the position of the honourable senator that the right to strike should be taken away from this particular industry?

Senator Bosa: No. I think successive governments have taken the right to strike away from these workers. I am asking the minister, since this right to strike has been taken away every time they go on strike, whether the minister has considered making this service an essential one.

Mr. Cadieux: This minister has not yet looked at the possibility of making this particular service an essential service. I shall take the suggestion of the honourable senator under consideration.

Senator Bosa: Like Senator Olson, I have not had an opportunity to read the bill entirely. Does it contain a provision whereby the railway companies will be forbidden from firing any workers who were on strike?

Mr. Cadieux: Yes.

Senator Turner: Mr. Chairman, I think the minister is pretty naive. I know as a product of the depression that in those days you did not need a contract. The average taxpayer in Canada trusted his or her lawyer, doctor, minister or priest and bank manager. During the depression these were the people you consulted for advice. Things were tough. There was no money, nothing—no jobs. Now we are to the point where we have big companies suing big companies, governments and everybody else because they do not trust each other. After 40 years with the brotherhood, I can tell you, sir, that management does not trust labour and labour does not trust management. Both parties trust Associate Deputy Minister Bill Kelly. Why did you not put the associate deputy minister into the dispute at least 20 or 30 days before it started?

Senator Marshall: Kelly for the Senate!

Mr. Cadieux: I could say that it is because he did not give me the advice that he should get involved 30 days earlier. Obviously each case is taken on its own merits. In this particular dispute negotiations have been going on for seven and a half months. I believed that all the help required had been given to the parties and, as the minister involved in the particular negotiations, I thought very sincerely that with the help of Mr. Carson, who was the mediator I had appointed, there would be a settlement. Perhaps Mr. Carson—and I do not wish to make judgment values here—has not reached the notoriety of my associate deputy minister, Bill Kelly, but I believe that Mr. Carson is also a very able mediator. Unfortunately, he failed. When he failed and the parties requested more assistance or indicated that he had failed, I did not hesitate to send in Bill Kelly, who has indicated—and I am sure you have read about it in the media—that there was no stone left unturned in an attempt to come to a settlement in this particular negotiation. Unfortunately—and Bill Kelly is the last one who should have to admit it—there was a failure.

Senator Turner: I would bet my last dollar that if you had put Bill Kelly in at least 20 or 30 days ago, Bill Kelly would have gotten a settlement, because he has the expertise. He has a lot of experience in this area, and he is trusted by both sides. That is a plus.

• (1610)

Mr. Minister, can you tell me why the caboose issue was the subject of collective bargaining at this time? As I understand it, the CTC spent a year holding hearings across this country on that very issue and they are currently writing their report. Can you tell me why this matter was placed on the bargaining table at this time, since it has become one of the irritants in this dispute?

Mr. Cadieux: Senator, it is there because it was included in the Notice of Dispute.

Senator Turner: Mr. Minister, I am not a lawyer; I am just a railway engineer, but the CTC held hearings on this matter across the country and, as I understand it, the CTC would have the status of a court in the sense that if a minister is asked a question concerning a problem that is currently before a court, he will not answer that question. Why does this not apply to this issue?

Mr. Cadieux: Fortunately or unfortunately, Senator Turner, I am a lawyer, and right now I am the Minister of Labour and we administer the Labour Code in the way in which it is written, and when an item is included in the Notice to Bargain, it is included in the Notice to Bargain.

Senator Turner: I understand you appointed a conciliator, Mr. Douglas Stanley, who made several recommendations which were the basis for a settlement of this dispute. Why were those recommendations of Mr. Stanley not put into this bill?

Mr. Cadieux: Obviously, senator, the report of a commissioner is often used as a mechanism when we introduce back-to-work legislation. That was the case in Bill C-24 for most of the issues. Unfortunately, the difference in this particular case is that the conciliator's report was not precise enough on certain items and left too many doors open, and also left the doors open so that there would be the trade-offs that we were discussing earlier in this particular discussion. Therefore, those issues will be taken into consideration by the arbitrator.

Senator Turner: Currently you have many employees on the railway who have 25 or 30 years' service. The railways have stated their intention to contract out that work, and no doubt they will use non-union employees in those contracts. This is another irritant, and I wonder why you are doing this.

Mr. Cadieux: Senator Turner, inasmuch as I would perhaps like to be the chairman of CN or CP, I am not the employer in this case, and I know that that issue is being negotiated right now. However, it will be one of the issues that the arbitrator will be looking into, and I invite and encourage the parties to make their case before the arbitrator.

[Mr. Cadieux.]

Senator Turner: The employees today feel that the arbitrator has been handed a blank cheque and that whatever happens at the end of 60 days, the employees will have to live with it. Do you think that this is just and fair in a democratic society?

Mr. Cadieux: The arbitrator has been given a very serious responsibility, Senator Turner, and I am sure that he or she will accomplish those duties with all the seriousness, care and fairness that is required in such an unfortunate circumstance.

Senator Turner: Mr. Minister, let me tell you something: The labour movement across this country will take care of you and your government at the next election. Thank you very much.

Mr. Cadieux: I might just add to that that I am looking forward to that, senator.

Senator Sinclair: Mr. Minister, you have indicated in your answers to some of my colleagues—and particularly in answer to Senator Frith's question—that a considerable amount of material will be put before the arbitrator, including settlements in other railway disputes. Will each of the parties be given everything that is given to the arbitrator?

Mr. Cadieux: I am not sure I understand your question, but I understand that the arbitrator will be appointed to look into all other matters in dispute, and the matters in dispute are determined by the Notices to Bargain, which include all of the items that we have been discussing. I am sure that the arbitrator will be looking at everything necessary to make a decision or perhaps to bring the parties together to agree on these issues.

Senator Sinclair: I will put my question again, Mr. Minister. Let us say that an aide-mémoire was prepared by someone and given to the arbitrator. Would that be made available to both parties?

Mr. Cadieux: The government will not give the arbitrator any aide-mémoires. If the parties have any aide-mémoires that they have prepared and want to present to the arbitrator, then I think the arbitrator will decide whether they are relevant or not. My understanding is that there is some misunderstanding right now—not to say disagreement—on what may or may not have been agreed upon by the parties.

Senator Sinclair: Will a memorandum attempting to outline those agreements and disagreements be made available to the arbitrator?

Mr. Cadieux: In order that the arbitrator can form his own opinion, senator, I think it would be much more appropriate if the arbitrator started with the Notices of Dispute; with the parties, he will be looking into those issues that are in dispute and will make his own judgment.

Senator Sinclair: I take it then, Mr. Minister, that you are saying that what will be before the arbitrator, once he is appointed, are all public documents at the present time?

Mr. Cadieux: If by "public documents" you mean Notices to Bargain, yes.

Senator Sinclair: What about conciliation reports?

Mr. Cadieux: Yes, obviously.

Senator Sinclair: What about memoranda from Dr. Stanley?

Mr. Cadieux: I do not see the relevance of memoranda from Dr. Stanley. I presume that if there are memoranda from Dr. Stanley to the parties, then the parties may want to put them before the arbitrator.

Senator Sinclair: Thank you very much, Mr. Minister.

The Chairman: Senator Flynn?

[*Translation*]

Senator Flynn: Mr. Chairman, I think Senator Sinclair's questions have clarified to some extent the point I wished to make in response to the concerns of Senator Olson and Senator Turner's angry reaction.

I would like to point out that clause 6 indicates very clearly that to the arbitrator will be referred:

> . . . all matters relating to the amendment or revision of each collective agreement that, at the time of the appointment, are in dispute . . .

Clearly, the complete record of negotiations is referred to the arbitrator. As the Minister of Labour pointed out, the collective agreements renewed with VIA Rail and the Ontario Northland Railways were among the documents referred to the mediator beforehand. I don't think there is any ambiguity as concerns the level, if you wish, or the minimum. However, as the Minister of Labour pointed out, this is a set of issues which may, if resolved on one side, affect the process on the other side. Senator Olson also mentioned that the delay might penalize employees. I think that was clarified in the bill, namely that the arbitrator's decision takes effect on and from January 1, 1987. For instance, if the arbitrator decides that wage increases of three, four or five per cent are to be introduced, they would take effect on and from January 1, 1987, and the employees would not lose a penny. All other clauses which can have a retroactive effect will be treated the same way. In this respect, I don't think the comments by Senator Olson and Senator Turner are justified.

Obviously, you don't know beforehand what decision the arbitrator will hand down. But you can always give him the benefit of the doubt and assume he is not an idiot.

[*English*]

Senator Olson: There is no guarantee in this legislation that that will happen.

Senator Flynn: There is a guarantee of common sense, if you know what that means.

Senator Turner: Would Senator Flynn put that in writing?

Senator Flynn: It is on the record, as is your word that you will vote against it.

● (1620)

Senator Turner: That is right.

Senator Frith: Mr. Minister, without detailing them, would you tell me how many amendments were proposed by the opposition in the other place?

Mr. Cadieux: I believe, Senator Frith, at least seven or eight.

Senator Frith: That is close enough.

Mr. Cadieux: There were seven or eight amendments from one party and similar amendments from another. Altogether it may have been ten or twelve, but basically it may have been seven or eight, including one by the minister and one that I suggested to one of the opposition parties.

Senator Frith: Because of the accelerated procedure I have not had time to go through all the House of Commons debates. Can you tell us the amendments that were accepted? Without going into the wording, can you tell us what the effect and purpose of the amendments were? I am talking now of the ones accepted.

Mr. Cadieux: I unfortunately do not have the amended copy of the bill, but I can tell you that in the definition of the word "employee," if my memory serves me right, there was an amendment. There seems to be some confusion or a loophole that employees that may be hired after the expiration of the collective agreement may not have been considered in the legislation. Therefore, we have amended that particular paragraph to make sure—

Senator Frith: I see the word "is" is underlined there. That is the idea, I take it.

Mr. Cadieux: That may be, senator.

Senator Frith: That is all right. I am not interested in getting into technical wording. I would just like to know the purpose of the amendment and its effect.

Mr. Cadieux: Another amendment that was accepted is included in clause 6. At line 18, after the words "December 31, 1988 and," we have added the words "with the consent of the parties thereto."

Senator Frith: Fine. You do not need to explain that any further, because I understood there was a problem about the extension, and you are entitled to extend but only with their consent. Those words were added.

Mr. Cadieux: There was no problem with the extension, senator, but we agreed to the amendment so that if there is to be an extension it will only be with the consent of the parties.

Senator Frith: Yes. I meant a problem in that sense of the need for consent for the parties.

Mr. Cadieux: Personally, I did not think it was a problem, but I agreed to the amendment.

Senator Frith: Yes. Next?

Mr. Cadieux: I believe those are the amendments that were accepted, senator, under reserve of verification. Of course, they are repeated in Parts II, III and IV.

Senator Frith: Yes, of course. I understand that, applying to the different groups.

Mr. Cadieux: To my knowledge, those are the ones that were accepted.

Senator Muir: Mr. Chairman, I wish to say how pleased I am to see our fine, handsome, young, new, comparatively new, minister here; but not under these circumstances. Of course, the same goes for Bill Kelly, who is younger than all of us as far as knowledge of the union movement and negotiations are concerned.

Now that we have the brains here, I thought I would pose a couple of questions. During the war years—and I am sure Senator Sinclair must remember this; like me, he is of the younger age group—we had such a thing in industry as labour management committees. I did not work for the government at any time, but I did work in the coal mines, and labour management committees worked very well. They did not detract from unions or the authority of unions, because the labour representatives were members of the unions and management had their representatives.

In between contracts expiring, they met on many occasions, possibly once a month, and they discussed problems that were taking place, something going wrong in one area, something going wrong in another area. As a result of those meetings, many problems that seemed to be gigantic at the time were smoothed over, straightened out, probably settled, or half settled, and over the period of the contract, two years, three years or whatever it was, many of these things did not roll up into one big problem. When negotiating time came, things were negotiated much more easily and much better.

Now it appears that in all industries there is little or no contact between labour and management, except possibly in an aggressive way. During the period of a contract things are building up so that, when the time comes to negotiate, there are tremendous problems. Perhaps there should be such a thing as labour courts—or call them what you will.

Have any thoughts been given by this government to something along those lines? I am sure that Bill Kelly is well aware of what I am talking about. I raised it in the other place on a number of occasions. However, they acted like my wife over there, they never listened to me and nothing was ever done about it. Have you any people in the Department of Labour who are skilled in that, and I am sure you must have, who are talking about these things and leading towards these things? I think it would be fantastic if this new Minister of Labour would try to get something like that going so that, when the time came to negotiate, we did not run into so many problems. A lot of the problems could be settled during the period of the contract.

Mr. Cadieux: Thank you very much for an excellent question and the excellent comments prior to the question, senator. I appreciate that greatly. I do not know if I will stay young very long in this business, but, nevertheless, I appreciate the comments very much.

[Mr. Cadieux.]

With respect to the committees to which you are referring, I believe Senator Sinclair will agree with me that this particular industry, the railway industry, has been a model in that particular movement. There are ongoing talks all the time.

In order perhaps to use my skills as a lawyer, whether it is appreciated or not, I think the record speaks for itself. When you have 11,000 collective agreements that are signed in Canada and over 94 per cent of them without one day of strike or lockout, it is because the parties speak to each other and come to an agreement relatively easily.

Senator Muir: Thank you, Mr. Minister. I am glad to hear that. As I have said, I have never worked for the government or any crown corporation or anything of that nature. I did not have enough influence with any of the parties. In private industry we did that, and that was during the war years when production of coal was very essential, just as now it is essential to keep the railways running to get the goods to market.

You say that you have these committees now. Could Mr. Kelly or yourself tell me why this has built up to such a tremendously big problem at this point in time?

Mr. Cadieux: Unfortunately, senator, notwithstanding the fact that there were more than 94 per cent of the 11,000 agreements reached without one day of strike or lockout, there are some that perhaps cannot come to those agreements with as much reasonableness within the process itself. Unfortunately, governments, like this one, have to intervene.

I do not intend to go into the specific reasons for this particular dispute. I have heard certain honourable senators here talk about that in their speeches. I do not necessarily agree with the entirety of those speeches, but I suppose that that will be left to the parties to reflect upon so that the next time collective agreement time comes, they will, we hope, come to a negotiated settlement which will deal with all of the issues that they think are important. The settlement that they arrive at by themselves, I believe, will always be the best settlement.

● (1630)

Senator Muir: I realize that governments have to step in, but they have not had to step in on many occasions; only in 1950, 1966, 1973 and now. But compulsory arbitration always leaves a bad taste in my mouth.

Mr. Cadieux: If I may just add, senator, back-to-work legislation leaves a bad taste in my mouth.

Senator Turner: Mr. Minister, when Royal Assent is given to the bill and the 12-hour period is up, will workers on recall notice be able to apply for UIC benefits if they are not called back to work immediately? And when will their lay-off date begin?

Mr. Cadieux: Unfortunately, senator, I am not an expert in every field, but I will refer your question, if you will permit, to my colleague, the Honourable Minister of Employment and Immigration, for his consideration. I am sure he will get back to you as quickly as possible.

Senator Turner: Thank you.

The Chairman: I see no other senator wishing to speak. Are honourable senators prepared to proceed with clause-by-clause study?

Hon. Senators: Agreed.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 8 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 9 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 10 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 11 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 12 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 14 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 15 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 16 carry?

Hon. Senators: Carried.

Senator Frith: Are we agreed that all clauses carry?

Senator Olson: Honourable senators, I have a brief question regarding clause 17. Is there a date on which the arbitrator will be appointed? It says "shall" be appointed. Is there a commitment for that? Is that contained in the bill?

Mr. Cadieux: That is not contained in the bill. The commitment I have given at the request of my honourable colleagues in the House of Commons is that I will obviously look at the suggestions they may make and definitely appoint an arbitrator as quickly as possible.

Senator Olson: Do you have any idea of what "as quickly as possible" means? Would that be within a week or within a month?

Mr. Cadieux: I will definitely be pursuing this with my honourable colleagues, particularly those in the Official Opposition and those in the New Democratic Party, to give me suggestions quickly, otherwise I will have to act without the benefit of their suggestions.

The Chairman: Shall clause 17 carry?

Hon. Senators: Carried.

The Chairman: Shall all remaining clauses through clause 39 carry?

Hon. Senators: Carried.

The Chairman: Shall the four schedules carry?

Hon. Senators: Carried.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred Bill C-85, to provide for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees, has examined the said bill and has directed me to report the same without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* With leave of the Senate and notwithstanding rule 45(1)(*b*), it is moved by the Honourable Senator Phillips, seconded by the Honourable

Senator Roblin, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Charles Turner: Please register my opposition to this bill.

The Hon. the Speaker *pro tempore:* So it is carried, on division?

Senator Turner: On division.

Motion agreed to and bill read third time and passed, on division.

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA

28 August 1987

Sir,

I have the honour to inform you that The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 28th day of August, 1987, at 5.10 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

The Senate adjourned during pleasure.

At 5.15 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Speaker *pro tempore* of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that Her Excellency the Governor General has been pleased to cause Letters Patent to be issued under her Sign Manual and Signet constituting the Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, her Deputy, to do in Her Excellency's name all acts on her part necessary to be done during Her Excellency's pleasure.

The Commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act respecting national transportation (*Bill C-18, Chapter 34, 1987*)

An Act respecting motor vehicle transport by extra-provincial undertakings (*Bill C-19, Chapter 35, 1987*)

An Act to provide for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees (*Bill C-85, Chapter 36, 1987*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Wednesday, September 2, 1987, at 2 p.m.

THE SENATE

Wednesday, September 2, 1987

The Senate met at 2 p.m., the Honourable Gildas L. Molgat, Acting Speaker, in the Chair.

Prayers.

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE ADJOURNED

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

HOUSE OF COMMONS
Canada

Monday, August 31, 1987

ORDERED,—

That a Message be sent to the Senate to acquaint their Honours that this House agrees with amendment 10(a) made by the Senate to Bill C-22, An Act to amend the Patent Act and provide for certain matters in relation thereto, but disagrees with all other amendments except amendments 1(c) and 8, because this House believes that amendments 1(a) and (b), 2(a) and (b), 3, 4(a) and (b), 5(a) and (b), 6, 7(a) and (b), 9 and 10(b) and (c) are in contradiction to the principles of the Bill which will increase intellectual property protection, increase research and development in Canada, create new high-technology jobs, improve the health care of Canadians, and protect consumers from higher drug prices.

More specifically:

Amendments 1(a) and (b) delete the definitions of "Board" and "patentee". These definitions are necessary to support the powers of the Patented Medicine Prices Review Board, which is required to protect consumers.

Amendments 2(a) and (b) reduce Canada's export potential and fine chemical manufacturing.

Amendments 3, 4(a) and (b), reduce the periods of market exclusivity, thus eliminating the incentive for increased research and development in Canada.

Amendment 5(a) reduces the period of market exclusivity and export potential, thus reducing economic benefits for Canada.

Amendment 5(b) deletes the Patented Medicine Prices Review Board, which is required to protect consumers, and this amendment also removes the protection for Canadian-invented medicines and thus the incentives for increased research and development in Canada.

Amendments 6, 7(a) and (b), 10(b) and (c) arise out of amendments 1(a) and (b), 2, 3, 4(a) and (b), 5(a) and (b), and are therefore inappropriate.

Amendment 9 arises out of Senate amendment 8, but is not consistent with the House amendment to Senate amendment 8, as set out below.

And, that:

Senate amendment 1(c) be amended to read as follows:

"(c) Strike out lines 35 to 42 and add the following:

(2) For the purposes of sections 41.11 to 41.16, the notice of compliance that is first issued for either the original and distinct chemical composition of a medicine or the obvious chemical equivalent of the medicine shall be deemed to be the first notice of compliance issued in respect of that medicine.

Senate amendment 8 be amended to read as follows:

"insert the heading "Transitional" and the following as clause 31:

31.(1) The Minister of Consumer and Corporate Affairs shall pay to each province for each of the fiscal years commencing in the period April 1, 1987 to March 31, 1991, for the purpose of research and development relating to medicine, an amount equal to the product obtained by multiplying

(a) the quotient obtained by dividing

(i) $25 million

by

(ii) the total population of all provinces for the fiscal year in respect of which the payment is made,

by

(b) the population of the province for the fiscal year in respect of which the payment is made.

(2) Payment of any amount under this section shall be made out of the Consolidated Revenue Fund at such times and in such manner as the Governor in Council may, by regulation, prescribe.

(3) For the purposes of this section, the population of a province for a fiscal year shall be the population of that province on the first day of June of that year as determined and published by the Chief Statistician of Canada."

ATTEST

Robert Marleau,
The Clerk of the House of Commons

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

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, now.

Hon. Allan J. MacEachen (Leader of the Opposition): At the next sitting.

Senator Murray: Honourable senators, I will take only a minute of your time on this matter at this time. Honourable senators have—

Senator MacEachen: I wonder whether this is a substantive motion which requires notice. My assumption is that it is a substantive motion which requires notice, but I want to ask Senator Murray to clarify that point so that we can see what rule we are working under.

Senator Murray: The Honourable Leader of the Opposition is getting ahead of me and ahead of himself. I do intend to propose a motion, which I hope will bring matters to a head on this question.

A message from the House of Commons has been received. I simply want to say that the message is clear that the House of Commons have considered the amendments which the Senate made to Bill C-22; they have debated those amendments at some length; and the moment of truth has arrived for the Senate. It is up to the Senate now to decide whether to exercise its undoubted constitutional right, which has been exercised rarely, if ever, in modern times, to insist on its amendments, or whether the Senate will bow to the will of the elected house. I do not intend to make any further comments as to the substance of the matter. I will bring matters to a head by proposing a motion, seconded by the Honourable Senator Phillips:

> That the Senate concur in the amendments made by the House of Commons to its amendments 1(c) and (8) to Bill C-22, an Act to amend the Patent Act and to provide for certain matters in relation thereto, without amendment;
>
> That the Senate do not insist on its amendments 1(a) and (b), 2(a) and (b), 3, 4(a) and (b), 5(a) and (b), 6, 7(a) and (b), 9 and 10(b) and (c), to which the Commons has disagreed; and
>
> That a Message be sent to the House of Commons to acquaint that House accordingly.

I take it that the Honourable Leader of the Opposition is of the view that notice would be required for such a motion. My reading of the rule and precedents indicate otherwise, but I will wait for him to make his case first.

Senator MacEachen: Honourable senators, I am not going to make a great fuss about this, but just for our own understanding it would appear to me that the motion is one which would require notice. I would presume that Senator Murray has given notice that he will move the motion tomorrow or that the motion will be moved on his behalf tomorrow. It seems to me that a motion which asks the Senate to send a message to the House of Commons is one which is substantive and which requires notice of at least one day.

[The Hon. the Speaker.]

I know that there is a rule which states that amendments to public bills can be moved without notice, but this does not deal with Commons amendments to public bills. This is more than an amendment to a bill. This is a message from the House of Commons which is manifestly substantive because it is asking the Senate to take a significant step.

I am not going to press this further, but I raise my own reservations that this is being moved without the necessary notice. If Senator Murray insisted on seeking leave, perhaps we would give him leave, but certainly I would adjourn the debate.

Senator Murray: Honourable senators, as opposed to the contention of the Leader of the Opposition, I would invoke rule 46(*i*) which states:

> No notice is required of the following motions:
>
> (*i*) for the consideration forthwith or on a future day of Commons amendments to a public bill;

Honourable senators, I would also refer to a couple of precedents which I have before me. One was on December 17, 1970, in which a message was brought from the House of Commons by their Clerk to return the Bill S-6, entituled, An Act to Amend the Anti-dumping Act. The message was that the House of Commons had passed the bill with one amendment to which they desired the concurrence of the Senate. There was a motion by the Honourable Senator Connolly, P.C., that the amendment be "concurred in now." After debate, the question was put on the motion, it was resolved in the affirmative, and it was ordered that a message be sent to the House of Commons to acquaint that House, and so forth.

A more recent precedent was set on July 24, 1986, when we received a message from the House of Commons somewhat similar to the one we received today, indicating that the House of Commons disagreed with an amendment which the Senate had made to Bill C-67, An Act to Amend the Parole Act and the Penitentiary Act. The message was received on Thursday, July 24. That same day the Honourable Senator Doody moved that the Senate "do not insist on its amendment." After debate, and the question being put on the motion, it was resolved in the affirmative, on division, and ordered that a message be sent to the House of Commons to acquaint that House accordingly.

In neither of these cases is it indicated that leave was necessary to present the motion that the Senate do not insist on its amendments.

In any event, I simply place that before honourable senators. If Your Honour finds that notice is required, then I will ask for leave, retroactively, to present the motion, on the understanding, as the Leader of the Opposition has said, that he, in any case, would wish to adjourn the debate until tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I do not think any of us wants to prolong what might be a rather academic discussion, although it does have some importance.

Your Honour has to consider whether this motion falls under rule 45(1)(*h*), which is as follows:

> 45(1) One day's notice shall be given of any of the following motions:
>
> (*h*) for the making of a substantive motion,

which is Senator MacEachen's position, or falls under rule 46(*i*), which is as follows:

> (*i*) for the consideration forthwith or on a future day of Commons amendments to a public bill.

One of the two precedents cited by the Leader of the Government took place in 1970. I point out to His Honour that in that case it was a Senate bill, Bill S-6, that had been returned from the House of Commons with an amendment. As Senator Murray has said, the record does not show that leave was requested. The second of his precedents was the parole bill. As I recall it, the motion put by Senator Doody was with leave and leave was granted. The motion was that, with leave, "the Senate do not insist on its amendments." I know there was a discussion about leave in that case because I remember Senator Hastings talking about it.

I think that the Speaker has everything necessary to make a ruling if a ruling is requested, but I wanted to make these comments on the two precedents cited and suggest that it is a question of which rule the motion falls under. My submission to Your Honour is that it is clearly a substantive motion falling under rule 45 and not rule 46.

The Hon. the Acting Speaker: Is there any further discussion? There being none, honourable senators, I will place the motion before the Senate.

It is moved by the Honourable Senator Murray, seconded by the Honourable Senator Phillips:

> That the Senate concur in the amendments made by the House of Commons to its amendments 1(c) and 8 to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, without amendment;
>
> That the Senate do not insist on its amendments 1(a) and (b), 2(a) and (b), 3, 4(a) and (b), 5(a) and (b), 6, 7(a) and (b), 9—

Senator Frith: Dispense.

An Hon. Senator: No, I want to hear it.

The Hon. the Acting Speaker: Dispense?

Senator Frith: I take it, Your Honour, that if you are putting the motion, you are ruling that it does not require notice. Otherwise, it could not be put until tomorrow. In fact, it could not even be moved until tomorrow.

The Hon. the Acting Speaker: If I am to reply, honourable senators, yes, it is my understanding that by putting the motion the Chair accepts the motion as being in order. That, I believe, is the proper course of action. I was not specifically asked for a ruling; therefore, I made no ruling. However, by putting the question I accept the motion as being in order.

Senator MacEachen: Honourable senators, I agree that once the motion is put a ruling has been made. The motion is before the house for debate and no one is rising to speak. I am adjourning the debate.

The Hon. the Acting Speaker: It is moved by the Honourable Senator MacEachen, seconded by the Honourable Senator Argue, that the debate be adjourned. Is it agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator MacEachen, debate adjourned.

[*Translation*]

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

APPOINTMENT OF MEMBERS

Hon. Royce Frith (Deputy Leader of the Opposition) moved:

> That the following Senators be appointed to serve on the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories, namely, the Honourable Senators Fairbairn, Kirby, Le Moyne, Marchand and Molgat.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

● (1410)

[*English*]

DISTINGUISHED VISITORS IN GALLERY

OFFICIALS FROM NORTHERN ITALY

Hon. Peter Bosa: Honourable senators, may I draw the attention of honourable senators to the presence in the South Gallery of a group of officials from Nothern Italy who are visiting the Parliament Buildings today and will visit some other parts of Canada later on.

The group is headed by the President of Trevisani Nel Mondo, Mr. Carlo Davi, by Dr. Ludovico Manfren, President of 14 townships of the region of Oderzo, and by a member of the Board of Control of the City of Oderzo, Mrs. Maria Rusolen Parpinelli.

May I, on behalf of all honourable senators, extend to the group our best wishes for a pleasant and interesting visit in Canada.

QUESTION PERIOD

[*English*]

CANADA-FRANCE RELATIONS

GRAIN EXPORT SUBSIDIES—REPRESENTATIONS BY PRIME MINISTER TO PRIME MINISTER OF FRANCE

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government in the Senate which arises out of a visit to this country by Prime Minister Jacques Chirac of France. I would like to remind the Leader of the Government in the Senate and all senators that when President Mitterrand of France was here some time ago the Prime Minister of this country, as well as the Premier of Saskatchewan, raised with President Mitterrand, in a very forceful way, the need for France to modify its agricultural policies by way of amelioration or reduction in export subsidies. My question is: Has Prime Minister Mulroney raised that question with Prime Minister Chirac, and has he put forward a position asking that changes be made?

I think honourable senators are aware that there was an exchange between the government leader and myself on this question. However, under the French Constitution the substantive power really lies with the elected members and with the Prime Minister. Therefore, it would seem to me that our Prime Minister should have made a very forceful presentation to Prime Minister Chirac about the need for a reduction in export subsidies on wheat and other grains.

My question to the Leader of the Government in the Senate is: Has this matter been raised? I have seen no news media coverage of it; if I have missed it, I apologize, but I would like to know what the facts are.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no report on the content of the discussions between the Prime Minister of France and the Prime Minister of Canada. However, I take this occasion to remind honourable senators that Canada, and Canada's government, has been to the forefront in various multilateral fora, such as the GATT and economic summits, in trying to resolve the export subsidy and surplus-related problems at the international level. We have also taken advantage of every opportunity that has presented itself in bilateral meetings to do likewise.

Senator Argue: Honourable senators, I find that a disappointing and inadequate comment. I would disagree with the substance of what the Leader of the Government in the Senate has said in that I feel that the tone of the representations made by this government to the chief player in this field, the President of the United States, has not been strong and forthright. Therefore, that presence is not there. However, the Prime Minister of this country has raised the question of the fisheries dispute. That is important, and that has received a lot of attention.

● (1420)

I ask why the agricultural producers of this country should take a secondary role to the fisheries dispute. I am not saying that the fisheries dispute is not important. I do not detract from the importance of it at all. I am saying that it is unbelievable to me that the Prime Minister of this country should not be using the occasion of Prime Minister Chirac's visit to make a strong statement to him with regard to agricultural policy, because the premier of that country is in my judgment the most important player in the EEC.

[Senator Bosa.]

Senator Murray: The honourable senator is talking through his hat. He assumes that the matter was not raised in the bilateral discussions between Prime Minister Mulroney and Prime Minister Chirac. I have told him that I was not present at that meeting and do not have in front of me a report on what took place.

Secondly, he accuses the Prime Minister of Canada of not being strong enough in our representations, as he puts it, to the President of the United States. On two occasions now the Prime Minister of Canada has succeeded in putting that item in a prominent place on the agenda for the economic summits. He will certainly do so again, a third time. Canada is to the forefront in trying to arrive at an international solution, which is the only possible solution to these export subsidy and surplus related issues.

Senator Argue: I do not see any evidence myself of a strong statement from the Prime Minister of this country to the President of the United States. The Leader of the Government in the Senate says that the solution is in the international sphere. I think action by the Government of the United States to remove some of their policies would add between $1 and $2 per bushel to the price of Canadian wheat within 48 hours of the change of policy.

The real reason that the price of Canadian wheat to the farmers is low today is the fact that the United States has a policy of give away—a zero price on some of their grain going into the export markets. I would think that the Honourable Leader of the Government in the Senate is a powerful enough and influential enough and a well enough informed member of the cabinet that, if that had been in the memo or had been presented in a strong way, he would have known about it. However, I hope the Leader of the Government in the Senate will bring to the Senate some evidence of what in fact did happen.

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—STATEMENT BY MR. REISMAN ON CONSULTATIONS BETWEEN PRIME MINISTER AND PRESIDENT

Hon. Paul Lucier: Honourable senators, I have a question for the Leader of the Government in the Senate. As we all know, Mr. Simon Reisman is a very competent negotiator and has done a good job of negotiating on Canada's behalf. After the meetings last week in Cornwall, Mr. Reisman, perhaps because of sun stroke or lapse of memory or whatever, incited some sheer panic in the hearts of Canadians by suggesting that the final point in the free trade negotiations, such as binding arbitration, might have to be dealt with by Prime Minister Mulroney and President Reagan.

In light of the fact that this Prime Minister has already given away the patent drugs, lumber, petroleum, potash, and

now the wheat of Canada, could the Leader of the Government in the Senate tell us if Mr. Reisman just had a temporary lapse of intelligence—or whatever? And could he assure us that under no circumstances will this Prime Minister be allowed to speak to President Reagan about anything that concerns Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can assure the honourable senator that under no circumstances will the government pay any attention to the shallow and partisan comments of the honourable senator.

Some Hon. Senators: Hear, hear!

Senator Frith: Other than the deep and non-partisan comments of the leader!

FRANCOPHONE SUMMIT

HUMAN RIGHTS VIOLATIONS AS AGENDA ITEM—GOVERNMENT ACTION

Hon. Jerahmiel S. Grafstein: I have a question for the Leader of the Government in the Senate respecting the francophone conference in Quebec City. Amnesty International and other well respected human rights organizations in this and other countries are concerned with the persistent pattern of the violation of human rights respecting a number of the countries that are visiting Canada and are participants in this francophone conference.

● (1430)

In light of the government's very strong stance taken to protect and enhance international human rights, and in light of the government's policy of strongly speaking out against violations of human rights to the extent that emissaries from certain countries tainted with violations of international human rights have been kept from our doors, did the Government of Canada place this issue on the agenda of the Francophone Summit? If so, does the government intend to propose a very strong resolution in the final communiqué condemning the violation of international human rights with respect to those countries that are members of the Francophone Summit?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it is not within the power of the Government of Canada, even as the host country, to draw up the agenda by itself. It appears that the matter has not been placed on the summit's agenda.

The Prime Minister has indicated publicly, within the last day or so, his determination to pursue these matters in his bilateral discussions with the heads of state and heads of government concerned during the summit.

Senator Grafstein: Is it not open to the Government of Canada to place an item on the agenda of the summit? Is the government not able to place an item on the agenda even at this late juncture?

Senator Murray: I am not privy to the details of the process, but, if the process is similar to that used for similar international gatherings, the agenda is something that is arrived at by negotiation and consensus.

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—POSSIBLE GOVERNMENT CONTRACT FOR CONSULTANCY WORK OF CERTAIN WITNESSES APPEARING BEFORE SPECIAL JOINT COMMITTEE

Hon. Lorna Marsden: Honourable senators, could the Leader of the Government in the Senate discover an answer to the following question? I do not expect the leader to have the answer available this afternoon.

Has any of the following—each of whom has been a witness before the Joint Committee on the 1987 Constitutional Accord—been a consultant to and/or received remuneration for contract or consultancy work with the Department of Justice, the Prime Minister's Office, the Privy Council Office or any other department of the Government of Canada between the dates of September 1, 1986, and September 1, 1987: William R. Lederman, Professor Emeritus, Faculty of Law, Queen's University; Richard Simeon, Director, School of Public Administration, Queen's University; Peter Leslie, Director, Institute for Intergovernmental Relations, Queen's University; and Gordon Robertson, former Secretary to the Cabinet, now of the University of Western Ontario?

Senator Haidasz: Ah ha!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think that is the kind of question that ought to be put on the order paper and replied to in writing.

I will not attribute motives to the honourable senator. I presume she is not suggesting, even if any of those people had been party to any contracts or consultancy agreements with the government, or any department of the government, that that influenced the professional or legal opinion which they gave to the joint committee.

I presume the question is whether any of those people have been in any financial relationship whatsoever with the Government of Canada, not just whether they have been in any relationship with the Government of Canada on the subject matter being studied by the joint committee.

CANADA-UNITED STATES RELATIONS

CANADIAN POTASH—INTRODUCTION OF LEGISLATION BY GOVERNMENT OF SASKATCHEWAN—CONSULTATIONS WITH FEDERAL GOVERNMENT—FEDERAL GOVERNMENT REPRESENTATIONS IN UNITED STATES

Hon. Jack Austin: Honourable senators, I should like to ask the Leader of the Government in the Senate a question regarding the introduction of legislation relating to potash in the Saskatchewan Legislature this week. I should like to ask whether, before that legislation was introduced by the Government of Saskatchewan, the federal government was consulted

with respect to the legislation or with respect to its impact on economic relations with the United States. If the answer to that is yes, did the Government of Canada concur in these particular measures to deal with U.S. trade in general and with the issue of trade in potash in particular? And if the answer to that question is yes, is the Minister for International Trade, or any minister of the Government of Canada, acting in any way on behalf of Canada and/or the Government of Saskatchewan in making representations to either the Government of the United States or private sector interests in the United States?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can answer the question as Minister of State (Federal-Provincial Relations). To my knowledge there has been no such consultation. Therefore, most of the balance of the question is covered by my first answer. I shall see whether there have been any consultations with any of my colleagues on the matter.

● (1430)

I understand that U.S. authorities have provided information on how they arrived at the methodology used in their determination. The government is examining the methodology carefully, in consultation with our own U.S. legal counsel and legal counsel of the Canadian companies directly affected, with a view to agreeing on points to be pursued further with the U.S. authorities. Again I can say that our approval was not sought in connection with the bill that was introduced in the Saskatchewan legislature the other day, although I am told that we were generally informed of the nature of the measures that the Saskatchewan government introduced yesterday.

Hon. George van Roggen: Honourable senators, I have a supplementary question on the same subject for the Leader of the Government in the Senate.

Can the Leader of the Government in the Senate assure the Senate that the Government of Canada will not resort to the same solution to the potash problem as it used for the softwood lumber issue a few months ago, which set an unfortunate precedent in this type of thing?

Senator Murray: Honourable senators, the two are not comparable.

REFUGEES

FEDERAL-PROVINCIAL CONSULTATIONS ON BILL C-84— EMERGENCY LEGISLATION—JURISDICTION— REPRESENTATIONS BY GOVERNMENT OF ONTARIO

Hon. Jerahmiel S. Grafstein: Honourable senators, this question is a follow-up to the answer the Leader of the Government in the Senate gave me last Friday respecting Bill C-84. In the last part of his answer to my question he said:

> . . . it is the federal government that has the exclusive right to decide on refugee claimants in Canada, and that is what we are dealing with in Bill C-84.

[Senator Austin.]

It is my understanding from some experts who have looked at this question that Bill C-84 applies to both refugees and immigrants. Therefore, there is concurrent jurisdiction in the context of this bill, and so this is a matter for consideration by the federal government and for the provincial government in its concurrent jurisdiction.

Perhaps the Leader of the Government in the Senate can clarify this, because he seems to import that the full measure of Bill C-84 applies only to refugees, and therefore would be only, and clearly exclusively, in federal jurisdiction.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the first distinction I was trying to make the other day was between refugee claimants abroad—refugee claimants who are, for the most part, in refugee camps in foreign countries, where provinces, like Quebec in particular, have the right and the practice of recruiting and selecting refugees who may wish to settle there—and refugee claimants in Canada, who are the responsibility solely of the federal government. I made a further distinction between refugee claimants, as such, and immigrants.

Now, if my friend is asking the question based on an interpretation of the bill, I am loath to attempt to deal with it in detail at this moment. I expect that Bill C-84 will have cleared the House of Commons later today, and that either today or tomorrow our colleague, Senator MacDonald of Halifax, will be presenting the bill in this chamber. My friend will have an opportunity to deal with it at second reading and to ask his questions of the minister or the appropriate officials in committee.

Senator Grafstein: Just so that the minister or the senator who will be responsible for this bill has the issue clear, it was my understanding from the purport of his answer last week that Bill C-84 related purely and almost exclusively, if you will, to refugee claimants either outside Canada or within Canada. Therefore, he included in his logic to us that the provinces have no interest in this question, because this is an area of exclusive jurisdiction for the federal government.

On a reading of the bill following his response, I asked some experts whether or not that would be their view of that bill. Their view was that the bill was much broader than just the narrow issue reflecting the rights of refugees either within or without the country, and therefore the provinces did have an interest in this particular question. The question I put to the minister at the time was: Why were the provinces not consulted prior to declaring this a matter of national emergency?

Senator Murray: Honourable senators, I have never stated—and I hope I have never implied; I have never intended to imply—that the provinces have no interest in this or any matter related to immigration. Whether they are immigrants or refugees, these people who want to settle in Canada have to live, for the most part, within provincial jurisdiction, and the provincial governments are responsible for services, and so forth. So, the provinces have an obvious interest. That does not mean that on a matter such as Bill C-84, which is an attempt

to regularize what has become a confused and dangerous regime with regard to refugees, it was necessary to engage in extensive consultation with the provinces. A number of the affected provinces had demanded that the federal government act urgently on the matter, and that is what we are doing.

My friend is making an interpretation of this bill which I want to consider further before I comment on it.

Senator Grafstein: Could either the Leader of the Government or the senator responsible for the bill tell us—either today or tomorrow—whether or not the Province of Ontario, by direct or indirect representations, suggested that the 174-odd refugee claimants were the source of a national emergency to justify the advance of this particular piece of legislation? I am asking this vis-à-vis the Province of Ontario, whether or not the Province of Ontario, directly or indirectly, made a representation to the government suggesting that this was a terribly urgent matter, an emergency matter, which needed immediate and urgent redress.

Senator Murray: Whether they did or did not, honourable senators, the emergency does not arise from the fact that 50, 100 or 174 refugees arrive at a given time. The emergency arises from the loopholes, if those exist in our practices, through which boat loads of people from a particular country claim refugee status—in this event it turns out that they came from a third country—and when boat loads of people, who may be better described as economic migrants, come into the country claiming refugee status. The emergency arises from loopholes that may exist in our policy, our law and our practices, not from the fact that there are 50, 100 or 174 refugees arriving on a given day.

My friend should also examine the record on this matter over the past year or so. He will see that the problem is of a magnitude rather greater than the 174 in the case to which he refers.

Senator Grafstein: I have not questioned that there is a serious problem with respect to the processes under the Immigration Act. The narrow purport of my question is whether or not an emergency occurred this summer. What the Leader of the Government is now saying to us is that this emergency was not an emergency; it is a matter that has gone on for some period of time and the government chose the summer vacation to act. That is much different than the Government of Canada calling back the other place on a question of national emergency. It is entirely different!

• (1440)

Senator Murray: Honourable senators, if such loopholes on policy and practice exist in our law, surely it is an urgent matter to correct those problems. I think the honourable senator will find that the action taken by the Government of Canada has broad support in this country generally.

Senator Muir: Right on!

HEALTH AND WELFARE

ACQUIRED IMMUNE DEFFICIENCY SYNDROME—GOVERNMENT ACTION

Hon. Stanley Haidasz: Honourable senators, I would like to ask the Leader of the Government in the Senate when we can expect the Canadian government to take seriously its obligation to protect the health of Canadian citizens and follow the leadership of certain western countries by bringing in stringent measures to stop the galloping epidemic of the tragic disease called AIDS.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, if I am not mistaken, the Minister of National Health and Welfare has already made some announcements in that regard. I shall be glad to update the information that we have and bring it into the chamber at the earliest opportunity.

Senator Haidasz: Honourable senators, I have a supplementary question. I know that the government has been trying for the past three years or so to contend with this epidemic of AIDS by coming forth with some educational pamphlets and by giving federal grants for research and epidemiological studies. However, it has not taken any stringent measures, such as certain western countries have done, to control the spread of AIDS by, for example, examining the blood of potential immigrants for the HIV agent and thus following its own example of testing potential immigrants for TB and syphilis.

Senator Murray: Honourable senators, I take it that the honourable senator has made some representations, and I shall bring them to the attention of the Minister of National Health and Welfare.

CANADA-UNITED STATES RELATIONS

CANADIAN POTASH—INTRODUCTION OF LEGISLATION BY GOVERNMENT OF SASKATCHEWAN—CONSULTATIONS WITH FEDERAL GOVERNMENT—FEDERAL GOVERNMENT REPRESENTATIONS IN UNITED STATES

Hon. Jack Austin: Honourable senators, I have a supplementary question to the question I asked earlier with respect to potash. Could the minister advise us when the Government of Saskatchewan communicated to the federal government its intention to enact production management legislation? Was it the position of the Government of Canada that this type of legislation was the appropriate way to deal with the potash issue, which arose as a result of United States regulatory action? Did the Government of Canada seek to persuade the Government of Saskatchewan to deal with the issue by a different method?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, all I can tell the Senate at this time is that the Government of Saskatchewan kept us, as I said, generally informed on the nature of the measures that they presented. We were not asked whether or not we approved of their bill.

Senator Austin: Honourable senators, would the minister obtain information for the Senate as to whether the Government of Canada counselled the Government of Saskatchewan to follow the particular method of dealing with the issue I have described or whether the Government of Canada gave other counsel with respect to the issue?

Senator Murray: Honourable senators, the answer to that question is, "Of course not." For one thing, the matter involves possible constitutional questions; for another thing, the Government of Saskatchewan took the measures it took, having tried unsuccessfully on some occasions in the past to persuade us that export controls were the answer.

Senator Austin: Honourable senators, I am a little surprised by the minister's answer inasmuch as the question is now one of shared jurisdiction. The province, of course, as owner of the resource has the powers given to it in the 1982 constitutional amendment, but the federal government retains the responsibility for international trade and economic relations with other countries. I cannot believe the literal answer which the minister has given, that the federal government has sat on its hands and has neither sought nor taken any responsibility, nor given any advice, and intends to do nothing of any sort on this issue.

Senator Murray: Honourable senators, I am not entirely certain of what my honourable friend is suggesting that the Government of Canada ought to do.

Senator Austin: I am suggesting that in dealing with this particular issue there are methods of representation to the United States government, to the United States Congress and to the United States private interests in the agricultural and chemical industries that should be pursued aggressively by the Government of Canada. These methods of representation involve resources which are not within the ability of the Province of Saskatchewan to employ. It seems to me that the old American admonition of speaking softly while carrying a large stick is not a bad policy. Once you brandish the stick you show what power you have, and your opponent's leverage in the discussions seems to evaporate.

Senator Murray: Honourable senators, I told the Senate on a previous occasion that the Government of Canada has made all those representations to the United States administration and will be making more.

Hon. Philippe Deane Gigantès: Honourable senators, I have a supplementry question. Would the Honourable Leader of the Government be prepared to tell us a little more about the nature of those representations and of the U.S. response to them?

Senator Murray: Honourable senators, not today. I may say that we are presently dealing with our legal counsel in the United States.

Senator Gigantès: But was their first reaction pretty cavalier? Did they brush you off with the back of their hand, or did they sort of say, "Yes, we are going to consider your points. We have some sympathy for what is happening, and we are trying our best."? Were they demonstrating their usual elephant-like attitude and rolling over in bed and crushing us, or were they being a friend?

[Senator Murray.]

Senator Murray: Honourable senators, I do not think it would be helpful for me to characterize the response of the United States administration or the United States authorities to the representations that we have made from time to time. I simply make the point once again that this case is a graphic illustration of why the government has placed such a high priority on negotiating a comprehensive trade agreement with the United States to provide better rules for the conduct of our two-way trade.

FREE TRADE NEGOTIATIONS—DISPUTE SETTLEMENT MECHANISM—GOVERNMENT ACTION

Hon. Philippe Dean Gigantès: Honourable senators, as I understand the very stingy pieces of information that have been given to us on the free trade accord—and it has been like pulling teeth to get anything on the matter—it seems that the original intention of the government is still the intention of the government, to stop the Americans from applying their current protectionist fever to Canada; it seems that essentially the bottom line for us is some form of arbitration, some way of settling disputes. Would the Leader of the Government assure us that if this kind of binding arbitration is not realized, we will walk away from such an accord?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think we have made it clear that we attach a great deal of importance to obtaining a secure access to that large American market and to obtaining a method of arbitration, as the honourable senator puts it, with a binding dispute mechanism on trade matters between our two countries.

Senator Gigantès: Honourable senators, the Honourable Leader of the Government is well aware that some U.S. senators have said, "Consultation, yes, but not a binding mechanism." What is the leader's reaction to that particular American attitude?

Senator Murray: Honourable senators, the negotiations are still continuing between the U.S. administration and our negotiators. I do not think it is at all helpful for me, or for anybody, to comment on remarks that are attributed to various legislators in the United States. They will have an opportunity, as my friend and our colleagues will have, to discuss the trade agreement when we have one.

THE SENATE

ABSENCE OF GOVERNMENT LEADER

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, earlier I indicated to the leadership opposite that my presence was required in the maritime provinces for the next day or two. Therefore, with apologies to honourable senators, I must cut short Question Period today to catch an airplane to go to my destination.

Senator McElman: Is that in New Brunswick?

Senator Murray: Moncton, as a matter of fact.

An Hon. Senator: Give my regards to Richard Hatfield.

Senator Frith: And we were just about to wish you a bon voyage.

Senator Murray: I can assure honourable senators that it is not a political mission. I am dining tonight with the board of the Atlantic Canada Opportunities Agency. Tomorrow at noon I am speaking in Saint John to the annual conference of the Institute of Public Administration in Canada, and nothing could be less partisan.

Senator Frith: Then we shall wish you a bon appetit.

• (1450)

CRIMINAL CODE
IMMIGRATION ACT, 1976
CITIZENSHIP ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Richard J. Doyle moved the second reading of Bill C-71, to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act.

He said: Honourable senators, let me take you back for just a moment to six years after the beginning of the Second World War and the day following the signing of the Japanese surrender terms; the Prime Minister of Canada went for a walk at Kingsmere. In his diary he wrote the following:

> I suddenly saw rise out of the grass some twenty yards away, a huge black bear . . . Looked enormous. I could hardly believe my eyes . . . Thought I was very brave going near to him.

That evening the bear was seen again in the orchard and the game warden was sent for and told to bring his gun.

There were other beasts roaming free in those heady, joyful first days of peace—beasts vicious beyond the imagining of most Canadians sheltered as they were from the human cattle trains, the experimental laboratories and the death factories of far away, beleagured and conquered places.

For a while, in a tentative way, we went after bear. In Europe the Canadian Armed Forces held four trials for crimes committed against our servicemen. Six other trials involving 28 accused were held by the British Forces on Canada's behalf. We were told by the Deschênes Commission:

> In 1948, a stop was put to war crimes trials as a result of a secret suggestion made by the United Kingdom to seven dominions—a suggestion to which Canada responded that "it had no comment to make." Canadian policy on war crimes during the next third of a century was not worse than that of several western countries which displayed an equal lack of interest.

In short, we hoped that time would finish the wretched business, but it did not.

The passing 30 years brought so many of the victims or kin of the victims of the terror to our shores and to our neighbourhoods, we were not permitted to forget what had happened. If we thought that we could ignore the business of Canadian grandchildren growing up and wondering what we had done to those responsible for the crimes, we were wrong. The catalogue of unresolved "cases" considered by the Honourable Jules Deschênes made it clear that a number of the unpunished were still alive and some of them might still be living among us.

Honourable senators, Bill C-71, An Act to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act, is the government's response to recommendations central to the Deschênes Report, a document painstakingly compiled in an atmosphere of controversy, not unexpected in the highly-charged climate of its purpose.

Amendments to the Immigration Act, 1976 provide that persons who are reasonably believed to have committed war crimes or crimes against humanity within the meaning of the Code will not be granted admission to Canada or may be deported if they are here.

Amendments to the Citizenship Act stipulate that persons who are under investigation by the RCMP, the Canadian Security Intelligence Service or the Department of Justice for, or are charged with, on trial for, convicted of, subject to, or a party to an appeal relating to an offence under amended section 6 of the Criminal Code will not be able to acquire or resume citizenship.

It should be emphasized here that persons now in Canada who are already Canadian citizens will not have their status changed by the amendments to these two acts.

The centrepiece of the legislative revision is to be found in the amendment of the Criminal Code which provides Canadian courts with jurisdiction to prosecute war crimes and crimes against humanity.

It defines "war crime" and "crime against humanity" in accordance with international law at the time of the commission of an alleged offence.

It extends the application of Canadian offences to such crimes committed outside Canada when at the time of commission such acts would, if committed in Canada, constitute an offence under Canadian law.

It extends the jurisdiction of Canadian courts to war crimes against humanity when at the time of the offence:

(1) the offender is a Canadian citizen or is employed by Canada in a civilian or military capacity;

(2) the offender is a citizen of, or is employed in a civilian or military capacity by, a state engaged in an armed conflict against Canada; or

(3) the victim is a Canadian citizen or a citizen of a state allied with Canada in an armed conflict.

It extends the jurisdiction of Canadian courts to war crimes and crimes against humanity when, subsequent to the time of the commission of the offence, the offender is found in Canada.

It provides that, with respect to the definition of an offence, prosecutions will be instituted under Canadian law as it was read at the time of the alleged offence, but that the current rules of law relating to procedure and evidence shall apply to the proceedings. Investigations will be conducted carefully in the tradition of criminal proceedings in this country that persons before the courts are presumed innocent until proved otherwise.

The bill provides that an accused person is entitled to any justification, excuse or defence recognized under either Canadian law or international law at the time of the offence or at the time of the proceedings.

It provides that no proceedings may be commenced without the personal consent in writing of the Attorney General or Deputy Attorney General of Canada, and such proceedings may only be conducted by the Attorney General of Canada or counsel acting on behalf thereof.

There are no tools here for witch hunts or show trials.

Do we need to be reminded, honourable senators, of the nature of the business at hand? "Crimes against humanity" means murder, extermination, enslavement, deportation, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group of persons. "War crime" means an act or omission that is committed during an international armed conflict, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

These crimes against humanity and war crimes are not new offences defined for the purposes of this amendment. They were recognized in international and Canadian law when they took place. "We are not aiming," said Mr. Justice Deschênes, "to make acts which were deemed innocent when committed, criminal now. Such would be unacceptable retroactivity." But those who are tried will be afforded not only the defences available to the accused when the crime occurred but all of the protections, including the Charter of Rights and Freedoms, that are available at the time of trial.

● (1500)

Honourable senators, I submit that Bill C-71 merits the approval of this chamber.

Hon. Henry D. Hicks: Would Senator Doyle permit a question for the purpose of clarification? I appreciated the point he made that the presumption of innocence would apply in criminal matters and so on, but could he refer to his text where he started to talk about offences under the Immigration Act? I thought he used an expression to the effect that "persons who were reasonably believed to have committed," and so on, would be guilty or in default. Is that what he said?

Senator Doyle: I did not intend to convey that impression, Senator Hicks. That section of my text indicates that amendments to the Immigration Act provide that persons who are reasonably believed to have committed war crimes or crimes against humanity within the meaning of the Code will not be granted admission to Canada or may be deported if they are here.

Senator Hicks: That, then, makes it a question of those people we say are "reasonably believed" to have committed rather than "proven" to have committed. That does differ somewhat from the presumption of innocence referred to in connection with the Criminal Code amendments.

Senator Doyle: I will check the precise wording, Senator Hicks, but I believe the bill will indicate that the matter of being deported is given an emphasis different from that applying to those people who may not be admitted.

On motion of Senator Grafstein, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, September 3, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Nathan Nurgitz: Honourable senators, I move, with leave of the Senate and notwithstanding rule 45(1)(*a*):

> That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at three thirty o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Hon. Ian Sinclair: Honourable senators, why is that committee being treated differently from other committees?

Hon. Royce Frith (Deputy Leader of the Opposition): I think that Senator Nurgitz is about to explain why he is asking for leave.

Senator Nurgitz: Honourable senators, my understanding is that yesterday Senator Doyle proceeded with second reading of Bill C-71. Several members of the Standing Senate Committee on Legal and Constitutional Affairs were anxious to receive that bill in committee.

My further understanding is that Senator Grafstein has some brief comments to make with respect to the bill. This is not to suggest that anyone else may not speak.

Fortunately, through the good work of our committee staff, we were able to arrange to have senior officials of the Department of Justice, the Department of External Affairs and the Department of Employment and Immigration all available this afternoon. Several senators have indicated a willingness to get on with the hearing of that matter. We could accommodate everyone today at 3:30 p.m. and have sufficient time to go well into the evening, if so required.

Senator Sinclair: A very useful precedent.

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

Hon. Senators: Agreed.

Motion agreed to.

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—NOTICE OF MOTION

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, with leave, I move:

> That the message received from the House of Commons dated August 31st, 1987, dealing with amendments to Bill C-22, An Act to amend the Patent Act, be referred to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

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

Hon. Jacques Flynn: I do not know if this is a regular procedure. I would refer to rule 36(1), which states:

> When a question is under debate, a motion shall not be received unless it is a motion to amend the question, to refer the question to a committee, to adjourn the debate . . .

As Senator MacEachen has indicated, he would need one day's notice.

I would also point out that we have on the order paper the consideration of the message from the House of Commons. It is at that very point that that motion could be put without notice. At this time, however, I think we have to come to the Order of the Day under which we will proceed with consideration of the message.

Senator MacEachen: Honourable senators, I do not share the view expressed by Senator Flynn to the effect that a motion along these lines must be made as an amendment to the motion standing in the name of Senator Murray. I considered that quite carefully and concluded that it would not be appropriate to proceed in that way because there are two separate propositions involved.

The motion which is now before the Senate, in the name of Senator Murray, moves that we concur in the amendments made by the House of Commons, and so on. This motion of Senator Murray deals exclusively with the amendments that were made in the House of Commons. My motion deals with the message in its totality, and in its totality it includes the reasons which have been given by the House of Commons for refusing the amendments made by the Senate and enters into substantive argument, as it were, with respect to the substance of these matters.

I have taken the view, having confronted the question which Senator Flynn now advances, that it would be inappropriate to attempt to send the message to committee by amending Senator Murray's motion. The message is a separate matter, which has been deposited on the table, and it is open to any senator to move that the message be sent to a committee for consideration. It does not affect the standing of Senator Murray's motion; it is there and the Senate can deal with it as it chooses.

Senator Flynn: I do not know if I would be able to convince the Leader of the Opposition by refusing leave. He would then

have no alternative but to consider the message and then move his amendment. Senator MacEachen is asking for leave, and I say that he should put that as an amendment when the consideration of the message comes before the house later today. He is bypassing the main motion and is doubling the debate on the matter by doing that. It seems to me that if I say no to his requirement for leave, he would have the opportunity to move that motion later on. If there is no other way to convince him, I will do that.

Senator MacEachen: Before I appear unconvinced, is Senator Flynn saying that it would be appropriate for any senator, when we reach the main motion, to move that the main motion and the message be sent to a committee and that that would be regular?

Senator Flynn: I think so, and Senator MacEachen had adjourned the debate on the main motion.

Senator MacEachen: Honourable senators, the present situation is as follows: I sought leave to make a motion to refer the message to the Standing Senate Committee on Banking, Trade and Commerce. I took it for granted that I needed leave because to do so one would have to have at least one day's notice. Senator Flynn has declined leave and has suggested that this be done when we consider the main motion, and that it could be in order, then, to amend the main motion by referring it to the committee along with the message. If that is understood, of course I will follow that procedure.

Senator Flynn: Rule 36 makes it very clear.

Senator MacEachen: I will amend the main motion by sending it to a committee, and I will include the message. If that is understood, then I shall wait until we get to the main motion.

Senator Flynn: Very good.

Senator MacEachen: I understand that it is agreed that there will be no procedural objections, that I shall be able to put my motion, and that it will be debated and decided one way or the other.

Senator Flynn: Yes. You will speak on the main motion and then you can explain your motion in amendment for referral to committee. Of course, it will be debatable.

Senator MacEachen: Honourable senators, I am seeking an understanding that procedural objections will not be raised as to the regularity of an amendment to the main motion which would send it to a committee along with the message. If that is understood, then I shall wait.

Senator Flynn: As far as I am concerned, I can see no problem. In any event, you do not have leave. However, you can move the motion and I shall not object on procedural grounds.

Senator MacEachen: Very well. I presume that if I run into trouble—

Senator Flynn: I will try to help you, as usual.

Senator Argue: Be careful now!

[Senator Flynn.]

Senator Frith: We will not say a word about the "as usual" because of the first part of your comment.

Senator MacEachen: —and if there is some accident between now and the calling of the Orders of the Day and minds change—

Senator Flynn: Not mine. I do not change it that quickly.

Senator MacEachen: —and if there is objection to an amendment to that effect, I reserve my right to move this motion tomorrow.

Hon. Henry D. Hicks: Honourable senators, why doesn't the Honourable Leader of the Opposition leave his notice on the order paper and then, if things proceed in the manner suggested by Senator Flynn, he can withdraw the notice? If there is a procedural argument later on in the day, his notice will stand for the motion to be made tomorrow, in any event.

Senator Flynn: You are a saviour.

Hon. Finlay MacDonald: Honourable senators, apart altogether from procedural arguments, I wonder if the Leader of the Opposition could explain to those who may be as bewildered as I why Bill C-22, involving the Patent Act—which, under normal circumstances, should have been referred to the Banking, Trade and Commerce Committee and which, indeed, that committee asked for but which was given to a special committee chaired by Senator Bonnell—is now being referred to the Banking, Trade and Commerce Committee, the logical committee. I am just asking for an explanation; I am not arguing the point.

An Hon. Senator: Wait until tomorrow.

Senator MacDonald: Someone has said that I should wait until tomorrow. Very well.

The Hon. the Speaker *pro tempore:* It would be difficult for the Chair to rule on a motion which has not been put before the Senate. There is no motion before the Senate. Leave has not been granted. I suggest that we proceed with the Orders of the Day, and in due course the Leader of the Opposition will have an opportunity to present his motion.

Hon. Duff Roblin: Honourable senators, I am not quite clear on this matter. Has the Leader of the Opposition accepted the suggestion of the honourable senator for the Annapolis Valley that he proceed with his motion, for which he requires no leave, and leave it on the order paper? Is that what he is doing? Or what is he doing?

Senator Flynn: He would give notice for tomorrow.

Senator Roblin: That is what I want to find out.

• (1410)

Senator MacEachen: Honourable senators, buoyed up, as it were, by the comments of Senator Flynn, I decided that I would make a motion amending the main motion referring the bill to a committee, along with the message, on the understanding that there would be no procedural objection. However, being doubly cautious, I said that if something developed in that short period between now and the time that we reach

the Orders of the Day, I wanted to reserve my right to have given notice on this other motion.

QUESTION PERIOD

[*English*]

TRANSPORT

PRINCE EDWARD ISLAND—PROPOSED TUNNEL OR CAUSEWAY AND FERRIES

Hon. M. Lorne Bonnell: Honourable senators, I would like to ask a question of our new government leader in the Senate.

Senator Argue: Without extra pay!

Senator Bonnell: As a preamble to my question, let me say that I think it is only right that the whip of the government party should be a member of the cabinet so that he can communicate to the cabinet the views and questions brought forth in the Senate and bring us the answers. As I have said before, Senator Phillips would be a great asset to the cabinet of this country.

An Hon. Senator: P.E.I. solidarity!

Senator Bonnell: I know that he is as concerned as I with respect to the isolation that we, as Islanders in the Gulf of St. Lawrence, sustain. I know that he is as concerned as I with the cost to Islanders of travel to other parts of Canada, and I know that he is as concerned as I with what it costs other Canadians to visit us in our fair isle.

I wonder if Senator Phillips could take as notice a question as to when the government of the day will be building the two new ferries for the Wood Island-Caribou run, and whether the government can give us more information as to the building of a tunnel, causeway or other permanent crossing for the Borden-Tormentine run.

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I thank the honourable senator for his question. I would point out to him that Prince Edward Island is still in the same position as it has been since Confederation. It has not moved and we still have the same problems. I will refer his question to the Leader of the Government, who will reply to it in due course.

BUSINESS OF THE SENATE

Hon. Nathan Nurgitz: Honourable senators, before proceeding with the Orders of the Day, earlier today I moved that the Standing Senate Committee on Legal and Constitutional Affairs be permitted to sit at 3.30 this afternoon. For the moment I am not anticipating great problems for the Leader of the Opposition when Order No. 1 is dealt with, with the support of Senator Flynn. However, just in case—and in view of an undertaking by Senator Grafstein that his submission will be no longer than approximately five minutes—I wonder whether it would be in order for the Senate to deal with Order No. 2 ahead of Order No. 1 so that the motion I moved earlier might in some way be a reality.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Honourable senators, I do not know what the remarks of Senator Grafstein will contain. It was suggested earlier that he might be the only speaker on this item. This is the first opportunity that the Senate has had to debate the contents of this bill as it has come to us from the House of Commons. It is traditional that some explanation be given to the house as to the genesis and history behind the contents of such legislation.

Without pre-empting what Senator Grafstein's comments may be, I think that some general, basic remarks are owed to the house as to the origin of that bill. Some may presume that we have read all of the studies and conclusions of the Deschênes Commission, but that certainly is not the case with respect to myself. I have been busy with other things this summer, including Opus Dei, as some honourable senators may know. I would like a summary as to the background of this legislation.

Hon. Orville H. Phillips (Acting Leader of the Government): The Honourable Senator Doyle gave an introduction on the bill yesterday.

Senator Corbin: I was unavoidably absent.

Senator Phillips: I regret that.

Senator Corbin: I apologize. I will read Senator Doyle's remarks.

CRIMINAL CODE
IMMIGRATION ACT, 1976
CITIZENSHIP ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Doyle, seconded by the Honourable Senator MacDonald (*Halifax*), for the second reading of the Bill C-71, An Act to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act.—(*Honourable Senator Grafstein*).

Hon. Jerahmiel S. Grafstein: Honourable senators, this Senate chamber is a chamber of remembrance. Our walls are adorned by historic and vivid paintings—silent witnesses to the horrors of war. There, senators, on that wall, we see the Dead City of Arras. There, on that wall, we see the devastation of Ypres, where so many brave Canadians lost their lives. There, on that wall, we see the dismembered French peasant families, fragmented, refugees, returning to their devastated homes.

These portraits, honourable senators, were placed on our walls demanding that we remember, lest we forget. We celebrate Remembrance Day; we mourn our heroic dead; we pay homage to their sacrifice; and now, senators, we turn to a bill, a law, that tells us that history has its lessons.

This Bill C-71 says that justice delayed is justice denied. This bill says that Canada acts when we believe in protecting fundamental human values, even though the exercise of that belief may be painful and difficult. By this legislation Parliament is acting in its grandest role, as an instrument of democratic oversight. It is rare these days, in this chamber, that we can, on this side, commend the Government of Canada for its action on any legislation. However, today I do commend the Government of Canada, the Minister of Justice, the dispassionate work of Mr. Justice Deschênes, his legal officers, his consultants, his staff, and the equally invaluable work and contribution made by many volunteer and citizen groups that played such an important role in bringing forward and shaping the solution of this unfinished problem of our history.

Mr. Justice Deschênes, in his fact-finding process, uncovered pages of our history that we had not read before, to our surprise and dismay. There may be other lessons still to learn about our past public administration. However, Mr. Justice Deschênes, after careful, fair-minded and painstaking deliberation, sought to correct the scales—the imbalance in history. This legislation strongly sends a message that any means must match our ends. This is a Canadian legislative solution, made in Canada for Canadians. This is not retroactive legislation. Mr. Justice Deschênes, in his report, carefully stated:

> We are not aiming to make acts, which were deemed innocent when committed, criminal now; such would be unacceptable retroactivity. But extermination of a civilian population, for instance, was already as much criminal in 1940 as it would be today, under the laws of all so-called civilized nations. We are only trying to establish now in Canada a forum where those suspected of having committed such offences may be tried, if found in Canada.

International law, particularly international human rights, has dramatically evolved since World War II. From lessons of the Holocaust, one would have thought genocide would stop. But we know, from our high hopes, that good words need good laws, that grand resolutions need good, democratic, enforceable law.

Reinhold Niebuhr, the great Christian theologian said: "Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary." It is clear that since the Second World War acts of genocide and flagrant violations of human rights have continued unabated.

Over 70 wars have errupted in all parts of the globe in the last 40 years. New generations of innocent lives have been lost. The awful patterns and cycles of history do repeat themselves, so we must be ever vigilant. Human rights has become an agenda item in foreign policy in the world, yet even totalitarian states continue to play lip service to violence against their citizens and against humanity. How can we, as Canadians, condemn acts against humanity, on the one hand, and then delegate our responsibility to enforce violations of international law, on the other? We cannot preach and yet not act.

This bill is an operation in human pathology, an operation on the human condition that cuts at the cancer of intolerance and inhumanity, that seeks to excise from the human condition the cancer that would promote and propagate genocide. This bill wars against ideas of historical determinism—determinism based on race, or even determinism based on class. We know historical determinism means the abrogation of human choice—the demeaning and diminution of human rights. Yesterday the Vatican, in an unusual public statement, referred to the awful lessons of the Holocaust. I quote these brief words:

> Nazi ideology was not only anti-Semitic but also profoundly demonic and anti-Christian.

People of all races and creeds were not exempt from criminal acts against humanity. So this bill to amend our Criminal Code, our Immigration Act, and our Citizenship Act is to redress the forces of history. The awful lesson is that once horror discriminates against one race, that horror cannot be contained and ultimately is indiscriminate. Horror consumes victims—absolute horror consumes all. Such was the Holocaust—an event that passes all human understanding.

Let us tell the world in loud and clarion law that Canada has an exacting standard of civilized conduct, and any failure to maintain those standards of humanity, in war or in peace, will be an act against our state, an act against our democracy, an act against our responsible government, an act against our civilized society.

Members of both my father's and mother's families who lived in several countries in Europe, after my parents immigrated to Canada early in this century, were decimated only because of their religion. Yet, this bill is not an act of retribution or retaliation but an act of justice. The Minister of Justice has correctly pointed out in the other place that this bill is retrospective, not retroactive.

I would like to quote from the Minister of Justice, who made an eloquent speech in the other place on August 20. He stated:

> The acts or omissions encompassed in the definitions of war crimes and crimes against humanity have long been regarded as criminal by the community of nations. It is important to note that the military tribunal at Nuremburg reconfirmed the prior existence of these offences as have other courts since then. This Bill recognizes this fact and therefore would confer jurisdiction upon such cases.

He went on to state:

> only offences which were known both to international law and to Canadian law at the time when such offences were committed will be brought before the courts. There will be no new offences created or applied retroactively to past acts or omissions, something which would be rightly viewed by Canadians and courts alike as repugnant to our concept of justice. Similarly, the proposed amendments to

> the Immigration Act and the Citizenship Act would not have retroactive application for the same reasons.

Finally, the minister stated:

> international law is evolutionary and has changed over time. The definitions of war crimes and crimes against humanity reflect this. In the past, Canada has amended its laws in order to conform to its international obligations. Often these amendments have also recognized the increasing acceptance in international law of the principle of according universal jurisdiction to the national courts in respect of internationally acknowledged offences.

Honourable senators, we must ensure that the Government of Canada, and its law officers, federal and provincial, swiftly pursue the lawful prosecution of alleged war criminals, and in that awful but just process we must equally ensure that our Charter of Rights and Freedoms and the requirements of international justice and due process will not be sacrificed. When we pass this bill, as we will, we will say to past generations of Canadians, "We remembered!"

We say to the present generation that we will act. We say to Canadian generations yet to come that this generation was courageous enough to learn the lessons of history, to correct the past, to correct the distorted cycle of history; that the Canadian idea will not permit flagrant breaches of international standards of humanity; and that the Canadian idea does not and will not allow states or individuals, acting under unjust orders, to commit acts beyond human understanding. For justice to be done justice must appear to be done. Just laws and just acts are the essence of a just society. So, honourable senators, let us support this law which places Canada on the just side of history.

My old dean at the University of Toronto Law School, Caesar Wright, often quoted Mr. Justice Felix Frankfurter on the importance of law in society and the importance of law as a vehicle of reform.

> . . . fragile as reason is, and limited as the law is as the expression of the institutionalized medium of reason, that is all we have standing between us and the tyranny of mere will and the cruelty of unbridled, undisciplined feeling.

I support this bill, honourable senators, and commend it to you for your speedy passage. Justice, justice will be done! First, justice when we pass this bill, and, then, justice again when criminals in our midst are swiftly brought to the bar of justice. The walls of this chamber will then testify, as they do, that we remembered, that we did not forget!

Hon. Raymond J. Perrault: Honourable senators, I support this bill, but first I have a few very brief remarks to make.

The crimes committed in World War II are unforgiveable and they should and must be remembered. But let us not confine our pursuit of justice to the grim and relentless pursuit of a group of aging Nazis or Nazi collaborators. Let us concern ourselves with all crimes against humanity, whether those crimes were committed 50 years ago or 50 hours ago. Let us not merely target those who present no contemporary political or economic problems. It does not take a great deal of courage to support a condemnation of the violation of human rights if those violations occurred many years ago. That is why the support for this measure will be unanimous. Let us demonstrate the same courage, if it is necessary, to condemn contemporary violations of human rights.

Just check the record of Amnesty International and see the violations of human rights which are imposed on suffering humanity in many countries today. I find it rather disturbing, honourable senators—and it does not reflect credit on any of us—that in all too many instances where those violations of human rights are alleged to exist today we are careful not to say anything. Perhaps we think it is bad politics to do so, or that criticism or condemnation on our part may affect some economic, trade or political relationship with the offending country, and so we back away. In my view, this measure, Bill C-71, should have been passed years ago, so far as those aging Nazis are concerned, but, world-wide, there are many violations of human rights out there crying out for our Canadian conscience to be as forthright with respect to these violations as we are being forthright at this moment with respect to the crimes of those aging Nazis. I am afraid that the record will show that all too often we defer condemnation of contemporary violations of human rights for trivial or less than honourable reasons. I think that if this marks a new departure from careful, Canadian diplomacy, then let it be a new beginning.

• (1430)

Hon. Senators: Hear, hear!

Hon. Heath Macquarrie: Honourable senators, I am prompted to rise to agree most profoundly with the brief remarks of Senator Perrault.

Often, in matters of human rights, we can be very selective. There are some violators who pass unnoticed. It often seems to me that if they are violators on the extreme right, we do not really talk much about them. Surely to heavens, there must be someone whose human rights have been violated in the great Republic of Chile. Not all the violators of human rights are on the other side of the Iron Curtain.

I think that we must not ever freeze in time—that is, historically, or in area—that is, geographically. I have always thought that Bill C-71 was a little narrowly focussed. Sometimes, if our friends do it, no matter how bad it is, we must look upon that with silent composure or composed silence. That is not, I think, good enough for a country which maintains that a due and eternal regard for the human rights of all individuals is one of the basic foundations of its society. One is troubled about that.

I should have thought that we might have had a better bill than Bill C-71 if more time had been taken to reflect upon some of these very serious matters.

There are many people in the world today whose rights have been grossly, cruelly and eternally violated. At the United Nations I used to be so impressed by the fact that it was so easy for anyone to stand and denounce the Soviet Union. No one ever seemed to suggest that there was anything going on in

another great Communist state, namely, the Republic of China, except a lovely lot of Jeffersonian democratic seminars. Do we really believe that that is the case? I have no animosity towards the Republic of China. It is a fine country doing a great job under enormous difficulties, but let us not be so selective as to confine it to an era, a limited phase in time, or to just one part of the world. Tyranny should be opposed universally, not just retroactively but, as Senator Perrault so well said, up to this very moment in our existence.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Jacques Flynn: Honourable senators, the remarks of Senator Perrault and Senator Macquarrie prompt me to rise. If I correctly understand the remarks of the sponsor of the bill, this measure would apply to any crime recently committed in any country of the world, if the guilty party were in Canada. Therefore this bill is not restricted to crimes perpetrated during the last war. It applies to these crimes, but also to others which were committed since then or which might be committed in the future, if my understanding of the remarks of the sponsor of the bill is correct, and that is the reason why I have no objection. If it were simply a matter of dealing with events which took place 50 years ago, I suggest it would be quite illogical. Whatever one might say, we must seek out the people who are guilty of these crimes. But I think it would have been a mistake to restrict the search to these people. I think Senator Perrault and Senator Macquarrie might be reassured by the sponsor of the bill because, although I did not read all the fine print, I did listen closely to his remarks yesterday and I think he will agree with me when I say that crimes against humanity committed since the last war, and even before and since the last war, in any country of the world, might lead to indictment under this legislation if the guilty person were on Canadian territory.

[*English*]

Hon. Henry D. Hicks: Honourable senators, before Senator Doyle is called upon to close the debate, I might have just a word in elaboration of the intervention I made yesterday when I noted, with satisfaction, Senator Doyle's assurance that "the presumption of innocence until guilt is proven" applies to portions of this bill that relate to amending the Criminal Code.

I then expressed my concern that in the portions referring to the Immigration Act somewhat different language was used. While I had not looked it up at the time, I have done so since, and this occurs in clause 3 of the bill, which amends subsection 19(1) of the Immigration Act, 1976, by adding to that subsection, which states:

> No person shall be granted admission if he is a member of any of the following classes:
>
> (*j*) persons who there are reasonable grounds to believe have committed an act or omission outside Canada that constituted a war crime or a crime against humanity . . .

[Senator Macquarrie.]

I expressed my reservations about condemning such a person on the basis of a reasonable belief that he had done such and such an act.

I have thought it over since then and I make an easy distinction when I recall to myself that the "right" to immigrate to Canada is not a right but is a privilege, and there is no reason why Canadian officials ought not to have the authority to withhold the privilege of immigration to Canada and Canadian citizenship from a person in relation to whom there are reasonable grounds to believe certain things.

I am quite satisfied with the legislation as it is. If I have caused Senator Doyle any difficulty in digging deeper, I apologize. I think the basis of the legislation is sound, with the distinction that I have made between the criminal law and the privilege of immigration to Canada.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

On motion of Senator Doyle, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Phillips:
>
> That the Senate concur in the amendments made by the House of Commons to its amendments 1(c) and 8 to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, without amendment;
>
> That the Senate do not insist on its amendments 1(a) and (b), 2(a) and (b), 3, 4(a) and (b), 5(a) and (b), 6, 7(a) and (b), 9 and 10(b) and (c), to which the Commons has disagreed; and
>
> That a Message be sent to the House of Commons to acquaint that House accordingly.—(*Honourable Senator MacEachen, P.C.*).

MOTION TO REFER QUESTION AND MESSAGE FROM COMMONS TO BANKING, TRADE AND COMMERCE COMMITTEE

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wish to begin my comments by moving a motion—I will not use the word "amendment" in case that will cause some difficulty.

Senator Flynn, quite helpfully, referred to rule 36, which reads:

> When a question is under debate, a motion shall not be received unless it is a motion to amend the question, to refer the question to a committee . . .

From my point of view, that was quite helpful, because it removed the necessity of taking the other route, which I thought might be necessary. Therefore, I move:

> That the question, together with the message from the House of Commons on the same subject, dated August 31, 1987, be referred to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

If there is to be a procedural consideration of the amendment, then I would be pleased to listen

• (1440)

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator MacEachen, seconded by the Honourable Senator Frith:

> That the question, together with the message from the House of Commons on the same subject, dated August 31, 1987, be referred to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

Is it your pleasure, honourable senators—

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators—

Senator MacEachen: I would like to make some comments at this stage.

Senator Phillips: But I have a question on a point of order. I do not have a copy of the motion that was made by the Honourable Senator MacEachen, but I believe it stated "the question", and I would like clarification of what that refers to. In my opinion, it should possibly read "the motion", in reference to the motion presented by the Honourable Senator Murray. I do not know what the word "question" refers to in this motion.

Senator MacEachen: I have no hesitation or difficulty in substituting the word "motion" for "question". I think I could make an argument that "the question" is valid, but if it meets with the approval of the Senate, let us say "the motion".

Hon. Royce Frith (Deputy Leader of the Opposition): It should read "the question".

Hon. Jacques Flynn: I think it should read "that the motion be not now put but that it be referred to the committee", but it is only a question of form.

Senator Frith: Honourable senators, most of the procedural references in cases like this use the words "the question". The rule to which Senator Flynn referred reads:

> When a question is under debate, a motion shall not be received unless it is a motion to amend the question, to refer the question to a committee, to adjourn the debate,

and so on. Therefore, I think it is the right procedural word to use, "the question" being the motion. For purposes of explanation that is what "the question" means. We do not intend it to mean anything more than that.

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

Senator MacEachen: Honourable senators, it is certainly not my intention to delay a vote or a decision on this particular motion by making a very long speech—

Senator Perrault: Never!

Senator MacEachen: —but I think I should explain why, in our view, it is necessary to make a further attempt to improve Bill C-22.

Honourable senators, the Special Senate Committee on Bill C-22 and the Senate itself took a very serious look at this particular bill. It developed a series of amendments which were then sent to the House of Commons and debated. It is true that the Minister of Consumer and Corporate Affairs did accept an amendment, one which, in the view of certain members of the special committee, made a meaningful improvement to the bill, because it will have the effect of assisting consumers who are users of generic drugs. However, it is also clear that, apart from that single effort to seek an accommodation, the other amendments made by the Senate were turned down. That has not been received, certainly by this side of the house, with satisfaction. We still have serious reservations about this bill, and we feel that it is necessary to make a further attempt to seek improvements to it.

If today we were faced with a vote on the motion made by Senator Murray, we would be faced, as he described it, with the moment of truth. Certainly it is not agreeable to members of this side of the house to accept that motion at the present time. We believe that, rather than accepting the motion and accepting what we consider to be a very bad bill, we ought to make a further effort in committee to secure improvement.

Let me make it clear that it is not our intention, nor has it ever been our intention, to seek a confrontation with the House of Commons.

Some Hon. Senators: Oh! Oh!

Senator Phillips: Whoever suggested that?

Senator MacEachen: Our effort has been to seek a confrontation with the bill and some of its bad features. That is what the special committee and senators on this side of the house have attempted to confront. We believe that a further effort ought to be made to seek improvements that might be acceptable to the House of Commons and to the Senate. I think it is too early to give up that effort—to give up the struggle which has been so courageously and successfully carried on under the leadership of Senator Bonnell.

Some Hon. Senators: Hear, hear!

Senator MacEachen: Obviously there is at this stage a clear difference of opinion between the majority in the House of Commons and the majority in the Senate with respect to this particular bill. It is not a remarkable phenomenon that there should be a difference of opinion between the two chambers in

a parliamentary system. It happens frequently not only in Canada but in other countries. What is to be done when there is a clear difference of opinion? Surely there ought to be an effort undertaken to seek an accommodation or a compromise so that at least the concerns expressed in this chamber could be ameliorated and alleviated.

The Minister of Consumer and Corporate Affairs has quite categorically stated that he will not participate in any conference between members of the House of Commons and members of the Senate.

Senator Haidasz: Shame!

Senator MacEachen: That is his right, but it ought to be pointed out that the conference method has been used in this country—

Senator Perrault: Many times.

Senator MacEachen: As Senator Perrault says, many times.

Senator Flynn: Not since he was here!

Senator MacEachen: It has not been used in recent years, but, surely, honourable senators, when we are faced with a difference of opinion, a disagreement of this nature and depth, the reasonable thing to do would be to at least see whether there could be an opportunity to work out the differences and reach an accommodation with the minister and the other house. The minister has said no to a conference.

● (1450)

Senator Frith: And you cannot force one.

Senator MacEachen: We cannot force the minister to come. He has said no to a conference, and he has felt, I think wrongly, that he would be coming hat in hand to the Senate.

Senator Frith: Head uncovered!

Senator MacEachen: Or head uncovered, but—

Senator Frith: Let him wear a hat! I think he would get unanimous consent to wear a hat!

Senator MacEachen: —other parliamentarians in former years did not take that view. So a conference at the moment is out of the question. However, we do have left to us the opportunity of referring this matter to a committee.

Hon. Finlay MacDonald: To another committee.

Senator MacEachen: To a committee.

Senator MacDonald: To another committee!

Senator MacEachen: To another committee.

Senator Phillips: To the one it should have gone to in the first place!

Senator Frith: Then you must be pleased that it is finally getting it!

Senator MacEachen: To the Banking, Trade and Commerce Committee of which Senator MacDonald is the distinguished deputy chairman.

Some Hon. Senators: Hear, hear!

[Senator MacEachen.]

Senator MacEachen: I am sure the fact that he is on the committee is an added reason why this difficulty ought to be sent to that committee—

Senator Frith: He has always wanted it and now he will get it.

Senator MacEachen: —because he has taken a reasonable view—

Senator Barootes: Put Senator Bonnell on it!

Senator Petten: He will be. It will be arranged!

Senator MacEachen: —and has listened to various points of view. I do not think there is any mystery as to why at this stage—

Senator Balfour: No mystery at all!

Senator MacEachen: I do not think there ought to be any mystery at this stage as to why the message and the motion are being sent to the Senate Banking, Trade and Commerce Committee. The reason is that the special committee has gone out of existence.

An Hon. Senator: Good riddance!

Senator MacEachen: It does not exist any more. It is defunct. It is my view that it would be more expedient to send the message and the motion to an existing committee rather than going through the process of reconstituting the special committee. Now, if honourable senators on either side of the house wish to change the motion to reconstitute the special committee, then I have no objection.

Senator Flynn: Oh, no!

Senator Balfour: You are stonewalling!

Senator MacEachen: However, I thought it would be preferable to send the matter to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

Senator Perrault: Hear, hear!

Senator MacEachen: If one looks at the terms of reference that are assigned to the Banking, Trade and Commerce Committee, as outlined in the "Rules of the Senate of Canada", one will see that the subject matters of patents and royalties are specifically mentioned. So, I am following, in a sense, the normal course or procedure.

If honourable senators want to argue again why we set up the special committee in the first place, I am not prepared to do so at the moment. I am arguing that it is expedient to use the Standing Senate Committee on Baking, Trade and Commerce for this matter.

Honourable senators, I have just one other point, maybe two, that I want to mention. In using this technique of referring a message from the House of Commons to a committee we are not breaking new ground. I can cite a number of precedents which I have looked up indicating that on more than one occasion the Senate has referred a message received from the House of Commons to a committee for consideration and report. It is not new. It is not precedent creating. One

incident occurred when Senator Olson was Minister of Agriculture, and honourable senators may recall it. On that occasion his bill was amended by the Senate. The amendment was rejected by the House of Commons, a message was sent back to the Senate, and the Senate sent the message to a committee. The message was examined and the Senate did not insist on its amendment.

Senator Frith: That was the report of the committee.

Senator MacEachen: There is another case that I would cite when a similar process was followed and when the Senate did insist on the principle of its amendment. After consultation with the government, a compromise amendment was accepted. It is on the basis of that kind of precedent that we feel that it is useful to make a further effort to seek some accommodation and some compromise with respect to Bill C-22. That is why we have chosen to send the message and the motion to the committee, in the hope that further thought, further discussion and further reflection—

Senator Frith: And evidence.

Senator MacEachen: And further evidence, if necessary—will make it possible for both houses to agree on a bill that we can all support. That is the sole purpose of this effort, and I want to conclude by saying that if honourable senators undertake this task in good faith, I believe it will be possible to achieve results that may not be clear at the moment.

Some Hon. Senators: Hear, hear!

Hon. L. Norbert Thériault: Honourable senators, I want again to show my concern about this bill by making the following point: that the Leader of the Opposition has referred—as he has on many occasions in both houses in his speeches—to this side of the house. I want the record to show that what he said is totally supported at least by myself and I am sure by a number of us on this side of the house.

Senator Corbin: And maybe even some independents. Who knows?

Some Hon. Senators: Hear, hear!

Senator Flynn: I want to assure Senator Thériault that we have known for a long time that we are entirely surrounded. There is no way that we can impose our will on this place for the time being. I was calculating the other day that it may take about seven years, which is quite a long time, and I will be gone before the present majority will disappear.

Senator Argue: That is assuming a lot!

Senator Flynn: What exactly will be the composition of the Senate at that time I do not know. The Meech Lake accord might alter the face of this house.

Senator Argue: Meech Lake might never happen!

Senator Flynn: I want to congratulate Senator MacEachen on the tone of his remarks.

Senator Perrault: He has been very reasonable.

Senator Flynn: He has sought to avoid confrontation. As he knows, I take the same vein all the time.

Some Hon. Senators: Oh! Oh!

Senator Lucier: Easy, Jacques, easy!

Senator Flynn: I do not know whether the purpose of the motion is to try to seek accommodation with the government or whether it is a face-saving device, but, either way, what is important at this point—and I would ask the Leader of the Opposition to clarify the program he has in mind—is that he assure the Senate, and particularly the public, that the Liberal majority in the Senate is not delaying the final decision on this matter indefinitely.

Senator Perrault: Never!

• (1500)

Senator Flynn: I was wondering whether it would be possible to agree to a time limit for the Standing Senate Committee on Banking, Trade and Commerce to report to the Senate and for the Senate to make a final decision on this report, as we did previously in June. For example, if the Banking Committee could deal with this matter during the course of next week and report to the Senate around September 14 or 15, the Senate could then make a final decision around September 18. If that were an order of the Senate, I think on this side of the house we would see no problem and would not look upon the motion of the Leader of the Opposition as merely a delaying tactic. In other words, with that kind of arrangement, I think we could have a meeting of minds.

Hon. Ian Sinclair: Honourable senators, as chairman of the committee under discussion, I would like to assure all members of the Senate that I certainly will not allow the sittings of that committee to be used merely as a delaying tactic, if I am able to stop it.

Some Hon. Senators: Hear, hear!

Senator Barootes: Do you want to travel?

Senator Frith: Is that a question or a threat?

Senator Sinclair: We may call Senator Barootes as a witness, I do not know.

However, honourable senators, in view of the powers vested in that committee under the rules of the Senate, I think the Senate should have enough confidence in the committee to leave it to us to operate responsibly and not be faced with any deadlines. Certainly, as I look at this message, I find I have some difficulties with it. There are some things that bother me in the language used. They may not be substantive; I don't know. In any event, having been given this message point by point, the committee should look at it in that fashion. We will not delay this matter, but neither will we hurry it. It is too important.

Furthermore, honourable senators, as I see it, there seems to be a certain level of "hype" which I think we as a committee should forget about. The committee should be looking at the facts in trying to determine what is right, and then make its report. We are not a political committee; we are a fact-finding

committee. That will be our job and we will do it to the best of our abililty, without undue delay and without having any limitation placed on our time.

Senator Flynn: Honourable senators, I was not doubting the objectivity of the chairman. He knows that I have great respect for him. However, what I have in mind is that the committee has no other job than to seek the possibility of a compromise. There is no doubt that the committee will invite the minister to appear. As Senator MacEachen mentioned, the minister has said that he would not want a conference, but we have not yet reached that point.

It seems to me that a week or ten days is surely enough time for this committee to make its report. If it needs more, the chairman can always come back to the Senate and ask for a delay. Then, if there is justification, the matter is before the Senate.

In other words, I am seeking to have harmony in relation to what is going to happen. That is why I was pressing for a date on the report of the committee. The chairman can report that the committee is not ready, if that is the case, but it seems to me that September 15 is an appropriate date. It is a Tuesday, and if the committee presents a final report, then the Senate can make a decision in the following two days. If the committee does not have a final report by that time, the chairman can always ask the Senate for a further delay.

However, to send it to the committee without any fixed date would be very difficult to accept, from the viewpoint of the government. That is the only reason I was asking for a limit on the time the committee would take to present its first report to the Senate and for the Senate to make up its mind on the report of that committee.

Hon. Douglas D. Everett: Honourable senators, I think that the motion in amendment put by the government leader is a sensible one, and, to answer Senator Flynn's question, it is not related to face-saving but is an attempt to give the government and the House of Commons an opportunity to come to an accommodation on what has arisen out of the public hearings by the special committee under the chairmanship of Senator Bonnell, which apparently has majority support amongst the public in Canada. I think the honourable senator will find that to be true. Nonetheless, it is subject to argument.

Senator Flynn: I do not agree with that.

Senator Everett: You may not agree, but some recent polls have shown that majority support does exist for the Senate's amendments.

However, honourable senators, that is not my purpose in rising on this issue. It is more to deal with the obligation of the House of Commons in respect of a confrontation between the two houses. At Confederation John A. Macdonald, in discussing the question as to why he would give an appointed house plenary powers, stated that he thought that an issue that came from the House of Commons that was not accepted by the Senate, and was either amended or rejected, would return to the House of Commons, which would then consult with the electorate and, if the electorate was in favour of the version put forward by the House of Commons, they would put it forward to the Senate again. Further, he said:

> I cannot conceive of a situation in which the Senate would reject the bill after consultation.

What we keep hearing from the other place and from the government is that the elected representatives must prevail. Honourable senators, it is not the elected representatives who should prevail; it is the public who should prevail. Further, it ill behooves the minister and the Prime Minister, before the amendments are even passed, to say that they will not accept an amendment from the Senate. That is not consultation with the public. It ill behooves the minister to say that he will not enter into a conference with the Senate—the conference being a long-established tradition between the two houses.

I believe that the House of Commons has an obligation here, because the Senate is an established body of Parliament; it has plenary powers and it has every right to exercise those powers. If the House of Commons is stating that we should not exercise those powers, then they should change them. However, I do not think we should allow it to go abroad that those powers exist, but, because they were given to us in 1867, we should not use them. If we cannot use them, then we should not have them, and we would not be doing the job that we had been given to do.

● (1510)

We are not just talking about powers that were given in 1867. They were updated at the Meech Lake conference between the premiers of all the provinces and the Prime Minister of Canada, in which they said that the Senate should be appointed from panels by the provinces. Nothing was said about changing the powers. They did say they would have a conference on the matter, but that, effectively, is an endorsement of the powers that exist. Until those powers are changed we have every right to exercise them.

What bothers me about this is the idea that is enunciated by the Minister of Consumer and Corporate Affairs, that we have no right to confront the elective house. We have every right to confront it. They have an obligation to deal with those issues and to enter into some sort of discussion to at least arrive at a compromise on the difference of opinion. Therefore, I think the matter should be referred to the committee. It is to be hoped that the minister will come to that committee and discuss the issue, and that he will arrive at a point where he can enter into a conference with this house so that we can resolve this very serious matter.

If the government and if the House of Commons take the view that the Senate has no right to do what it has every right to do, then, in my judgment, there should be a confrontation—one that I would otherwise hope to avoid. But, under those circumstances, I believe there should be a confrontation.

Senator MacDonald: Senator Everett, will you permit a question? Did I understand you to imply that a conference is inevitable?

Senator Everett: No. I hope that after the matter has been dealt with in the Banking, Trade and Commerce Committee

the government will see its way clear to agreeing to a conference. You must remember that the minister has said that he would not agree to any conference with the Senate on the matter. I am saying that he should agree to such a conference. I am not saying he must. He has the choice as to whether or not he does, but I am saying that the best advice we could give him would be to enter into a conference with the Senate.

Hon. Michel Cogger: Honourable senators, I would like to address a question to the mover of the motion or, alternatively, the chairman of the committee. I have listened attentively to all the remarks made today. I note with interest that the chairman of the Standing Senate Committee on Banking, Trade and Commerce indicated that his committee was not a political committee but a fact-finding committee. I entirely agree with that. I happen to be a member of that committee and I support that view. I would remind the chairman that it is because of statements like that, I suspect, that the committee was not given the mandate to look into Bill C-22 in the first place.

Having said that, if the bill is to be referred to the committee, I would like to raise a couple of questions with the mover of the motion or with the chairman of the committee. Is it the intent of the mover or of the chairman that this committee be allowed to travel? If so, what would the budget be? We know what the last budget was. I happen to know the chairman's views on travelling the last time we travelled, and I would be interested in knowing the views of the mover or the chairman now.

The chairman has answered the question as to time frame. I respect his answer and I agree with it.

I have another question. If the motion should be adopted and the whole matter be referred now to the Committee on Banking, Trade and Commerce, is it the intent of senators opposite to add to the committee the presence of the Quebec Liberal senators, who were so sadly absent from the Special Committee on Bill C-22?

Senator Sinclair: Honourable senators, I think the question has been put to me as chairman of the committee. I would certainly raise any question of travelling with members of the committee with the recommendation that we would not do so—with the strong recommendation that we would not do so. Senator Cogger is a member of the committee and Senator MacDonald is the deputy chairman of that committee. If I tell you in advance how I will vote if there is a tie, I think you can rest assured there will be no travelling.

Hon. Philippe Deane Gigantès: Honourable senators, with all due respect, and the most profound respect for one of the most awesome people in Canada, before whom all of us quake, I still do not think he should say that a Senate committee will not dare oppose him, even if he is its chairman.

Senator Sinclair: I have only given you my opinion. You can come and see, if you like.

Senator Cogger: I would like to ask a follow-up question of the chairman of the committee. You have answered all of my questions except the final one. What about the presence of Quebec Liberal senators on this committee?

Senator Sinclair: When we have our meetings, all members of the Senate will be welcome to express their views. If they feel they have something to add, I am sure they will be there.

Senator MacEachen: Senator Cogger must know that Senator Riel is a member of the Banking, Trade and Commerce Committee. Is he not a Quebec senator?

Senator Cogger: Yes, he is.

Hon. Efstathios W. Barootes: He is not a Liberal.

Senator Frith: Who isn't?

Senator Barootes: I apologize. May I ask a question of either the mover or the chairman of the committee? There is a good body of evidence available at the present time—I think about a foot and a half of it, synopsized—by witnesses who have given testimony before this Special Committee on Bill C-22. If possible, and not to pre-empt the procedures of the committee, I would like to ascertain if there is any possibility that you will be recalling all or any of the witnesses who appeared before, first, the House of Commons legislative committees, and, second, the special committee here? I am beginning to wonder whether we are not ruminating on this like a cow with several stomachs. How many times are we going to go through this evidence before somebody comes to a conclusion and makes a recommendation? Are we going to fish or cut bait?

Senator Sinclair: Honourable senators, once again I say to Senator Barootes that he has to have some confidence in the people who are on that committee operating in a reasonable way. That is the way I would like to leave it.

Hon. Duff Roblin: Honourable senators, I feel a little apologetic in joining the ranks of the debaters this afternoon, because it appears from listening to my good friend and neighbour, Senator Everett, that there is some danger of this degenerating into a debate on the Constitution. If that seems to be one of the issues before the Senate this afternoon, I might offer a few comments on the position that our chamber occupies in the scheme of things.

Needless to say, I was pleased, but not surprised, when I heard that the leader of the Liberal Party of Canada had offered some good advice to his colleagues in the Senate—and my leader expressed the same good advice the other day—to the effect that at the end of the day the Senate must recognize the moral authority of the House of Commons to have its way in this matter.

I was also relieved, but again not surprised, to hear that the Leader of the Opposition in the Senate—at least he left this impression with me—has said that after all his efforts, no matter how many they were or how repetitious they were or how hopeful they might have been, he, himself, would concur with the leader of the Liberal Party of Canada in saying that the House of Commons has the right to have its views respected by this chamber.

I think that that is a wise position for this chamber to take. That is not to say that the Senate does not have a legal authority to reject totally the views of the House of Commons. Reference has been made to other second chambers which have a legal authority to reject material that goes to them from their lower chambers, but no mention was made of the fact that in those instances there is a tie-breaking mechanism, a deadlock-breaking mechanism. That is certainly the situation in Australia and in the House of Lords. The United States has a congressional system, which is somewhat different from ours. We do not have quite the same arrangement, nor the need for that arrangement, in view of the principle of responsible government that we have here. But the fact is that this chamber does have the legal authority, the constitutional right, to say no to the House of Commons. The question is whether the Senate should do so.

The Governor General has the right to say no to the laws of this country, according to the Constitution, but I do not think anyone here would suggest that the Governor General should exercise that authority. I think the last monarch to reject the advice of the Commons of England was Queen Anne, who I think was concerned about a bill respecting the Church of England. That was, I think, in the early part of the eighteenth century.

Hon. John B. Stewart: No, no.

Senator Roblin: It was not Queen Anne? Then who was it?

Senator Stewart: Queen Anne is correct but the measure was the Scots Militia Bill of 1707.

Senator Roblin: I am delighted to know that, but I do know what the Queen said. She said, "Elle s'avisera", which meant that she would consider it. The terms of that particular constitution convention meant that she was not going to consider it at all.

But, in any case, we have these legal authorities within our Constitution. They are there in respect of the legalities of the situation, but no one would suggest they be relied upon as the authority to perform certain acts.

I think the reason for the Senate being discreet in these matters is clear. It seems to me that we have certain duties that we should discharge. We have the right to warn, the right to advise, the right to amend, the right to counsel and, although we have the right ultimately to say, "No", I suggest that we should be very careful before we seek a confrontation with the House of Commons on matters of that kind, because if the members of the House of Commons do something wrong, and if this bill is wrong, they will have to account for it to somebody—to the public. When will this chamber present itself to the people of Canada for endorsation of any of its acts?

Senator MacEachen: As quickly as possible!

Senator Gigantès: As soon as the Senate is reformed.

Senator Roblin: If my honourable friend had supported me in my efforts to get the question of an elected Senate approved by this chamber on previous occasions, I would have been pleased.

Senator Gigantès: I have always supported you.

Senator Roblin: You have been remarkably quiet until now. In any case, so far as that goes, that is not the situation at the present time. We will not be put to the challenge of justifying our conduct to the people of Canada.

As I have said before, and I do not mind repeating it, this chamber is responsible in no parliamentary sense whatsoever and is representative in no democratic sense whatsoever. How can a body which is not democratic in the aspect of responsibility, or representative of the parliamentary system, presume that it can have its way, no matter how misguided it may think other people are? It seems to me that we should draw back from the brink of seeking a confrontation.

I must say, however, that I congratulate Senator Everett, that I congratulate Senator MacEachen, and that I congratulate the Liberal majority in the Senate, because I think they will be the catalytic factor in getting the Senate reformed sooner than some might think.

Some Hon. Senators: Hear, hear!

Senator Frith: "Lay on, Macduff."

Senator Roblin: It is now becoming clearly obvious to the people of Canada how unrepresentative this chamber is; that it has a lack of any element of responsibility in respect of the parliamentary system, and that there is no workable, accepted and effective—let's put "effective" in there—method by which a deadlock between the two houses can be resolved. We proceed by a system of conventions which may or may not work. They have not been resorted to in recent times, and if they are resorted to now, we will see whether or not they work.

No matter what reforms we make to this chamber, one of the factors which has to be considered carefully is the method of resolving deadlocks between two chambers in a democracy. That is something we have to give careful consideration to.

I do not know what tricks my friends opposite have up their sleeves. I am not entirely convinced that they will be able to, by this device of having another committee look at this bill, equip themselves with arguments or with seductive proposals that will persuade the members of the House of Commons that they should accept the second set of changes that the Senate may now be considering. I think it is unlikely that that will happen.

Senator Sinclair: Let's wait and see!

Senator Roblin: Senator Sinclair says, "Let's wait and see." I will wait and see. I am on the committee. I do not really like the chairman of the committee being too positive about what the committee will do, because I think that committees have a life of their own, and, while they accept reasonable leadership—and my friend usually provides that—one cannot state as a fact on the floor of this chamber that a committee will do such and such, because it may or may not.

I do not know what will happen when this committee meets. I am not opposed to the committee meeting. I think it would

be pointless to oppose that, because the majority of the Senate wants that. I simply express my view that I will be surprised if it is productive. The Leader of the Opposition seems to think it might be.

Hon. Thomas H. Lefebvre: The productivity of the committee depends on the membership of the committee.

Senator Roblin: The membership of the committee is good, but we have to give them good material to chew on.

Senator Lefebvre: They've got it!

Senator Roblin: If my honourable friend has good material for them to chew on, I have not heard about it yet, but I am willing to have him come to the committee. He will have my support, if he wants to appear before that committee and tell us what to do.

Senator Lefebvre: You are a member of the committee. You make it productive.

Senator Roblin: My honourable friend will have plenty of opportunity to introduce his productive ideas, and I invite him to do so.

Senator Lefebvre: Check the record!

Senator Roblin: If he appears, I will be there and I will be listening, but I do not know whether he will be able to convince me or not.

Senator Lefebvre: We will see!

Senator Roblin: Yes, we will see!

But the point I think the Senate ought to consider at greater length than it has up to now is how long we want this procedure to continue. I do not think there is anything wrong with the suggestion made by my colleague that the committee must draw up its resolution and get the job done expeditiously. I think this chamber ought to be willing to agree that it will not take an unlimited time to consider the report of the committee.

Why do I say that? Experience! I have watched what has been going on with respect to this bill. While I do not expect everyone here to agree with me, I think that the overall proceedings have been drawn out in a quite unnecessary fashion, and that it would be a good idea if honourable senators could agree that we have had enough of that and that we are going to send this back to committee—there is no escaping that course—but that we should ask the committee to be expeditious. I hope that the chairman, if we do not agree in the chamber, will have some idea as to when the committee ought to finish its work. I think that this chamber ought to say how long it will take to deal with the matter when it is brought back before the Senate. I believe it was Professor Northcott who said that "work takes the time allotted to do it in." Heaven knows that is the truth.

• (1530)

Senator Frith: It was Parkinson.

Senator Roblin: If we set some kind of time limit on how long we want to consider this matter both in committee and in the chamber, I think it will be helpful.

I come back to my main point: I am relieved. I am relieved that the Leader of the Opposition has at least given me the firm impression this afternoon that he does not intend to thwart the will of the House of Commons, no matter how much he may disagree with them. He recognizes that at the moment he speaks for a political party that was soundly rejected at the polls last time out, and that the present Government of Canada is a political party and it will face the electors itself in due course; and if they do not like the things that are being done, the word will come through—loud and clear, no doubt. But that still does not provide any reason, in my opinion, why the Senate should, in the last analysis, think that it should put its foot down and thwart the expressed opinion of the House of Commons on this particular measure.

My conclusion is that the sooner the Senate is reformed, the better.

An Hon. Senator: Hear, hear!

Senator Roblin: If we want to exercise these powers, then we have to have the political legitimacy to do so.

Senator Petten: Hear, hear!

Senator Roblin: We cannot claim that political legitimacy. We can claim the legal right—that is easy; but we cannot claim the political legitimacy to act in the manner that some would have us do under our present situation. The reform of the Senate has now become a matter of prime importance. The Meech Lake accord, whatever else it does, puts the reform of the Senate at the top of the constitutional agenda, and I am glad about that.

Senator Argue: About ten or eleven people!

Senator Roblin: All right, ten people. If you wanted to abolish the Senate today, you would still require ten provinces to do it. Look at section 41 and you will see that. This idea of ten with respect to the Senate is not exactly new. I think you will find that with respect to the matter of abolishing the Senate you require the unanimous consent of ten provinces. But I do not want to get into that argument. I do not know where that stray thought came from at the moment, because it is not germane to what we are doing now. What I want to say is that if this debate does nothing else, it illustrates the need for Senate reform.

An Hon. Senator: Hear, hear!

Senator Roblin: I want a reformed Senate. No matter what changes you make you have to have a system of dealing with deadlocks between the two houses incorporated in your reform. My personal choice is an elected Senate, but my final position is that any Senate but this one would be a better one for the country in the future.

Some Hon. Senators: Hear, hear!

Hon. Raymond J. Perrault: Honourable senators, I am a member of this committee and I want to pledge this: I will not be part of any operation to unduly delay consideration of this measure; but I can tell you, as one who participated in some of the hearings of this committee across Canada—some of you

served on that committee and others did not—that there is widespread concern in this country about the effects of the government's measures. Poverty groups have come before us and senior citizens' groups and veterans' groups. But, honourable senators, keep this in mind: Most of the Canadian provinces, the provinces to which you now wish to entrust the Senate, have asked the Senate to act on their behalf to oppose the measure.

Senator Argue: Hear, hear!

Senator Perrault: We are not without some legitimacy when we say: "The regions have said to us that this measure will impose an undue financial burden on them and we ask you to act on our behalf." I have listened to the reasonable appeal of Senator Roblin, but keep that in mind. When I was in Victoria for the hearings, the health officials in the province of B.C. said, "This will cost a great deal of money. This is not a fair proposal. You are supposed to be representing us."

An Hon. Senator: Try Quebec!

Senator Perrault: When we exercise our responsibilities as senators and say, "Yes, the Province of New Brunswick says that this is bad, the Province of Newfoundland says that it is bad; the Province of B.C. says that it is bad"—

An Hon. Senator: Ontario!

Senator Perrault: —we go down the list—admittedly Quebec is supportive, I want to be fair. However, most of the plants are in the province of Quebec. Surely we should not be criticized for acting at the behest of the provinces that we are supposed to represent.

I want to assure senators of this, as well—and I have been around politics for a while—this so-called "delay" is no strategical ploy by the Liberals to upset the government. I hope that you can give us more credit for our concern about our fellow human beings than that. We are concerned about the fact that the measure in some of its provisions will place on Canadians an undue financial burden. By the year 1995, for example, Canadians will have paid $1.3 billion in extra drug costs if the measure goes through as it is now.

Is there a better way out there? I happen to believe that through the technique proposed by our leader there is a better way there. There is a way to determine whether or not this is really in the interests of Canadians; whether or not we can change certain features of the bill. Good thinking people in the Senate can advance recommendations which will be, in the end, helpful to the people that we are all purporting to serve.

I do not think that the dialogue is helped at all by the Prime Minister bullying and threatening the Senate by saying, "If you do not watch out, we will abolish you!" I do not think that it is helped by Mr. Andre saying, "It is the triple L Senate: lazy, late and Liberal." I do not believe that that is the kind of talk which contributes constructively to the dialogue, that inspires senators in any section of the house. I know that even senators who are of a different political persuasion have been offended by some of the language used by our friends over in the Commons. We do not need any more of that. We need that committee to get to work—

Senator Flynn: Outside the house—

Senator Perrault: —without wasting time, and we need honest, concerted consultations—privately, perhaps—to work out a way that is better for the Canadian people. I, for one, as a member of that committee, will dedicate my efforts in that direction.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Pierre De Bané: Honourable senators, I would say first that Bill C-22 is not a matter of conscience. If it were a matter of conscience, of course, each one of us would have to follow his or her conscience, whatever his or her party's position and also whatever the members of the House of Commons might have decided.

The other basic point is that the Liberal Party was not elected at the last election, but rather the Conservative Party. It follows in my view that, this not being a matter of conscience where each and everyone must follow the dictates of his or her inner voice, it seems to me that we must yield to the will of the people who elected the Conservative Party in the last election.

This does not mean the Senate has no role to play, but simply that in my view it has played it. It made its voice heard over these last few months. I believe the committee chaired by Senator Bonnell, as well as my party have made their positions clear. The time has now come in my view to yield to the will of the people's elected representatives and accept the legislation as passed by the House of Commons.

Some Hon. Senators: Hear, hear!

Senator De Bané: Of course we can explain why in our view the legislation is ill advised, but in my opinion that is beside the point.

• (1540)

[English]

The Liberal Party was not elected to government; the Conservatives were, and we must take stock of that fact.

Certainly one can argue that some constitutional right has been bestowed on the Senate, and that is true, but one also has to take stock of the spirit of the times. From 1867 until the early 1940s the federal government used its power of disallowance a great number of times, but since the 1940s it has refrained from doing so.

A few years ago there was a request from Quebecers to the federal government to use that power after the proclamation of Bill 101. The position of the federal goverment was, "We have to live by democratic principles. That law was enacted by a duly elected government; if you don't like it, change the government."

In my opinion, now that the Senate has made its voice heard and its position known, it is time to bow to the will of the elected representatives of the people in the House of Com-

mons, and I would urge my colleagues not to put any more roadblocks in the way of passing this bill which has already been passed by the House of Commons.

Some Hon. Senators: Hear, hear!

Senator Phillips: Honourable senators, it will not come as any great surprise to the members of the Senate if I say that I have some reservations and, indeed, some suspicions regarding this motion.

I witnessed the delays that occurred in dealing with Bill C-22. The bill was not referred to the Standing Senate Committee on Banking, Trade and Commerce in the first instance. That motion was negatived by the majority of Liberal senators. They felt that the bill had to be studied by a special group. Indeed, in my remarks during the establishment of that special committee I strongly suggested that we follow the committee rules and refer the matter to the Standing Senate Committee on Banking, Trade and Commerce. However, the majority of senators, in their wisdom, decided to establish the Special Committee on Bill C-22.

That committee travelled extensively and eventually the time came for it to report to the Senate. Extra time was requested and was granted to that committee. Then the legislation was again referred back to that committee. Some of the amendments proposed by the Senate were accepted by the House of Commons and the bill was amended, but other amendments were rejected.

It has been suggested to me that the desire of the majority of Liberal senators in this chamber is to keep the legislation going until after the trade talks are completed.

Senator Frith: But the minister said that there is no connection between those two.

Senator Phillips: I have heard Senator Frith say otherwise. Which comment would you expect me to accept?

Senator Frith: I would expect Senator Phillips to accept the statement by the minister that there is no connection between the two.

Senator Phillips: Senators can be assured that I do accept that.

I think that the real point here is that the "PTL" Liberals want to keep this going until the turmoil within the Liberal Party concerning its leadership is settled.

Senator Perrault: What a suspicious mind.

Senator Phillips: Senator MacEachen, the Leader of the Opposition, rather regrets that pontifical promenade he made at the Liberal Convention and now wishes he had turned right to Mr. Chrétien's booth rather than left to Mr. Turner's. I believe this legislation is now involved in that turmoil within the Liberal Party.

Senator Perrault: It is just healthy dialogue.

Senator Phillips: I think the "PTL—Praise to the Liberals" senators will get back to the legislation and their function within it and remove it from the Liberal leadership confrontation.

Honourable senators, during the debate reference was made several times to a conference and the fact that the minister had not expressed any willingness to participate in a conference. That is entirely erroneous. The minister can only participate in a conference with the Senate at the direction of the House of Commons. He has not received that direction. He did not receive it at the stage where the House of Commons was dealing with the Senate amendments. Therefore he cannot enter into a conference, regardless of how many invitations you extend to him. That instruction has to come from the House of Commons. Until that instruction comes from the House of Commons the minister, as the Leader of the Opposition very well knows, cannot enter into a conference.

Senator Everett: Why has he not asked for it?

Senator Phillips: He had no need to. This motion refers the bill for fact finding, and I am confident that the result of the fact finding will be that there is no need for a conference.

MOTION IN AMENDMENT

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I move, in amendment:

> That the motion be amended by adding thereto the following:
>
> That the Committee report no later than Monday, September 14, 1987; and
>
> That, no later than 5:45 o'clock p.m. on Tuesday, September 15, 1987, if necessary, the Speaker shall interrupt the proceedings and put forthwith, without further debate or amendment, all questions necessary to dispose of the Report.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith:

> That the question, together with the Message from the House of Commons on the same subject, dated August 31, 1987, be referred to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

In amendment, it is moved by the Honourable Senator Phillips, seconded by the Honourable Senator Flynn, P.C.:

> That the motion be amended by adding thereto the following:
>
> That the Committee report no later than Monday, September 14, 1987; and
>
> That no later than 5:45 o'clock p.m. on Tuesday, September 15, 1987, if necessary, the Speaker shall interrupt the proceedings and put forthwith, without further debate or amendment, all questions necessary to dispose of the Report.

Senator Phillips: I would like to point out, honourable senators, that this motion complements that made by Senator MacEachen. However, it will provide a time limit. It is a reasonable time limit, one within which I am sure the committee feels it can operate, and it will remove any suspicion that

this is a delaying tactic. If it is not a delaying tactic, then I am sure we will have the support of the opposition on this motion. The committee is free to report at any earlier time if it so wishes, and I hope it will.

● (1550)

Honourable senators, we have had Bill C-22 before us for some time. An extensive program of research and development is being delayed. I hope that honourable senators will give serious consideration to this amendment and that we can then pass it unanimously and report back to the house at that time.

Hon. Ian Sinclair: I think honourable senators should know that in accordance with the direction of this house, the Standing Senate Committee on Banking, Trade and Commerce is engaged in a study on tax reform. The committee met yesterday until after 6 o'clock. We have made arrangements to meet next Tuesday with officials and will probably work into the evening. I say now to honourable senators that to ask the committee to handle a matter of this depth and difficulty in the restricted time period suggested by Senator Phillips is just not realistic. I would ask honourable senators not to support that proposition.

Hon. Jacques Flynn: With great respect, I think there are some priorities to be established by the committee. I think the matter of Bill C-22 is more urgent than fiscal reform, which requires an extensive study that will likely take place over several months, or at least several weeks. I think the chairman should not say that he will give priority to a study on fiscal reform over this bill. If he says that, he might as well say that he would rather not have this matter referred to the committee. That would be the logical stand to take.

I think that under the circumstances any committee called upon to deal with this urgent matter should give it priority. If Senator Sinclair is saying that his committee is too busy, then I suggest that we try to find another committee, perhaps the Finance Committee, to do this work. If that is the position of Senator Sinclair, it should be made clear so that we are not referring this matter to a committee that is not happy to consider it.

Senator Sinclair: Honourable senators—

Senator Phillips: May I direct a question to the Honourable Senator Sinclair? This morning the Liberal senators met in caucus. I am sure that this referral to the Standing Senate Committee on Banking, Trade and Commerce was a matter of considerable discussion within caucus. I think everyone can safely assume that. Did Senator Sinclair inform the caucus at that time that he was not prepared to deal with the matter until after the committee had done work on the study on tax reform?

Hon. Joseph-Philippe Guay: We are not going to tell anybody what takes place in caucus.

Senator Sinclair: All I can say is that a number of senators have publicly expressed their views on what should happen to this bill, and that is "kill it." That is a matter to which I think senators should give some serious consideration.

[Senator Phillips.]

Senator Flynn has suggested that the committee give priority to this matter. I will discuss that with the members of the committee. If they accept that it should be given priority, it will get priority. But I am going to tell honourable senators that it is too responsible a matter to give short shrift to. Some members of the committee have not had the advantage of reading the evidence of the Special Committee on Bill C-22. The message itself has a number of substantive reasons—I am up to more than six now—why the Senate's amendments were not considered appropriate by the House of Commons. I think each of those reasons has to be carefully considered. Furthermore, it seems to me that there is an absolute conflict in the position adopted by the House of Commons, and I think we should discuss that. Whether that position has been taken deliberately I do not know, but, in any event, this is not an easy matter to dispense with.

I think it is wrong to suggest that if we do not hurry to push the bill through then we are delaying it. I say to honourable senators that that is unfair, and it is something to which I object strenuously.

Some Hon. Senators: Hear, hear!

Senator Flynn: In that case, I think the honourable senator should say that the committee is not in a position to deal with this matter expeditiously. In fact, that is what he is saying.

Senator Perrault: He has to confer with the committee.

Senator Flynn: That would confirm the views of those on this side and many members of the public that, really, the Liberal majority in the Senate is stonewalling this bill and is using all the tactics available to it to delay a decision on it.

If this is the position of Senator Sinclair, let him say that he does not want the bill to be referred to his committee. That would be frank, it would be honest, it would be direct, and we would know where we stand.

Senator Sinclair: Honourable senators, when I accepted the position of chairman of this committee, I did so on the understanding that I would do the best I could to handle the job, and I still think that.

Senator Flynn: In that case, then, the honourable senator should accept the time limit put forward in the amendment. If the committee cannot do so, he only has to report that. The mandate of this committee is not to go back to the beginning and do all of the work done by the special committee when it travelled all across Canada. The problem before the committee is a technical one—the committee is to find out whether there is the possibility of a compromise with the minister. If there is no such possibility, the committee has to judge whether it should recommend to the Senate not to stand by the amendments that have been sent to us. That is the mandate of the committee. I think Senator Sinclair should realize that it is limited. We are not referring the entire bill to his committee. That is why I think it would be much more appropriate for the Senate to accept the amendment, which would make the motion carry unanimously. We would thereby have the assur-

ance that we would be dealing with the matter with no manoeuvring of any kind.

Senator Frith: Put the question!

MOTION IN AMENDMENT NEGATIVED—QUESTION AND MESSAGE FROM COMMONS REFERRED TO BANKING, TRADE AND COMMERCE COMMITTEE

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator MacEachen, seconded by the Honourable Senator Frith:

> That the question, together with the Message from the House of Commons on the same subject, dated August 31, 1987, be referred to the Standing Senate Committee on Banking, Trade and Commerce for consideration and report.

In amendment, it is moved by the Honourable Senator Phillips, seconded by the Honourable Senator Flynn, P.C.:

> That the motion be amended by adding thereto the following:
>
> That the Committee report no later than Monday, September 14, 1987; and
>
> That, no later than 5:45 o'clock p.m. on Tuesday, September 15, 1987, if necessary, the Speaker shall interrupt the proceedings and put forthwith, without further debate or amendment, all questions necessary to dispose of the Report.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1600)

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	Barootes
Balfour	Cogger
David	Muir
De Bané	Nurgitz
Doyle	Phillips
Flynn	Roblin
Macdonald (*Cape Breton*)	Rossiter
MacDonald (*Halifax*)	Sherwood
Macquarrie	Spivak
Marshall	Tremblay
	Walker—21.

NAYS

THE HONOURABLE SENATORS

Adams	Le Moyne
Anderson	Lucier
Argue	MacEachen
Cools	Marchand
Corbin	Marsden
Cottreau	McElman
Denis	Molgat
Frith	Neiman
Grafstein	Perrault
Graham	Petten
Guay	Pitfield
Haidasz	Riel
Hastings	Robichaud
Hays	Rousseau
Hébert	Sinclair
Hicks	Stewart (*Antigonish-Guysborough*)
Langlois	
Leblanc (*Saurel*)	Turner
Lefebvre	van Roggen—37.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

• (1610)

The Hon. the Speaker *pro tempore:* With respect to the motion, is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "yeas" have it.

Hon. Jacques Flynn: I think it should be agreed that the vote would be the same, only in reverse.

Some Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): That is agreed, providing we really understand what the words "in reverse" mean.

Motion carried on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Le Moyne
Anderson	Lucier
Argue	MacEachen
Cools	Marchand
Corbin	Marsden
Cottreau	McElman
Denis	Molgat
Frith	Neiman
Grafstein	Perrault
Graham	Petten
Guay	Pitfield
Haidasz	Riel
Hastings	Robichaud
Hays	Rousseau
Hébert	Sinclair
Hicks	Stewart
Langlois	(*Antigonish-Guysborough*)
Leblanc (*Saurel*)	Turner
Lefebvre	van Roggen—37.

NAYS

THE HONOURABLE SENATORS

Atkins	Macquarrie
Balfour	Marshall
Barootes	Muir
Cogger	Nurgitz
David	Phillips
De Bané	Roblin
Doyle	Rossiter
Flynn	Sherwood
Macdonald (*Cape Breton*)	Spivak
	Tremblay
MacDonald (*Halifax*)	Walker—21.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

Hon. Ian Sinclair: Honourable senators, in view of the fact that, as I understand it, the Standing Senate Committee on Banking, Trade and Commerce now has referred to it the message and the motion of the honourable senator that was before us earlier, I would propose to the members of the committee that we meet next Tuesday at 3 o'clock, with the understanding that we will be involved in a somewhat lengthy meeting.

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I will be moving a motion for adjournment later this day, and honourable senators can anticipate that there will be extra days free for the committee to meet next week.

Hon. Finlay MacDonald: Honourable senators, since we may be going our different ways this afternoon, perhaps I could ask Senator Sinclair for clarification. When you say that we will be meeting on Tuesday next, do you mean that you will be cancelling the meeting originally set for that particular time?

• (1620)

Senator Sinclair: I will ask the concurrence of those we have invited to understand the problem we have. As they are all government people, I should think that they would understand the possibilities.

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Monday, September 14, 1987, at 2 o'clock in the afternoon.

Honourable senators, before the motion is put, I would like to point out that the Senate may receive Bill C-84 before that date. If we do receive it, we will decide at that time about a recall.

Hon. Joseph-Philippe Guay: Is there any particular reason why they have stopped discussing Bill C-84 in the House? Apparently they are delaying that until next week some time. That gives me the idea that there is no urgency on that particular bill.

Senator Phillips: I do not believe they have stopped discussing the bill, Senator Guay. I understand it was discussed today, but the discussion was not completed before the adjournment.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, September 14, 1987, at 2 p.m.

THE SENATE

Monday, September 14, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

CRIMINAL CODE IMMIGRATION ACT, 1976 CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Richard J. Doyle, for Hon. Joan B. Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Monday, September 14, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred the Bill C-71, An Act to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act, has, in obedience to the Order of Reference of Thursday, September 3, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

RICHARD J. DOYLE
for Joan B. Neiman (Chairman).

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

On motion of Senator Doyle, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

CONSTITUTIONAL ACCORD, 1987

SPECIAL JOINT COMMITTEE—EXTENSION OF DEADLINE FOR PRESENTATION OF REPORT

Hon. Arthur Tremblay: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That, notwithstanding the Order of the Senate adopted on Wednesday, 17th June, 1987, the Special Joint Committee on the 1987 Constitutional Accord be empowered to present its final report no later than Monday, 21st September,1987, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Royce Frith (Deputy Leader of the Opposition): May we have an explanation, please?

Senator Tremblay: Honourable senators, the explanation for this request is this: Wednesday last week the Special Joint Committee on the Constitutional Accord adopted its report. The first version of this report having been drafted in either English or French, the chapters originally drafted in English were definitely more numerous than those drafted in French.

At the same sitting the committee members wanted to make sure that there was no discrepancy between the French and English versions, and vice versa, in all chapters, so they asked the co-chairman to look at and study both versions and assure the committee that indeed there were no discrepancies. That is what I began to do the very same day, with the assistance of the committee support staff.

Other committee colleagues came to lend a hand. We progressively reached the conclusion—if I may put it this way—that in a more than significant number of paragraphs there were in fact such obvious and basic discrepancies that the translated version did not faithfully reflect the original draft.

I emphasize that I am not referring only to such minor differences as are often found when comparing two versions which are supposed to have been literally translated. We all know that for a number of years now reference has been made instead to concordance and equivalence between versions. This is the standard approach. We found much more than simple nuances, indeed major and quite numerous discrepancies.

Working day and night, I can assure you, we did everything possible to finish the job within the prescribed time limit. However, I would say in the last hours on Saturday, we had to acknowledge that it was impossible to write all chapters and guarantee the similarity and a certain quality of each of the two versions.

That was when I took it upon myself to urge the co-chairman, other committee members and all others who might be involved to seek the delay which I am asking for today.

So that is the explanation, and I think I can give you supporting evidence. This question is really important to the committee, as is the matter we had to study. I suggest it would be paradoxical, to say the least, that dealing with the Constitution, an accord where, to use a common expression, a successful attempt was made to draft a text enabling Quebec to join the constitutional family, not only at the constitutional level,

something which has already been done, but also at the psychological level—

Senator Frith: No need for rhetoric, a technical explanation is enough.

Senator Tremblay: It would not be good enough in my view if we could not provide an assurance that the two versions agree both as to quality and substance.

I was perhaps a bit long but—

Senator Frith: More than a bit!

Senator Tremblay: As you will realize, that is a normal tendancy when someone gets involved to such a degree in so important a project.

Some Hon. Senators: Hear, hear!

Senator Frith: We expect no difficulty with regard to conformity, where the agreement itself is concerned.

Honourable senators, this motion raises problems at two levels. First, do we have a commitment from Senator Tremblay that the report will not be made public before being tabled in the Senate or with the Clerk of the Senate?

Senator Tremblay: I believe I can give that assurance, to the extent that it means we will take every precaution to keep the committee report secret, as we should—

Senator Guay: The First Ministers will be disappointed!

Senator Tremblay: It will be secret. Now, things sometimes happen that amaze everyone. How is it that a reporter can lay his hands upon a document that is supposed to be confidential—

Senator Guay: Really amazing!

Senator Tremblay: On a number of occasions, I felt I was bumping into a mystery of that kind. Therefore, barring that kind of mystery that is always possible in our jurisdiction, our authority, our staff's behaviour, you have my assurance that every precaution will be taken for the committee report to remain confidential, as it should.

Senator Frith: That is not very reassuring.

It is reassuring to the same extent as the assurance, if I may take this opportunity to make my own short speech, that section 2 of the constitutional agreement does not infringe upon the Charter of Rights, for instance.

In any case, the other aspect that is of some concern to me is the second part, however, if the Senate is not sitting . . . et cetera. Why not wait until the Senate's next sitting?

For that reason, I move that the debate be adjourned so that we may discuss with the deputy co-chairman the possibility of deleting that part from the motion.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Senator Tremblay: Honourable senators, is my information correct that such an adjournment motion is not debatable?

Senator Frith: No, Senator Tremblay.

[Senator Tremblay.]

Senator Tremblay: However, may I direct a question to the mover of the motion?

Senator Frith: Certainly, senator.

Senator Tremblay: Today is September 14.

Therefore, if the deadline is only granted to the Committee tomorrow, which I understand to be the meaning of the adjournment motion—

Senator Frith: The deadline for the presentation of the report is tomorrow, is it not?

Senator Tremblay: It is September 14, that is, today.

Therefore, I ask the following question: Does Senator Frith mean, by moving this adjournment motion—and what he just said confirms my intention to raise this issue—that we would be a whole day without being able to work?

Senator Frith: No, Senator Tremblay.

We have two choices. Senator Tremblay can take my word that if permission is granted on both aspects, it will be *nunc pro tunc*, that is, it will have a retroactive effect.

The alternative would be to delete immediately the second part and move a separate motion to table the report with the Clerk of the Senate. I am prepared to accept the first part of the motion calling for the report to be tabled here in the Senate.

However, I am concerned about the second aspect. We could separate the two and, later on, if they could convince us, they could move a second motion.

Senator Tremblay: Under these conditions, therefore, I wonder how to proceed. In view of what Senator Frith has just said, I, for one, do not see any problem.

Should I change my motion or—

The Hon. the Speaker *pro tempore:* You must change your motion accordingly.

Senator Frith: If I may, Senator Tremblay, perhaps we could delete all the words following "September 1987".

We could then move another motion, if it is acceptable.

Senator Tremblay: Therefore, should I say that I am prepared to change my motion in order for all the words in the English text, following "provided", and in the French text, all those following "toutefois" to be deleted.

I think that these two words are those which appear in the motion.

The Hon. the Speaker *pro tempore:* Do honourable senators agree that this change should be made to the original motion?

Senator Frith: Agreed. Honourable senators, I seek permission to withdraw my adjournment motion.

The Hon. the Speaker *pro tempore:* Is permission granted, honourable senators?

• (1420)

[*English*]

Hon. Senators: Agreed.

Senator Frith: There is no need to have a motion to adjourn the debate.

Motion, as amended, adopted.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Has the motion been approved?

Senator Frith: Yes. That was a little footnote.

The Hon. the Speaker *pro tempore:* The motion to adjourn the debate has been withdrawn.

Senator Frith: Yes, because the amended motion was adopted.

[*Translation*]

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

EXTENSION OF DEADLINE FOR PRESENTATION OF REPORT

Hon. Gildas L. Molgat, with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

> That, notwithstanding the Order of the Senate adopted on Thursday, 13th August, 1987, the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to present its final report to the Committee of the Whole no later than Tuesday, 1st December, 1987.

Motion agreed to.

[*English*]

PATENT ACT

BILL TO AMEND—INSTRUCTION TO BANKING, TRADE AND COMMERCE COMMITTEE RE DEADLINE FOR PRESENTATION OF REPORT ON QUESTION AND MESSAGE FROM COMMONS—NOTICE OF MOTION

Hon. William M. Kelly: Honourable senators, I give notice that tomorrow, Tuesday, September 15, 1987, I will move:

> That the Standing Senate Committee on Banking, Trade and Commerce, to which was referred the motion of the Honourable Senator Murray, P.C., concerning amendments to Bill C-22, an Act to amend the Patent Act and to provide for certain matters in relation thereto, together with the Message from the House of Commons dated August 31, 1987, on the same subject, be instructed to report the same to the Senate no later than September 23, 1987.

Hon. Ian Sinclair: Honourable senators, Senator Kelly is a member of the committee. He was at our meeting on Tuesday last. He knew the decision that had been taken, and so I am going to say to the honourable senator—

Hon. Orville H. Phillips: Honourable senators, on a point of order, I wonder what the honourable senator is referring to.

Senator Sinclair: I am referring to the motion that was just made.

Senator Frith: No, that was a Notice of Motion.

Senator Sinclair: I am sorry, I thought it was the motion itself.

Senator Frith: You can go get him tomorrow!

Senator Sinclair: I can't wait.

NATIONAL DEFENCE

CONSIDERATION OF REPORT OF SPECIAL COMMITTEE ON FEASIBILITY OF "SNOWBIRDS' " VISIT TO NATO ALLIES—DEBATE CONCLUDED

On the Order:

> Resuming the debate on the consideration of the Third Report of the Special Committee of the Senate on National Defence (visit by air demonstration team the "Snowbirds" to Europe), presented in the Senate on 6th July, 1987.—(*Honourable Senator Lafond*).

Hon. Paul C. Lafond: Honourable senators, I am sorry that I was absent when Senator Bosa made his presentation in this debate. First of all, I would like to draw to the attention of both the Deputy Leader of the Government and the Deputy Leader of the Opposition the fact that when I tabled this report on July 6 I specifically stated that I had nothing further to add, but I asked that the matter should be placed on the order paper to give Senator Bosa an opportunity to present his views. I gather that this was achieved, only with some difficulty, on August 13.

Senator Bosa: Yes, senator, thank you very much.

Senator Lafond: At any rate, as chairman of the committee, I have nothing further to add. I gather that Senator Bosa is pursuing his endeavours in gathering together additional facts and attempting to sell his idea to the Department of National Defence. I wish him luck, godspeed, et cetera. However, I do not think that the committee has anything further to add on this question as things stand at this moment, and I suggest that the item be deleted from the order paper.

The Hon. the Speaker *pro tempore:* If no other honourable senator wishes to participate in the debate, this order is considered as having been debated.

• (1430)

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:
>
> That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happi-

ness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, I rise to respond to Senator Argue's motion, which he proposed on June 11. The motion states:

That a Special Committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care.

May I first apologize to Senator Argue for the delay in responding to his motion some three months after its presentation. While the delay was due in part to events over which I had no control, I am aware that the delay might affect the time limit of 12 months to table his report, as prescribed in the motion, which will, of course, depend on whether or not he receives consent to proceed with this proposed committee.

Let me also explain that when Senator Argue introduced his motion I did not intend to respond. As is the practice in this chamber, I was asked to adjourn the debate to allow an opportunity to any other senator who might be interested to comment at a future date.

As a matter of fact, honourable senators, I know little about alternative health care, and certainly not to the extent of taking on the responsibility of justifying its universal application. I must say the mere fact that my name appeared in the *Minutes of the Proceedings of the Senate* brought about an abundance of telegrams and letters of support, as well as requests for meetings from concerned Canadians representing thousands of supporters across the country. This prompted me to do a little research into the subject.

The motion gives me a welcome opportunity to address an important aspect of the subject, which can be related to alternative health care and preventive measures, together with a wider range of health services, because of my interest in what I consider a most sensible and worthwhile government program under the Department of Veterans Affairs known as the Veterans Independence Program, formerly the Aging Veterans Program. This program was designed with unusual common sense with a view to caring for veterans in their own homes rather than sending them to hospitals or institutions for domiciliary care.

One of the important aspects of the program, besides the humanness of allowing veterans to remain in their familiar surroundings with their spouse and families, is that it has been found that its cost is only one-tenth of that cost which is borne by government to provide care in a hospital or institution, which is sometimes many miles away and causes inconvenience and difficulty for family visits, as well as inflicting lonesomeness and a feeling of isolation on the veteran.

The Veterans Independence Program is one aimed at helping veterans to maintain or improve their quality of life by assisting them to remain healthy and independent in their own homes or communities. The service includes counselling and referral, where veterans receive help in determining their needs and, together with district office counsellors and health professionals, decide how best to meet those needs. Where needs cannot be met under the VIP program, other benefits may be made available or veterans will be referred to community agencies which can provide the needed services.

Remaining healthy and independent may depend on knowing how to take care of oneself. This is another aspect of the VIP program and health information. Information is available to veterans on healthy, independent living. Under the aspects of care, where care is needed, the Veterans Independence Program will try to provide that care in the veteran's own home or community. This may involve ambulatory health care, home adaptations, home care, transportation, adult residential care and nursing home intermediate care. Departmental staff will work closely with provincial and local agencies to provide veterans with the greatest possible range of benefits and services to meet their health and social needs. Ambulatory health care provides specialized services available through clinics, out-patient departments, and day care hospitals. This may include health assessments, diagnostic services, minor treatments and rehabilitation support. For example, physiotherapy, diabetic care, recreation, counselling and other related services would be available to a maximum amount of $543 a year.

Home adaptation services provide alterations to the residence of a veteran so that the veteran can carry out the normal activities of daily living. The funding provided for that is $2,716 a year per residence. Home Care provides services to the client in the home, including direct patient care, personal care comfort, housekeeping and basic groundskeeping to a maximum of $4,673.21 a year. Some transportation costs may be paid to help eligible low-income veterans who would otherwise be unable to carry out day-to-day social activities. Only those veterans in need of home care or ambulatory health care may receive that benefit. That may include transportation costs for shopping trips, banking and attendance at educational or recreational activities to a maximum of $652 a year.

There are other aspects of the Veterans Independence Program, including Adult Residential Care and Nursing Home Intermediate Care. I mention this, honourable senators, to say

that there is a program in existence which fits in with the motion initiated by Senator Argue.

I have dealt at some length with this aspect of alternative health and preventive care because I feel strongly that it could well be applied on a nation-wide basis—not only to veterans but to all seniors—certainly when the cost has been found to be only 10 per cent of the cost of institutionalizing the infirm, and as costs of health care are taxing government resources, both federally and provincially, and because this would also respond positively to that part of Senator Argue's motion which requests the examination of how an improved health care system might control the ever-increasing cost of health care.

In addition, the present and projected increase in the age of our population should prompt governments to examine this program carefully, a program which could reduce immeasurably the cost of this type of care. The timing could not be better for the Minister of Veterans Affairs to take on such a challenge in his new capacity as Minister of State (Senior Citizens). As well, it is my intention as chairman of the Senate Subcommittee on Veterans Affairs to give such a plan a high priority in the committee's deliberations.

Figures from the Department of Veterans Affairs show that there are 700,000 veterans now in Canada. In 1981 there were 386,500 veterans who would have been eligible for a VIP program or for health care. In 1990, although the figure will drop, there will be 273,500 veterans who could be eligible for provision of health care. In the year 2000 there will be 142,000, and in the year 2010 there will be 42,000.

At the present time, according to other figures that I have had researched, 13.5 per cent of the population is over age 65. According to my figures, that means there are 3,750,000 senior citizens who may be prospective candidates for health care. In 20 years' time the proportion of citizens over age 65 will be 16.5 per cent, and in the year 2030 that proportion will be 25 per cent.

Moving to other aspects of preventive care, and in line with the nation-wide support which I referred to earlier, I offer a general outline of the objectives of the Health Action Network Society as set out in a letter sent to me on August 6. This is one of the organizations which presented appeals in support of Senator Argue's motion. The letter is signed by the President of the Health Action Network Society, and I quote from that letter:

● (1440)

> The Health Action Network Society is a non-profit charitable organization established to promote and protect health and well-being. HANS Research Committee investigate areas of public interest among which is the present delivery of health care. Our membership supports the multi-disciplinary approach to health care, where the preventative techniques and less expensive alternative approaches would be incorporated within health legislation.
>
> We have been waiting for an opportunity such as this to present carefully researched material on the economic validity of prevention and self-care.
>
> The Canadian people are willing to become more responsible for their health. Bravo to the Canadian Senate for taking this crucial initiative.

The Health Action Network Society circulates a publication to 15,000 Canadians.

Honourable senators, I should just like to mention a few of the other organizations who wired and wrote to me. I met with chiropractors and acupuncturists. I had letters from the College of Chiropractors of Alberta; the Association of Concerned Citizens for Preventative Medicine; the Consumers Health Organization of Canada; the Canadian Association of Herbal Practitioners; the Alberta Association of Naturopathic Practitioners; the Family Life Foundation, Willowdale United Church in Toronto; the Nutritional Products Industry Task Force; the Nutritional Consultants Organization; Jacinte Lévesque, Vice-President of the Quebec Acupuncture Association; and the Human Ecology Foundation of Canada.

In examining the approach of the Government of Canada, I welcome the contents of a paper produced by Health and Welfare Canada called, "Achieving Health for All—A Framework for Health Promotion." It says:

> This paper proposes an approach that is intended to help Canadians meet emerging health challenges . . . It is an integration of ideas from several arenas—public health, health education and public policy—and it represents an expansion of the traditional use of the term "health promotion". . . as an approach that complements and strengthens the existing system of health care.
>
> Canada has built a strong health care system and has achieved for its people a level of health of which we are all proud. We want to continue in this tradition. While it is true that the prospects for health of the average Canadian have improved over recent decades, there nevertheless remain three major challenges which are not being adequately addressed by current health policies and practices: disadvantaged groups have significantly lower life expectancy, poorer health and a higher prevalence of disability than the average Canadian; various forms of preventable diseases and injuries continue to undermine the health and quality of life of many Canadians; many thousands of Canadians suffer from chronic disease, disability or various forms of emotional stress and lack adequate community support to help them cope and live meaningful, productive and dignified lives.
>
> The times in which we live are characterized by rapid and irreversible social change. Shifting family structures, an aging population and wider participation by women in the paid workforce are all exacerbating certain health problems and creating pressure for new kinds of social support. They are forcing us also to seek new approaches for dealing effectively with the health concerns of the future.

Honourable senators, without speaking too much longer, I want to read what is contained in the conclusion of this paper by the Department of National Health and Welfare. It states:

> We are aware that there are certain dilemmas inherent in health promotion. For example, we cannot invite people to assume responsbility for their health and then turn around and fault them for illnesses and disabilities which are the outcome of wider social and economic circumstances. Such a "blaming the victim" attitude is based on the unrealistic notion that the individual has ultimate and complete control over life and death.
>
> Secondly, there is the question of allocating resources during times of scarcity. The availability of financing is obviously a critical question for each of us. Canada has performed fairly well in controlling the growth of health care costs; however, cost control is a matter of continuing concern. The pressures created by an aging population and a growing incidence of disabilities in our society will take a heavy toll on our financial resources. We believe, however, that the health promotion aproach has the potential over the long term to slow the growth in health care costs.

The paper further states:

> It will take time to give meaning to health promotion. A vital element in the process will be nationwide discussion. This will enable Canadians to assess the implications of health promotion. The body of knowledge and experience is accumulating rapidly: individuals and groups in many parts of the country are already familiar with the approach we are calling health promotion.
>
> We have the foundations upon which to build. Let us continue our efforts to achieve health and improve the quality of life of the people and communities of Canada.

Honourable senators, from what I have said and read it appears that there is no question about the need for public discussion. As we sit here in this chamber today I must ask: What about the establishment of yet another committee of the Senate to deal with this subject? Can we ask our already over-burdened committee members to sit on such a committee in light of the fact that there are ever repetitive requests that new committees be struck to deal with new items of interest which affect the people of Canada, and we know there are many? It will be up to the Senate to decide if we can find the bodies to form another committee to look into this important subject. From what I have read and discovered during my research it appears that such a request would be justifiable. I leave it to the chamber to decide if a committee should be struck and if we have the resources.

Hon. Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

ILLITERACY IN CANADA

DEBATE CONTINUED

On the Order:

[Senator Marshall.]

Resuming the debate on the inquiry of the Honourable Senator Fairbairn calling the attention of the Senate to the question of illiteracy in Canada.—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, the best thing I can do in this field is to beg you to read the series of articles on illiteracy that began on Saturday in the Southam Press. The first article points out that 24 per cent of our population either cannot read or reads but hardly understands what it is reading. These people are cut off from any chance of self-improvement.

This is not something that affects them alone, it affects our whole society. We all blithely tell one another that we want to be a high tech society and that we want to have work centred around highly skilled trades in which our people will be well paid and will be competitive with others around the world. One quarter of our work population cannot enter this nirvana of tomorrow because they cannot read, they cannot write, they can hardly count and they do not even know what is going on around them.

They live in a world of shame and of hiding. They do not want to go to schools to be trained because they are ashamed to confess their illiteracy. There are endless cases of people being called and told that they will have a job if they will go to a certain place. I refer to a specific incident in Montreal where the person did not turn up at a job, and when the case was investigated it was found that he did not dare leave his home because the journey involved complicated travelling on public transport and he could not read road signs or the names of the underground stations. That person lost that job because he did not have the elementary skill without which we can hardly survive in this society—the ability to read or write. Another tragedy is that the children of such people will, in all likelihood, be like their parents.

● (1450)

Without reading, writing and some arithmetical knowledge, it is difficult to make wise decisions. As citizens, illiterates do not know what we are about as a government. They find it terribly difficult to acquire the necessary information to enable them to vote intelligently. They could, therefore, be swayed by the wrong sort of advice and by demagogues. That is not the sort of thing we want. The absurdity of the situation is that we are paying unemployed teachers to do nothing when they could be teaching illiterates, helping those people come out of the darkness of their inability to know what is going on around them.

The series on illiteracy began Saturday in *The Ottawa Citizen* and in the *Gazette*; the second instalment was printed today, and there are five more to follow. I ask honourable senators to read them because what they set out is astonishing. It is not that the facts were not known before—this is a reaffirmation of something we already knew.

In the course of the hearings conducted by my subcommittee on training and employment, Professors Gerrard and Lucas of the Economics Department of the University of Saskatche-

wan informed me that half of their students did not understand what they were reading nor could they possibly write a term paper. We have to ask ourselves how this can be. How can we have an educational system that costs vast amounts of money in provinces with governments of different political hue, in provinces that have been governed by the Liberals, the Conservatives and the NDP? This is not a failing of one party—this is a national failing. How can we have a situation in which people reach university level without being able to read or write or understand what they are reading? We are spending enormous amounts of money to push these people through university only to have them graduate not having benefited from the experience, because they did not have the basic equipment with which to acquire this benefit.

The subcommittee also heard from a witness from Alberta who read to the senators present examples of the writings of students who had finished their third year of a Bachelor of Education degree. These are the teachers of tomorrow, honourable senators, and it is hair-raising to read the poverty of the English of these people. One has to ask oneself: How does the system malfunction to the extent that these people can get that far? How can a system produce illiterate teachers, who will, of course, produce other illiterates? Furthermore, it is not only the quality of their English that was absolutely impossible—it is their thinking. They were all writing an essay on what are the desired qualities of a legislator. Some said that such a person had to be good looking, that he could not be fat or bald—that lets most of us out, one way or the other—but that, above all, he had to have a clean car. Honourable senators, these are people one year short of becoming teachers, and for them the most important quality in a legislator was that he have a clean car! There is something wrong in a system that can allow people to enter the teaching profession when their thinking is so primitive, childish and absurd. It is a national disgrace that we should be among the civilized countries and allow this to happen.

I repeat that this is not the fault of any one party—it is the fault of all of us. Saskatchewan, with all its troubles, was for many years governed by a socialist government, and before that it was governed for some time by the Liberals and by the Tories. We have a national crisis on our hands. We cannot develop economically unless we do something about this.

During the course of the work of the subcommittee, a report of which senators will see by and by, I remember asking Mr. Jacques Parizeau why it was that when Dionne Textiles wanted a totally automated spinning mill they bought it in Switzerland. There is not a human being on the floor of that factory; it is run by robotics. Switzerland, with a population of six million people, is capable of producing this totally automated factory. We in Quebec do not produce such a thing, although we have a population of six million. In terms of natural resources, Quebec is streets ahead of Switzerland, yet why could we not produce such a factory? In answer to my question he said, "Literacy." There are no illiterate workers to speak of in Switzerland while one third of our workers are hardly literate, and half of them have a level of literacy that is so low that we cannot even begin to think of using them in high tech capacities. He asked whether I wanted to know how we can develop. He suggested that we begin with literacy.

Honourable senators, this is not a subject that we can treat with equanimity. I know that it is not a federal responsibility. I know that literacy falls under provincial jurisdiction, but I know that it is our duty to speak out when a crisis is national. If we do not speak out and keep on speaking out, begging, pleading and advocating a national campaign by agreement to erase this awful stain upon our country, we shall be failing in our duty.

On motion of Senator Robertson, debate adjourned.

[*Translation*]

THE CONSTITUTION

CURRENT STATE OF NEGOTIATIONS—INQUIRY WITHDRAWN

On the Order:

> That he will call the attention of the Senate to his perception of the status of the Constitutional negotiations, in view of the fact that they have reached a critical point.

Hon. Jean Bazin: Honourable senators, since the matter has already been referred to the House of Commons and Senate Special Joint Committee on the 1987 Constitutional Accord for consideration and furthermore since it will be taken into consideration by this house, I wish to withdraw this inquiry.

The Hon. the Speaker *pro tempore:* Is that agreed, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, September 15, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[*Translation*]

CONSTITUTIONAL ACCORD, 1987

SPECIAL JOINT COMMITTEE—DEADLINE FOR PRESENTATION OF REPORT—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate a message had been received from the House of Commons as follows:

HOUSE OF COMMONS
Canada

Monday, September 14, 1987

ORDERED,—That a Message be sent to the Senate to acquaint Their Honours that the reporting date for the Special Joint Committee on the 1987 Constitutional Accord be extended to no later than Monday, September 21, 1987.

ATTEST

The Clerk of the House of Commons
ROBERT MARLEAU

[*English*]

IMMIGRATION ACT, 1976

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-84, to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

CANAGREX DISSOLUTION BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-2, to dissolve Canagrex and to amend certain acts in consequence thereof.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, September 17, 1987.

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, I give notice that tomorrow, Wednesday, September 16, 1987, I will move:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at three o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

TASK FORCE EMPOWERED TO PERMIT ELECTRONIC MEDIA COVERAGE OF PROCEEDINGS IN WHITEHORSE, YELLOWKNIFE AND IQALUIT

Hon. Gildas L. Molgat: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

> That the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to permit coverage by the electronic media of its public proceedings in the cities of Whitehorse, Yellowknife and Iqaluit, with the least possible disruption of its hearings.

The Hon. the Speaker *pro tempore:* Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—MAJOR OUTSTANDING OBSTACLES—POSSIBILITY OF BRIEFING—CONDITIONS PRECEDENT TO SIGNING AGREEMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I should like to address a question to the Leader of the Government based upon the meeting which was held yesterday between the Prime Minister and ministers and provincial premiers with respect to the negotiations on the free trade agreement with the United States.

It has been made clear by a number of spokesmen, following the meeting, that there are still a number of major obstacles and that there are major items that have to be settled before the deadline, which is less than three weeks away. Can the minister tell us what those obstacles are? We know about the dispute settlement mechanism, but are there other major items which have to be cleared up? What are they?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sure there are, honourable senators, but I do not believe it would be helpful at this time to enumerate them or to go into any detail. The premiers received a very lengthy briefing—I believe the meeting lasted six or seven hours—and they have been brought up to date on a confidential basis as to where we stand with the negotiations.

The Leader of the Opposition may also be aware that the government had offered to brief, also on a confidential basis, the Right Honourable the Leader of the Opposition in the House of Commons and the Leader of the New Democratic Party; but that offer has not yet been taken up.

Senator MacEachen: May I ask the Leader of the Government whether it is the intention that this shroud of secrecy shall be kept over these talks until October 4 or 5 when failure or success will be registered?

The Leader of the Government has mentioned that the leaders of the opposition parties in the other place have been offered a briefing on a confidential basis, which, if it is confidential, would not meet the needs of the members of the House of Commons or members of the Senate who, at a certain point, must deal with this matter. I understand the necessity for a certain amount of confidentiality, but is there not some way that the Standing Senate Committee on Foreign Affairs, for example, could be given a briefing *in camera* so that we would know what were the main parameters?

● (1410)

The honourable senator talks about confidentiality. It seems to me that there was a good deal of leakage following the recent meeting in which certain items were mentioned as being major obstacles. We heard that dispute settlement was a major obstacle. Are there any others? What is unsettling is the partial nature of the information that we are receiving, which renders it very difficult for us to make any judgment when the deadline is reached.

Senator Murray: Honourable senators, the Leader of the Opposition speaks of leakage. I watched the television news last night and saw the various premiers making their comments and I also heard the declaration of the Prime Minister. While there is a good deal of prudence, sobriety and perhaps even some pessimism on the part of some premiers about the talks, the fact is that they have agreed unanimously that we should go forward for the next three weeks. All premiers support the continuation of the negotiations and support the Prime Minister and Canada's negotiators in obtaining the best possible trade treaty. In less than three weeks there will be an opportunity for the First Ministers to meet again before any agreement is initialled by our chief negotiator.

Meanwhile, the short answer to the question is: Yes, generally speaking it will be necessary to maintain what the honourable senator describes as a "shroud of secrecy" over the talks. I do not know of any other way that we can conduct these talks in Canada's best interests over the next two or three very crucial weeks, and I do not see what possible advantage there would be at this time in discussing at any length at all the various obstacles. Suffice it to say that some of Canada's major conditions have not been adequately satisfied to date in the talks. We remain hopeful that they will be, and we continue to believe that it will be possible to achieve an agreement that is to the mutual advantage of Canada and the United States.

Senator MacEachen: Honourable senators, I have just one more question. In agreeing to the continuation of the talks, have the premiers agreed to the continuation of the talks with a view to concluding what has been described as a minimum framework agreement? Or, to put it another way, has the government the support of the premiers in negotiating an agreement that would not include an effective dispute settlement mechanism?

Senator Murray: Honourable senators, if I understand the question correctly, it is whether the premiers have indicated their support for an agreement that would not include an effective dispute settlement mechanism. Of course not, and we have not asked them for such support, because that remains one of the most important bottom lines of the Canadian government, as it has been from the very beginning. We have always insisted that there must be a way of obtaining relief for Canada from some of the more offensive, if I can use that term, United States trade remedy measures. We want a binding dispute settlement mechanism, and it is difficult to conceive of an agreement that we would sign which does not have such a mechanism.

[*Translation*]

Hon. Pierre De Bané: Honourable senators, I should like to direct a question on the same matter to the Leader of the Government. Of course, we do not know today whether we will reach an agreement with the United States. One thing is sure, if there is an agreement it will be reached at the last minutes before October 5, 1987.

In other words, if there is an agreement, it will be tabled in the United States Congress without ever having been discussed in Canada.

I ask the Leader of the Government whether he considers it normal, on such a capital issue in Canada, because I presume that at least half of the Canadian economy is related to our trade with the United States, that on the most important issue facing this country, we will never discuss the terms of the agreement before it is delivered to our American colleagues. Is it normal?

Senator Murray: Honourable senators, I think that my friend is mistaken about the process. On October 4 or 5, we will be submitted a text. It rests with the cabinet to instruct our chief negotiator, Mr. Reisman, to sign the agreement or not.

Canada will have two or three months to discuss the agreement and decide whether the Prime Minister on behalf of the Canadian government, will allow Canada to be party to this agreement.

In short, if our ambassador signs the agreement, it will be accepted *ad referendum*.

The Parliament of Canada and the legislatures will therefore have two or three months to discuss the agreement.

● (1420)

[*English*]

Senator Frith: "Ad referendum" or "ad nauseam"?

Senator MacEachen: Perhaps it would be another seamless garment.

Senator Frith: Yes, a seamless web.

Hon. Philippe Deane Gigantès: Honourable senators, will the Leader of the Government in the Senate tell me how it came about that, approximately two weeks ago, the congressional leaders responsible for the legislation on a free trade agreement between us and the United States stated on repeated occasions that they had just become aware that, for Canada, the key was binding arbitration as a mechanism for settling disputes. They said—and they were seen on television saying so—that they had not been made aware that it was so important for Canada to have—in your language, sir—a deal-breaker.

Can the Leader of the Government in the Senate please tell us how our side allowed this situation to develop, and why we did not, as a very first step immediately after the singing of "When Irish Eyes Are Smiling," attempt to sensitize the leaders of the United States in Congress, in the states, in the Senate, in the administration and among businessmen that this was the deal-breaker for us?

Senator Murray: Honourable senators, I cannot explain what one senator or congressman, or two senators or congressmen, may have known or not known, or may have said on television. I can tell the Senate—and I can document it—that from the very beginning the Government of Canada, through the Prime Minister, has made it very clear that a binding dispute settlement mechanism was, for us, absolutely essential to any bilateral trade treaty with the United States.

Senator Gigantès: Then why is it that those who hold positions of power and responsibility in the United States, and who will have to pass on this issue, were not aware of this? Communication is a process in which one enunciates something, but one also tries to make sure that what one has enunciated has indeed been heard and understood by the other side. Where did we fail?

Senator Murray: My honourable friend is asking a second time the question he asked a few moments ago and which I dealt with.

[*Translation*]

PATENT ACT

MEETING OF QUEBEC COALITION FOR ADOPTION OF BILL TO AMEND—BANKING, TRADE AND COMMERCE COMMITTEE REPRESENTATION

Hon. Jean Bazin: Honourable senators, I have a question for the Chairman of the Banking, Trade and Commerce Committee.

On September 9, a Quebec coalition for the immediate passing of Bill C-22 met in Montreal. Among those in attendance were Michel Hamelin, the Chairman the Montreal Urban Community, 15 mayors from the Montreal area, the Montreal Board of Trade, the Montreal Chamber of Commerce, the Conseil du Patronat du Québec, faculty deans, the Confederation of National Trade Unions (CNTU) and the Quebec Federation of Labour (QFL), as well as three senators.

Could he tell me whether the Banking, Trade and Commerce Committee had sent a representative at that meeting and, if so, did the committee receive a report from that delegate?

[*English*]

Hon. Ian Sinclair: Honourable senators, a senator from Quebec mentioned that a telex had been sent to senators requesting them to attend the meeting. A number of the senators who are members of the committee said they had not received it. It was then clarified that it was only the Quebec senators who had received the message, not all senators of the committee. Did we delegate someone to attend the meeting? No.

CRIMINAL CODE
IMMIGRATION ACT, 1976
CITIZENSHIP ACT

BILL TO AMEND—THIRD READING

Hon. Richard J. Doyle moved the third reading of Bill C-71, to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act.

Motion agreed to and bill read third time and passed.

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Finlay MacDonald moved the second reading of Bill C-84, to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof.

He said: Honourable senators, as we all know, Canada's system of refugee determination is under siege from a daily onslaught of illegal migrants arriving in Canada and making false claims to gain entry.

• (1430)

Refugee determination is a complex and often emotional issue. The question of abuse and how to eliminate it is crucial to preserving Canada's humanitarian reputation and its tradition for law and order. That is why the Parliament of Canada was recalled in the middle of August to take immediate action to put an end to the growing and the flagrant abuse of our laws and our generosity. During this year the number of people who will claim refugee status in Canada is expected to be over 30,000, making the backlog at the end of this year something over 40,000.

Now, a little historical perspective; prior to 1976 Canada did not have any formal legislative system for determining whether or not a person was a refugee. Those decisions were made administratively by our officials, and the system worked quite successfully. Canada's record was very good then, as it is now. However, when the new Immigration Act of 1976 was passed, it was decided to create a specific procedure for the determination of refugee claims. At that time it was not anticipated that Canada would become a country of first asylum, and the procedure that was created was to deal with a very small number of cases, probably less than 300 a year, certainly less than a thousand, with the result that the system we now have in place is very long and very complex.

This was not a problem for several years. It was a problem that grew and fed upon itself as the message went out to the world that by claiming refugee status one could ensure that one could stay in Canada for a long time going through the system. The more people did so, the longer one stayed in Canada. Therefore, around the world more and more people discovered this.

Seeing this issue starting to emerge, the previous government commissioned a couple of studies, the last and the best known was a study done by Rabbi Gunther Plaut, which was presented to the current government, in particular to the Honourable Flora MacDonald, the then minister, and which ultimately led in May of 1986 to an announcement by the then Minister of State (Immigration), Walter McLean, of a proposed refugee determination process.

In the months preceding the announcement of Walter MacLean, refugee claims had already increased to approximately 1,000 a month; three months after Mr. McLean's announcement the boat with the Tamil migrants arrived off the shores of Newfoundland. Immediately after this internationally-publicized incident, we began to see a dramatic rise in the number of claims. They rose from 1,000 a month to 2,000 a month until, by the beginning of this year, 1987, Canada was receiving claims for refugee status at the rate of 4,000 a month. At that time the cabinet was not only reviewing the proposals set out by McLean but it also approved a package of control measures. Those were administrative changes which were brought in on February 20 of this year. Those measures had some effect in reducing the actual number of claims, and the numbers declined to approximately 2,000 a month, but were still higher than before the McLean announcement of May 1986, a definite improvement over the 4,000 a month that we were receiving in January and February of this year.

We have today a bigger backlog than we had when Mr. McLean announced the procedures to clear the backlog that we had accumulated over the previous five years, and, if it takes another four or five months to get these bills through, it is possible that we could have over 50,000 people in the system, and every additional month that this is delayed will compound the problem.

Honourable senators, the system has totally broken down. We are not here to deal with 174 Asians who arrived unannounced in the middle of the night off the coast of southwestern Nova Scotia. They are here; they are in. They have a permit to remain in Canada, pending an immigration inquiry which could take five years. They can work. They have a special social insurance number, and, if they need it, they will receive welfare from the province in which they are now established; and the world knows it.

In all of the discussion of this issue there have been polarized positions adopted, and often from the very best of motivations positions have tended to become extreme. On the one hand, there are those who argue that Canada must demonstrate international leadership by having a system of what is called "universal access," that is to say, that any person who reaches our shores, who physically sets foot in Canada, from whatever place, for whatever reason, should be entitled to make a refugee claim and to carry that through several levels of appeal. I should note here that that is going well beyond any obligations we have under the United Nations Convention for Refugees.

Unfortunately, what we have seen in our current system is that several levels of appeal are prone to abuse, and such appeals can, as I have said, take as much as five years. A system of universal access creates its own type of abuse, clearly suggesting that the system is unworkable unless one were to dedicate vast resources to the administration of that system.

At the other extreme are those—and I think there are a few in this chamber—who are concerned about the costs of operating an open and generous system and those who look to other countries and the models they have and advocate an almost purely administrative system, in short, Draconian measures, police at the border, making determinations with not even a minimum of safeguards or no safeguards at all.

It is between these two positions that the government has adopted a refugee determination policy that remains among

the most generous in the world, but prevents the kind of abuse that undermines public support for the open policy that we continue to advocate.

Over the past few weeks we have heard the views of a number of interest groups and individuals on the best way to correct the flaws that they have spotted in the bill, or thought that they spotted in the bill. The minister, Mr. Bouchard, gave Canadians and committee members the assurance that he would consider the possibility of amending the bill on condition that it would not be weakened. The amendments endorsed by the House of Commons are useful. He supported them without reservation.

The bill, as all honourable senators know, is aimed at cracking down on the operations of unscrupulous counsellors, smugglers who take advantage of the plight of illegal immigrants, and carriers who fail to ensure, as they should, that their passengers carry the required documents. It is also aimed at curbing abuses on the part of economic migrants who try to jump ahead of refugees and immigrants who abide by the established procedures.

Clauses 95, 95.1 and 95.2 are the key provisions of these legislative measures, enabling us, as they will, to put a stop to the activities of those who bring illegal immigrants into Canada. I am told that since 1976, of those who have gone through the system, 70 per cent were identified as bogus refugees.

The international implications of these measures are well understood. There is no parallel between the recent boat arrivals in Canada and the exodus of the boat people from southeast Asia and elsewhere. Neither of the two recent boat arrivals at Newfoundland and Nova Scotia involved people travelling from their own countries. In both instances the organizers flagrantly exposed these individuals to physical danger through the use of unseaworthy craft and the landing of passengers in a clandestine manner in extremely unsafe conditions. The measures proposed in this bill do not challenge the legitimacy of the need of individuals, in appropriate circumstances, to travel to countries of first asylum by ship or the right of people in difficulty on the high seas to seek assistance. The organized traffic of illegal migrants between signatory states of the Geneva Convention in good standing is, however, a very different matter. It is an activity which the government and, indeed, the people of Canada find totally unacceptable.

● (1440)

Honourable senators, there has been a great deal of talk about how this bill would affect church groups. It has been said that because we have proposed two new sections we have opened the door to the prosecution of church and humanitarian groups if they assist refugees.

Hon. Royce Frith (Deputy Leader of the Opposition): On a point of order, honourable senators, I wonder if I am the only senator who does not have a copy of this bill. I do not seem to have received a copy of it. Could someone supply me with one? Senator MacDonald was beginning to refer to sections of the act that will be amended, and I wanted to refer to them.

[Senator MacDonald]

Senator MacDonald: Shall I wait until copies are circulated?

Hon. C. William Doody (Deputy Leader of the Government): I believe that copies have already been circulated.

The Hon. the Speaker *pro tempore:* Copies will be distributed right away, honourable senators.

Senator MacDonald: Honourable senators, I was talking about the reference in the bill to sections 95.1 and 95.2.

Senator Frith: Honourable senators—

Hon. David Walker: Go and find out yourself. Don't hold up the Senate. You are a nuisance.

Senator Frith: Honourable senators, Senator Walker seems to be concerned that I am asking these questions. We received the bill less than an hour ago and we have given leave to proceed with it today. I did not get a copy of it. I wanted to follow along with the references to the bill. I am not trying to hold up the work of the Senate. It seems to me that following the references made by the sponsor of a bill can really be considered part of the work of the Senate. I just wanted to do that.

The bill I have contains references to sections and amendments to sections. I wanted to know whether, when Senator MacDonald refers to section 95.3, he is referring to clause 9 of the bill itself. What page is he referring to?

Senator MacDonald: Honourable senators, I was referring to sections 95.1 and 95.2 of the bill that was amended, reprinted and reported August 27 by the legislative committee.

Senator Frith: Are you now referring to a report?

Senator Flynn: He said, "and reported."

Senator Frith: At any rate, section 95.1 is amended by clause 9 of Bill C-84 at page 9 of the bill. Clause 9 of the bill states:

> The said Act is further amended by adding thereto, immediately after section 95 thereof, the following sections:

and inserts a new section 95.1. I take it that is what he is referring to.

Senator MacDonald: Yes.

Senator Frith: Thank you.

Senator MacDonald: Honourable senators, I was talking about the suggestion that church or humanitarian groups might have objections to those clauses of the bill which they fear specifically or in some way are directed at them. It should be pointed out that since 1976 there have been penalties contained in the act for any person who brings undocumented people into Canada. Church groups have been liable to prosecution for the past ten years. There have been no complaints and, to the best of my knowledge, no prosecutions. While this may be to some a specious argument or assurance that the administration of this act has always recognized and will continue to recognize the humanitarian nature of the activities of these people, what was true before is true now under the

current legislation and under the new bill. Bill C-84 does not create some new ground of prosecution for that which church and humanitarian groups have been doing for years; namely, presenting refugee claimants for examination, sponsoring refugees from abroad, and providing settlement assistance.

Hon. Jerahmiel S. Grafstein: Would the honourable senator permit a question on this point? On the face of that clause as we now read it, would the Right Honourable Joe Clark have been technically liable for a breach of that provision because of his inducement, aiding, abetting or organizing the escape of the Soviet defectors from Afghanistan?

Senator Flynn: What do you think?

Senator Frith: I would like to know.

Senator Flynn: What is your view? You have a chance to put it forward.

Senator Frith: If there were ten or more, I suppose that technically he would have been liable.

Senator MacDonald: I suggest that Senator Grafstein should leave a little work for the committee.

Senator Grafstein: I agree.

Senator MacDonald: Honourable senators, there has been much discussion about amending these provisions. I am told that the lawyers and legal drafters of this legislation suggested different phrases and considered such terms as "a religious group," "profit," "reward," "fraud," and "clandestine entry," but each option, in the opinion of the drafters, created loopholes and reduced the capacity to prosecute the unscrupulous. The bottom line of this tough legislation is that we cannot permit these individuals to escape sanction by creating insurmountable problems in terms of proof. This bill will send strong signals that Canada will no longer tolerate the abuse of our borders and our laws. The message is clear and the audience is specific. Those who seek to ignore or circumvent our laws will be prosecuted.

The United Nations High Commissioner for Refugees, Mr. Hocke, has been given our assurance that the government has every intention of exercising its power to send ships back, but without endangering human lives or breaching the Geneva Convention. Above all, whatever actions may be deemed appropriate, given the specific circumstances involved, the government will not do anything to risk the health or personal security of any person. This bill is designed to meet an urgent situation. It has been drafted to hit hard at a new type of criminal activity, which is the large scale smuggling of human beings. It will also strengthen our ability to remove quickly criminal and security risks. It will allow us, as well, to slow down and perhaps put an end to the increasing flow of people arriving in Canada without proper documents.

This legislation, together with a bill yet to come before us, Bill C-55, will provide a comprehensive, long term solution to the difficulties and abuses currently surrounding the refugee determination process. They will enable us to concentrate on helping those refugees truly in need of our protection. I am convinced that this legislation is essential if we are to respect our humanitarian commitment towards refugees and if we are to prevent possible frauds against Canadians or Canadian law.

Honourable senators, we have here a classic situation in which Parliament, through legislation, seeks to remedy or correct what is acknowledged to be an intolerable public problem, without alienating or infringing upon the rights or freedoms of anybody physically present in Canada. That it would be subject to challenge is without question.

Other senators may now wish to speak on this matter, following which, at the appropriate time, I will move that it be referred to the appropriate committee.

Hon. Peter A. Stollery: I wonder if the honourable senator would permit a question? Honourable senators, when I listened to the hyperbole of the immigration department when we originally wrote this bill in 1976, I was not impressed. I still am not impressed by it. And I must say that now when I look at the result I see a bill that is almost unbelievable. My question is: In a situation similar to that which happened in Vietnam, when thousands of people were forced to leave in small boats, were abused and robbed on the high seas, as well as other things that we all know were done to them on the high seas on their way to other countries, are we saying that, if this bill were passed, and we were one of those countries to which the boat people came, the boat people would be sent back to sea and, as I read section 95.1, anyone who assisted them would be subject to a fine of $10,000? In other words, a Canadian who is assisting such people who were leaving their country of origin because of the fear of death, and who were not in possession of documents, would be subject to a fine of up to $10,000 and five years imprisonment?

● (1450)

Senator Frith: Look at section 95.3.

Senator Stollery: I am sorry. The wording says, "not exceeding five hundred thousand dollars." And the boat people would then be shipped back to sea in their boats. Is that what is being proposed by the government?

Senator MacDonald: I think the honourable senator knows what is the accepted definition of a refugee.

Senator Stollery: In Canadian law we use the United Nations definition of "refugee".

Senator MacDonald: Then a refugee is a person who cannot return to his country of origin because of a well-founded fear of persecution for a number of reasons. Here we made a distinction between people who leave their country of origin and who apply for refugee status for those reasons and those who come from, say, Germany or from Poland and apply for refugee status in Canada under the Geneva Convention. The latter are illegal migrants. As between the case of the boat people to which the honourable senator referred and the case of the arrival of the two boatloads of refugees, there is no analogy, no parallel.

Senator Stollery: I am not talking about the boat that arrived off the coast of Nova Scotia. I am specifically describing the situation that developed in Indo-China, when approxi-

mately one million people left that country, many of whom may well not have fitted the United Nations definition of "refugee", that is to say, as persons who had cause to fear the consequences set out in the United Nations definition, but for a lot of other reasons, namely, that their business had been taken away from them, as was their right to continue their life in the way in which they were used to conducting it, and they decided to brave the elements and leave their country.

If I am not mistaken, we in Canada were very generous in receiving those people who came not from their country of origin but from refugee camps in other countries. At that time we were critical of those countries which did not accept them. We actually criticized those countries which did not accept those boat people.

Now we are seriously suggesting that a Canadian who assists such people will be subject to a $500,000 fine or imprisonment for a term not exceeding ten years; and that penalty has actually passed the House of Commons.

Senator MacDonald: I am sure the honourable senator has the figures and will be aware of the number of people who have found a safe haven in Canada, the number of people that Canada has accepted either privately sponsored or government sponsored. The honourable senator has seen the figures increase each year, from 13,000 in 1983 to 17,000 this year.

There are 500 people seeking refugee status in Canada each month through our airports. Those incidents are unpublicized. Those people who are coming to Canada are going through the system; they are being given every opportunity to show that they are legitimate refugees.

Senator Stollery: Honourable senators, I realize that this bill will go to committee, and that is where the matter is best discussed. I do not mean this in any way as a criticism of Senator MacDonald, who is sponsoring the bill, but I would point out that between 1967 and 1972 Canada accepted 115,000 immigrants, who arrived in Canada under exactly those conditions. I must say that the numbers are not something that make me quake and shake. In fact, I believe they are relatively modest compared with those of many countries which have a serious problem involving immigrants disguised as refugees. It is a problem that will have to be addressed. But I believe that the figures involved here are not very large, and I would remind the honourable senator and other honourable senators that in Canada, excluding immigrants who came through the normal channels, from 1968 until 1972 115,000 people came to Canada, and, according to statistics produced by the Department of Immigration—and I would be the first to admit that the department is not famous for producing good statistics; and that number can be multiplied by eight, because normally when one person arrives and becomes settled, approximately eight more eventually come to Canada as immigrants—each one of those immigrants today is a voting Canadian citizen and is contributing to this country. I think that is something which we should all consider when looking at this bill.

[Senator Stollery.]

Senator Flynn: Would the honourable senator be deemed to have spoken in the debate, or is that a question?

Senator Grafstein: Honourable senators, I move the adjournment of this debate until tomorrow.

On motion of Senator Grafstein, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

CONSIDERATION OF SEVENTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Consideration of the Seventh Report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: "Child Benefits—Proposal for a Guaranteed Family Supplement Scheme", tabled in the Senate on 30th June, 1987.—(*Honourable Senator Robertson*).

Hon. Brenda M. Robertson: Honourable senators, I ask that this order stand in the name of Senator Tremblay. He is out of the chamber at this moment, but I know that he wishes to speak to that report.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands in name of Senator Tremblay.

● (1500)

PATENT ACT

BILL TO AMEND—MOTION TO INSTRUCT BANKING, TRADE AND COMMERCE COMMITTEE RE DEADLINE FOR PRESENTATION OF REPORT ON QUESTION AND MESSAGE FROM COMMONS NEGATIVED

Senator William M. Kelly, pursuant to notice of Monday, September 14, 1987, moved:

> That the Standing Senate Committee on Banking, Trade and Commerce, to which was referred the motion of the Honourable Senator Murray, P.C., concerning amendments to Bill C-22, an Act to amend the Patent Act and to provide for certain matters in relation thereto, together with the Message from the House of Commons dated August 31, 1987, on the same subject, be instructed to report the same to the Senate no later than September 23, 1987.

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

Hon. Charles McElman: Honourable senators, I rise on a point of order. You will note at page 1801 of the *Debates of the Senate* of September 3 that a similar motion in amendment was introduced, the second paragraph of which reads:

> That the Committee report no later than Monday, September 14, 1987—

That motion in amendment was negatived by the Senate on a recorded vote. The motion today seeks to do exactly the same

thing as the motion in amendment of September 3. Rule 47(1)—

Hon. Jacques Flynn: Oh, oh!

Senator McElman: I would ask Senator Flynn, in light of his current activity, to refer to rule 47(1).

Senator Flynn: I know about it.

Senator McElman: The rule reads:

> A motion shall not be made which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, unless the order, resolution, or other decision on such question has been rescinded as hereinafter provided.

Subparagraph 47(2) reads:

> An order, resolution, or other decision of the Senate may be rescinded on five days' notice if at least two thirds of the senators present vote in favour of its rescission.

Honourable senators, this motion today has exactly the same purpose as the motion in amendment proposed on September 3 and therefore is patently out of order.

Senator Flynn: Honourable senators, the substance of the motion in amendment to which the honourable senator has referred has the date of September 14. The substance of the motion before us has the date of September 23. That is the substance. When a certain date is given and then another date is given, obviously it is not the same thing at all. So, I think the honourable senator is drawing conclusions from the rule that he quoted that would make it impossible to act in this chamber. For example, if the Senate negated a motion to adjourn to next Monday, we could not then approve a motion to adjourn to next Tuesday. Since we would have already decided on the matter, we could not approve a motion to adjourn to Tuesday. That is exactly the position that the Honourable Senator McElman is taking.

This rule has been interpreted on other occasions. I remember one occasion where the Speaker at the time, the Honourable Senator Marchand, ruled against a point of order that I had raised in connection with a bill concerning Canada Day. He decided that the substance was not the same, because in that instance they had added something to the bill and that, therefore, it made a difference. I do not think that in the present case one can take the substance of the motion outside the date which was considered in the motion in amendment the other day and the date proposed today in the motion by Senator Kelly.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the interpretation of rule 47 advanced by Senator Flynn would make one wonder why the drafters of the rule used the words "in substance." Why would the rule not say, "a motion shall not be made which is the same as any question—"? It does not say that. It says, "a motion shall not be made which is the same in substance as any question—." Can it seriously be argued that the substance of Senator Phillip's amendment was to fix a date for report by the Banking, Trade and Commerce committee and the substance of the motion by Senator Kelly is not? To fix a date for report is the substance of each motion. The date is not the substance, the date is the detail. The particular date is the detail as to what date should be fixed. For that reason it seems to me that Senator McElman's point of order is quite correct. Any other interpretation would be to ignore completely the words "in substance" in rule 47.

Senator McElman: Honourable senators, I would like to comment on the proposition put by the Honourable Senator Flynn, and I respect his knowledge of the rules very much. However, if his proposition were to be accepted, there would be no limit upon obstructive activity within the Senate.

Senator Flynn: You can say that again! There is no limit to your obstructions.

Senator Frith: You could just keep changing the date.

Senator McElman: Are you through for the moment?

Senator Flynn: Sure.

Senator McElman: If you are, then tomorrow another motion could be introduced that reads September 24, and the next day one that reads September 25—

Senator Flynn: Certainly.

Senator McElman: —and by the hour, and so on. Obviously the rule is there for a purpose.

Senator Flynn: But it is not for that purpose.

Senator McElman: It is there to stop repetition of this nature when the substance has been decided by the Senate, and in this case that was done by a recorded vote.

Senator Flynn: With or without a vote, it is the same thing.

Senator McElman: That is right, but I simply raise that point to impress upon you that the Senate knew what it was doing.

Senator Flynn: Do you mean that sometimes it does not?

Senator Argue: Only when you are here, Jacques. When you are not here we know exactly what we are doing.

Senator Frith: Speak for yourself!

Senator Flynn: That is what he said.

Senator McElman: The amendment proposed on September 3 sought to impose upon the committee a time limit, irrespective of what that date may have been. That was the substance, to place a time limit upon the committee for reporting back to the Senate. The motion before us now has exactly the same purpose. Its substance is identical, to impose a time limit upon the committee.

Senator Flynn: But not the same time limit.

Senator McElman: The substance is absolutely the same. The date is incidental. Therefore, under rule 47(1) it is patently and obviously out of order.

• (1510)

Senator Flynn: We decided that the committee was not bound to report on the 14th; that is all we decided.

[*Translation*]

Hon. Jean Bazin: Honourable senators, I have a question for Senator Frith.

Did I understand correctly when he said that as far as he is concerned the date was an essential question in the sense of section 47 of the *Rules of the Senate*? If so, how can he reconcile the fact that there might be five, six, eight or ten different dates and that it still remains an essential question?

Senator Frith: Exactly. I believe the justification for this section of the *Rules of the Senate* is to deal with the substance and thus avoid the repetition of motions based on questions based on the same substance.

The substance of Senator Phillips' motion was to set a date, and Senator Kelly's is similar.

The substance is the same. Otherwise someone could move another motion tomorrow for, say, a quarter to three on Friday or on any other day. Thus not only can the day be changed, but so can the time at which a committee has to report to the Senate.

So it is somewhat absurd to suggest that the two motions are not substantially identical. The question therefore is: Does substance refer only to the date or to the time imposed? In the latter case there is no way to avoid the repetition which, in my estimation, is the object of section 47 of the *Rules of the Senate*.

Senator Flynn: If I move adjournment to a given date, is the date unimportant? Once an adjournment motion has been moved, is it no longer possible to move another? You said "absurd", I say "ridiculous".

Senator Frith: So we agree that the position of the other side in either case is absurd, do we not?

Senator Flynn: Exactly.

Senator Frith: In any case we are convinced that your position is absurd, and apparently you share this opinion.

Senator Flynn: You are not convinced!

[*English*]

The Hon. the Speaker *pro tempore:* Are you asking the Speaker to make a ruling?

Senator McElman: No, honourable senators, I have not requested a decision from the Chair. I do not believe that that is something that should be done too often. I would like to comment that I think there have been too many references to the Chair in recent times. It is the practice of the Senate that the senators decide what action the Senate will take or not take on a particular issue, and only in the last resort do the senators make reference to the Chair.

Senator Kelly: Honourable senators, I find myself in a somewhat difficult position. I had assumed that we would automatically refer this discussion to the Chair for some sort of ruling. I certainly hesitate. I very frankly did not offer this motion with the idea of being obstructive, which I believe was the word used. I have some things that I really do want to say and, very frankly, this was a way of having an opportunity to say them. Notwithstanding the possibility that Senator McElman has a point of view that might prevail were the Speaker to be asked, I would hope that the senators would allow me to indulge myself to the extent of speaking.

Senator Frith: Honourable senators, as long as it is clear that this particular precedent has not been settled either one way or the other.

Senator McElman: Honourable senators, I would only add that that is the way of the Senate. I will not insist that the honourable senator should not speak, but I do think that we have to operate in here—

Senator Flynn: We are creating a lot of repetition—

Senator McElman: Senator Flynn, would you like to get to your feet and speak, or are you going to sit there yattering, as you usually do, from your chair? It may be very fine for you, Senator Flynn, to be always telling others that they are out of order, and they are this and that, but you, sir, are the worst offender against the rules in this chamber, and you know it. If you want to take the floor, then raise a question of privilege or a point of order. Otherwise, I would ask you to sit there and be quiet, as you are supposed to do in this chamber, as a gentleman and as a senator.

Honourable senators, I am not opposed to Senator Kelly speaking; not at all. However, as Senator Frith has just said, I think it should be done with full knowledge that it is not a precedent but that the senators, if they wish, should hear him.

Senator Flynn: Honourable senators, on a point of order, and apologizing to the Senate for my terrible misbehaviour—

Senator McElman: You are so sincere in what you are saying now!

Senator Flynn: What are you doing now?

Senator McElman: I rise to my feet; that is what I do now. I rise to my feet and say that you encourage other senators to act in the way you act by your constant interventions and insults.

Senator Flynn: I resumed my seat when you started to interrupt me from your own seat, but that is all right. I do not take your remarks as a personal insult at all. I merely want to point out that if Senator McElman in raising his point of order had immediately said, "I am not asking the Chair to rule; I simply do not want this to be taken as a precedent," we would have avoided the repetition and a debate that was absolutely useless.

Senator Kelly: Honourable senators, I apologize for the problems I have created. I did study my *Beauchesne* and other things, including the rules of the Senate, and I thought that I had followed the procedure properly, but, unfortunately, I may have missed something.

I want to make it clear at the outset that my motion is not in any way intended to impugn the abilities, competence or motives of the chairman of the Standing Senate Committee on Banking, Trade and Commerce or its members, of which I am

one. I have only the highest regard for the committee, its members, and particularly its chairman.

Honourable senators, on several occasions since I was appointed to the Senate in 1982, when I have risen to speak in this chamber I have prefaced my remarks by saying that I am relatively new to this place and somewhat inexperienced in its operations. Today I make no apologies for inexperience.

Senator Frith: It was wearing a bit thin, yes.

Senator Kelly: Like many of you, I have been here long enough to become reasonably versed in the ways of the Senate. I have also been here briefly enough to have a perspective perhaps wider than the Senate, or even than Ottawa.

I suspect that some of you will immediately assume that I am motivated by partisanship. I am not.

Senator Cottreau: Me neither!

Senator Frith: Who is?

Senator Kelly: I am motivated only by a concern for the proper role and function of this place in our parliamentary system. I am speaking not from one side of this chamber to the other but as a senator to colleagues.

Neither am I motivated by the substance of Bill C-22. Although I happen to support the substance of Bill C-22, substance is now a secondary issue. The primary issue that now confronts us is the proper, practical role that the Senate plays in our system, now and in the future.

My point is quite simple and straightforward: Regardless of what our motivations might be; regardless of whether our position is "constitutionally correct," anything more than a brief review by the Standing Senate Committee on Banking, Trade and Commerce will be generally interpreted as Senate recalcitrance—as this chamber using procedural and other tactics to frustrate the will of the lower house and the government of the day.

I do not believe that the Senate has either the right or the duty to delay this bill any longer. I am concerned that, if we continue to delay a decision, we shall strengthen immeasurably those who wish to abolish or reform this institution.

Honourable senators, let me say I am not against a Senate reform. In fact, I support it. I am, however, opposed to any reform undertaken in the heat of the moment, with highly-charged partisanship, over a relatively small issue and without due consideration to the long-term consequences. Our opposition to this bill has already led to hasty, ill-considered and partisan calls for Senate reform. Senate reform, in my opinion, should not be initiated or mooted in this kind of environment for these kinds of reason.

I am told that former Prime Minister Trudeau frequently said that he was loath to do anything that could even incidentally undermine the powers and prerogatives of the office of Prime Minister, not only for himself but also to retain the integrity of the office for subsequent prime ministers.

I find that position laudable, indeed, and I think that position could provide a lesson for us in this situation.

I fear that what we are doing on Bill C-22 could undermine the integrity and credibility of this institution and have unforeseen consequences for the Senate and our system of government.

I have asked myself several times, "Under what circumstances should this bill legitimately be delayed further by the Senate?" It seems to me that, if this bill raised regional issues or concerns that remained outstanding, the Senate should legitimately continue to try to amend or delay the bill. This bill does not raise regional issues and concerns. The provincial governments of Quebec and Saskatchewan have formally signified their support for the bill. The provincial governments of B.C. and Alberta have informally signified their support. No provincial government, to my knowledge, has expressed opposition to the bill.

It seems to me that, if the government had used its overwhelming majority in the other place to stifle due consideration of this bill, the Senate could legitimately continue to try to amend or delay its passage. Again, this is not the case. I know closure was applied in the other place, but only after a total of 47 hours of debate in the House, after 40 hours of committee hearings, and after a review of testimony from 98 individuals, including 46 groups.

It seems to me that, if this bill were seriously or fundamentally flawed on a technical basis, if in our view it simply could not achieve the objectives it purported to achieve or had major unforeseen side effects, the Senate should legitimately continue to try to amend it or delay its passage to force the government to reconsider. Again, such is not the case. The opposition to this bill is due to opposition to the policy entrenched in this legislation, not to any technical deficiencies.

In my view the issue is clear cut. In our system a government commanding a working majority in the lower house has a duty and a right to govern. A fundamental element of governance is to implement a set of public policies that the government feels are required to meet the circumstances and requirements of the day. The government's ability to continue to govern should be a function of its ability to command a working majority in the lower house.

Honourable senators, the majority of this chamber apparently feels that this is a "bad bill." We have made that point and I believe it has been noted. The majority of the lower house apparently feels this is a "good bill." They will be held accountable for that decision at the next general election. We are not likely to be held so quickly or effectively to account if our activities cause the bill to die.

My colleague, Senator Sinclair, the chairman of the Standing Senate Committee on Banking, Trade and Commerce, has had an extensive, brilliant business career. I know that his success was based in part on his ability to assimilate information, alternatives and opposing viewpoints and make a decision. He appreciates very well that there comes a time when a decision must be made. I submit that we are at that point, and that further debate and further hearings are unlikely to change anyone's opinion or make the ultimate decision any easier. To

delay the decision further will accomplish nothing and will only contribute to the view that we are being mischievous.

I say to this chamber: "We have made our point. Our opposition and the reasons for it have been duly noted. Now, let's get on with it."

Two hundred and sixty-three witnesses, including 130 groups, have already appeared before the Special Senate Committee on Bill C-22. Some witnesses or groups have made multiple appearances. The Consumers' Association of Canada has appeared eight times; the Canadian Labour Congress has appeared seven times. We have had more than 150 hours of hearings in the special committee and we have spent $315,000 on the Senate committee review thus far.

Does anyone seriously believe that holding another set of hearings will resolve anything? Does anyone seriously believe that there are new issues to be discovered, new concerns to be addressed, new constituencies to be heard, or new expert testimony to be considered that has not already been considered? Does anyone seriously believe that there are major stones that have been left unturned in this exercise? Does anyone seriously believe that the Senate Committee on Banking, Trade and Commerce cannot more productively spend its time considering any of the several new issues before us—such as tax reform—rather than rehashing previous consideration of Bill C-22 *ad nauseam*? I say again that we should get on with it.

Let us without further delay instruct the standing committee to conclude its review expeditiously. I heartily concur with statements made earlier by my colleague, Senator De Bané, if we cannot reach agreement in good faith, let us pass this bill. As I said earlier, we have made our point. Let us move to other issues that are equally or more pressing.

Allow me to digress somewhat to better illustrate my concerns about our approach thus far to this bill.

My colleagues well know that in Australia's bicameral system the Upper House—the Senate—is elected on the model of the American Senate while the Lower House—the House of Representatives—is elected on the basis of representation by population.

In the early 1970s the Labour government of Gough Whitlam had been able to command a small but working majority in the Lower House, but had been unable to obtain a majority in the Upper House.

By 1975 the Whitlam government appeared to be in difficulty. Its popular support had eroded. A succession of ministers had resigned for one reason or another and Labour had recently lost an important by-election. But a general election was at least a year away and in that time Labour was confident of turning their fortunes around. The opposition was becoming restive and impatient.

Confronted with these realities, the leadership of the opposition decided to frustrate the government's legislative program and generally test the government's mettle. A series of skirmishes began, the most serious of which was an announcement by the opposition that it intended to use its majority in the Senate to defer a vote on certain supply bills approved by the Lower House. With supply deferred, the government would soon run out of money and be unable to function.

The decision to defer the vote on supply was taken for partisan and procedural reasons and had little to do with the substance of the bills in question.

It seemed like a small thing at the outset, a small, harmless "raid" into enemy territory to test the defences. But matters soon escalated. Ultimately, the matter was resolved by the Governor General withdrawing the Prime Minister's commission and calling on the Leader of the Opposition to form a government, pending an election.

A constitutional crisis resulted. A government fell. A Governor General's reputation was irretrievably sullied. There was public unrest. A higher level of acrimony was injected into Australian politics and the integrity of the Australian system was badly damaged. The precedent that was established at that time has been used on occasion to hobble successive Labour and Liberal governments.

I do not want that to happen here. I do not think any of us do. If Senate reform happens—and I hope it does—I want it to be motivated by what is right for our system and our country. I want Senate reform to happen in an environment of calm, considered deliberation. I want Senate reform to achieve what is best for the long-term interests of Canada and Canadians.

Honourable senators, if we persist on our current tack, the risks are great that this won't happen; that Senate reform will occur for all the wrong reasons. Let us not let that happen. We have made our point on Bill C-22. Let's get on with it.

On that basis, honourable senators, I ask that we instruct the Banking Committee to take a look at some sort of reasonable deadline, and I have suggested September 23.

Senator Frith: Honourable senators, I accept parts of Senator Kelly's position. He says he has the highest regard for this committee, and I accept his sincerity in making the motion he has made. I do find it difficult to resist—but I am going to resist—a temptation to discuss the larger issues such as whether or not there is an Australian precedent for us to be concerned about. When the Senate in Australia refused the government supply, it effectively put the government out of business. We need not worry about that analogy as applied to a committee taking a further look at the possibility for a compromise on Bill C-22. That those two are indeed the same thing, interesting constitutionally though it is, and to have us fear that a constitutional crisis, followed by public unrest and other constitutional evils, will follow as a result of this committee not completing its work by next week is a little difficult to accept. However, as I said, I resist the temptation to deal with that aspect of his intervention.

● (1530)

Honourable senators, we are concerned with the point that has been raised by Senator Kelly—that is, every step that we have taken with regard to Bill C-22 has raised a question as to whether or not we should have continued. Honourable senators will remember that when we sent the bill back in its amended

form the minister said that the Senate had no right to amend the legislation. He changed his mind afterwards and said, "Well, perhaps the Senate had the right to amend the legislation." So, right down the line I agree with Senator Kelly when he says that every time we have done something that has not been to rubber stamp a decision of the House of Commons we raise the question whether we should only have the right to rubber stamp its decisions.

Now Senator Kelly has said that we have gone far enough and this is the stage at which we should rubber stamp, as I understand his position. That is where the difference exists between the two sides—whether or not we have come to the point at which we should not take any more legislative action. That, it seems to me, has to be put into the context of the precise motion that is before us and in the context of this precise bill and the committee reference. When we received the message from the House of Commons—the message that, in substance, it disagreed with the Senate's amendments—the Leader of the Government in the Senate, quite correctly in my view, put a motion that the Senate not insist on its amendments. I think that is the accepted procedure and that it was quite correct for the Leader of the Government to do that.

Then there was a motion that the message, to which later there was added, I believe on agreement, the motion not to insist on the amendments, be referred to a committee. During the debate in support of that motion there was a suggestion that the Senate should take one final step—perhaps final, I expect final—and at least explore another procedure that had found some success in the past, more success than the more formal procedure of reference to a conference—that is, a reference to a committee to see if the two houses could agree on a compromise.

Now, a compromise, by its nature, is not satisfactory to either side. Those of us who have had any experience in the practice of law know that if you settle a case you can be sure it is not a good settlement unless both sides are partly satisfied and partly dissatisfied. That is what the Senate decided to do.

At that time the Senate also considered the question of whether or not there should be a limit placed on the length of time that the committee should use to explore the possibility of compromise. I believe at that time those who thought a fixed time limit ought not to be imposed realized that the very placing of a limit might interfere with the committee's ability to negotiate and reach the compromise that the Senate wanted reached. Honourable senators must remember that the intent was not the question of Bill C-22 or the Senate amendments but a compromise.

The Senate considered that because someone said, "Yes, if this is going to go to a committee in order to explore this possibility, as has met with some success in the past, we should put a fixed date on it." The Senate then said, "No, we should not put a fixed date on it." A little over a week later the Senate is now saying we should impose a fixed date. That is an inappropriate way to deal with Senate committees. I am not saying that we should never put a limit on committee studies, because we often do. We put a limit on Senator Kelly's committee on terrorism, as we put a limit on the Special Senate Committee on the Subject Matter of Bill C-22. We have done that often in the past. However, on this particular occasion we have asked this committee to undertake the narrow task of exploring the possibility of compromise.

Having done that, and quite apart from the point of order raised by Senator McElman, which I supported in substance, we are now going back and saying, "No, we want to put a time limit on that committee." We have asked it to seek a compromise; we have decided it is inappropriate to place a time limit on it, and now we are being asked to decide that it is appropriate to do so.

I think it is asking too much of a committee to give it the right to explore a compromise, decide against putting a time limit on it, and then keep breathing down its neck and looking over its shoulder and saying, "Now we are going to ask for a limit."

I do not doubt at all the sincerity of Senator Kelly's motion and his reasons for putting it. He has explained those reasons to us. He has said that he feels that we have gone far enough and made our point. Some honourable senators do not agree with him and say that we have not yet gone far enough, that we have not yet explored all the possibilities. In conclusion, I do not think that we should hobble the committee by putting a time limit on its deliberations when we have already looked at that condition and decided against it.

Some Hon. Senators: Hear, hear!

Hon. Michel Cogger: Honourable senators, I want to speak briefly in support of Senator Kelly's motion. I do not question for a moment the remarks of Senator Frith. First of all, I am not ignorant of the fact that on September 3 this chamber voted against the imposition of a deadline and, as a result, the intervention of both the mover of the motion as well as the chairman of the committee. I do not question the motivation of those who voted against the imposition of a deadline. I suggest, however, that some events have taken place between September 3 and today which, indeed, might bring compelling reasons for senators to take a second look at this.

If one goes back to the debate of September 3, one will see that Senator MacEachen, in his capacity as mover of the motion, throughout his remarks used expressions such as, "Surely there ought to be an effort undertaken to seek an accommodation or a compromise." The word "compromise" or the words "to seek an accommodation" seem to have been the rationale all along for referring Bill C-22 to the Standing Senate Committee on Banking, Trade and Commerce. Indeed, the word "compromise" is to be found throughout the remarks Senator Frith made a few moments ago.

What has happened since then is that, indeed, we now find that, while the committee might bravely undertake to seek a compromise, the two major parties to that compromise have already gone public and indicated they will not compromise.

Senator Frith: Chrysler has already stated that it will not go along with the UAW on pensions.

Senator Cogger: Honourable senators, I refer to a letter addressed to the Honourable Ian Sinclair, in his capacity as chairman of the Standing Senate Committee on Banking, Trade and Commerce, dated September 11. The letter states, essentially, that Bill C-22 in its current form is already a compromise. The minister has already gone public with the same position, saying that Bill C-22 in the form it was introduced in the House of Commons is the best compromise, and in the words of the industry "achieved only after three years of intense discussion and negotiation."

They are now telling the Senate committee, the Senate, all Canadians, the world, "That's it! No more budging from that position."

Therefore, while the decision taken on September 3 might well have been justified and motivated, I suggest to honourable senators that, if in the words of the mover of the motion the whole purpose of the exercise was to "seek a compromise," it has now become apparent that the two major parties necessary to reach that kind of compromise will not budge. Therefore, I suggest that it becomes difficult for Canadians, and indeed for members of the committee, to understand what else can be done. I do not question the goodwill of the committee, or indeed the quality of its work and the quality of its chairmanship, but nobody is Superman, and a compromise will only be achieved if the parties that are necessarily involved indicate a willingness to play, which in this case they will not.

● (1540)

I suggest, therefore, that failure to report promptly might well be perceived as merely a waste of taxpayers' money, a waste of the time and effort of senators and, indeed, of the public.

In closing I want to comment on the fact that I was one of the three senators who responded to the invitation given to all senators from Quebec last week by the Quebec Coalition. It is hard to find a better representative group of the province of Quebec inasmuch as there was representation there by the FTQ, the universities, the government, the Chamber of Commerce, the Board of Trade, mayors, and so on. This is the meeting to which my colleague, Senator Bazin, referred.

Senator Frith: No better senator to defend the Senate!

Senator Cogger: I want to convey to senators that those people are not fools; they understand the games that are being played with Bill C-22. After all, you are dealing with mayors, people who run the Chamber of Commerce, and so on. What they could not understand and what will now be even more difficult to understand is the process. The question was: "Why in God's name another committee now? If this is not a delaying tactic, what is?"

Senator MacEachen: Did you explain?

Senator Cogger: Honourable senators, I was in attendance and I could hardly respond. I told them that I am a member of the Standing Senate Committee on Banking, Trade and Commerce and, frankly, I was at a loss to respond, because I was a member of the other committee and I find that I have heard all I ever want to hear about Bill C-22.

[Senator Frith.]

As I say, in view of all this, the process becomes, frankly, apparently futile, and perhaps we would best serve the Senate and its committees by reporting promptly. That is why I invite senators to support Senator Kelly's motion.

Some Hon. Senators: Hear, hear!

Hon. Philippe Deane Gigantès: Honourable senators, Senator Cogger is an ornament to the Senate with his good humour, his intelligence and his flexibility.

When arguments have been made in various discussions, such as about the Meech Lake accord, to the effect that, if you require agreement by the 11 legislatures, the 11 premiers, you are never going to get agreement because they will say no to certain things and they will not retreat, Senator Cogger will say, "Agreement is always possible." Honourable senators, all we are saying is that perhaps agreement is always possible. In terms of free trade, the Americans have made certain declarations, and we are told that that is possibly a negotiating position and they may give in later.

Personally, I remember that my wife, while she still had good sense, refused to marry me for two whole years. Eventually, the poor dear took leave of her senses and married me. Who knows, perhaps the drug industry will show the same spirit of compromise and accept a retreat.

Some Hon. Senators: Hear, hear!

Hon. Stanley Haidasz: Honourable senators, I should like to respond to the honourable senators who, during the debate on this motion by Senator Kelly this afternoon, have said that a compromise has already been made and that we have the best possible bill. As a former member of the other place and, in fact, as a Parliamentary Secretary to a former Minister of Consumer and Corporate Affairs who brought in the amendments to the Patent Act in 1969, bringing into effect compulsory licensing for generic drugs, I want to say that Bill C-22 will not do good to the consumers of Canada, especially poor patients who need certain prescribed drugs.

We have heard many speeches in this place and we have heard representations in the special committee that the bill amending the Patent Act in 1969 really did increase research in Canada. It did contribute to the growth of multinational pharmaceutical companies. It also contributed to the establishment of several generic pharmaceutical companies which have provided safe and effective medication at affordable prices to the people of Canada.

Honourable senators, I submit that it is possible to make Bill C-22 a better bill. Therefore, let us work toward not just a compromise but a better compromise. I personally believe that some minor, technical amendments should be made in order to clarify certain clauses of this bill and even to strengthen the principle of the bill.

I do not think that the eight days remaining to September 23 is enough time to do this job. Therefore, in the spirit of goodwill and compromise, I urge honourable senators to give the Standing Senate Committee on Banking, Trade and Commerce ample time to achieve a better bill.

Some Hon. Senators: Hear, hear!

Hon. Ian Sinclair: Honourable senators, I think that all members of the Standing Senate Committee on Banking, Trade and Commerce recognize that they have been given a difficult task. I think all of us who have had experience are not going to be very much impressed when parties of interest say, "I have gone the last mile. There is not another thing I will do." We have heard this too often. It is a bargaining ploy, and Senator Cogger emphasized that when he said that they turned out the band, brought in the television, got a group of outstanding people together and said, "No, no. We have gone the last mile."

Honourable senators, what I have to say is based on the experience I have had—and I am sure many of you have had it too—that it is not over until it is over; and it is not over. We see that in a very distinguished contest between two great countries. We will see another extension of that tonight. I could give you many examples.

I was impressed by Senator Kelly saying that there were no technical points involved. Honourable senators, there is a very difficult technical point involved that arises out of the first clauses in the message having to do with the acceptance of one of the amendments and the effect that has in regard to retroactivity. Certainly that amendment misled quite a few people. We have not addressed that yet. We hope to have a detailed statement in regard to that point available on September 22.

Senator Kelly also said that there were no regional issues involved. I have not read all the evidence, but some that I did read certainly indicated to me that the provinces of Atlantic Canada were not in agreement with the bill.

Senator Frith: And Ontario.

Senator Sinclair: I will just deal with Atlantic Canada because I think it covers the whole of Atlantic Canada.

● (1550)

There is no question in my mind, and I knew this from reports of the media, that Quebec would like to have this bill passed. Certainly the meeting to which Senator Cogger referred would indicate that. However, I think it is also abundantly clear that Ontario does not want it passed and has made that known. In the view of the Province of Ontario the bill will be too costly.

Honourable senators, I cannot think of anything more self-serving than the letter from Judy Erola to which Senator Cogger has referred. The view put forward in that letter is, "before you start to tell me what to do, I am going to tell you there is nothing you can do." That is a bargaining ploy that is as old as life itself.

What can we do? The members of the committee can look at the synthesis of what has gone before, carefully consider it, decide whom we should hear *viva voce*, meet with some of them *in camera* and in public to see whether there is any movement—

Senator Murray: I trust that there will be no future *in camera* hearings—enough of that. The committee should meet in public where the public can hear and see what is going on.

Senator Sinclair: Well, with all due respect to Senator Murray, I think he knows that to make deals it is better to do so behind closed doors. He has had a lot of experience in doing that.

Senator Murray: Who appointed this committee to make deals?

Some Hon. Senators: Oh! Oh!

Senator Frith: What about an open door policy at Meech Lake and on free trade? Let the sunlight in.

Senator Sinclair: Honourable senators, I am so glad that Senator Murray gave me that opportunity; I thank him for it. I appreciate it very much.

Senator Flynn: On a point of order, I wonder whether Senator McElman would invite people not to speak from their seats.

Senator Guay: He learned that from you a long time ago.

Senator McElman: I assume that the honourable senator is speaking to all senators, not just to me.

Senator Flynn: I was asking you, since you are trying to police the Senate, if you are going to do that.

Senator Sinclair: Honourable senators, may I continue? It would seem that everybody wants to speak, so perhaps I had better sit down. But if I do, I am going to say to honourable senators that I do not think the committee should be under any dictate as to time. I said earlier that I think senators should have confidence that the committee will operate in an orderly manner and that it will do its job.

I want senators to recognize that I have great difficulty in the referral of this motion to a committee. I could find no precedent of a motion's being sent to a committee for consideration and report. I could understand considering and reporting on the message, but how we could consider and report on the motion is something that our committee has not turned its mind to. It is something for which I cannot find a precedent.

In any event, as I have said before, I, at least,—and although I can only speak for myself, I am sure I speak for other members of the committee in this regard—do not intend to have the committee used for a mischievous purpose, to use Senator Kelly's word, or to delay this legislation. But I think the committee should be given the opportunity to undertake the work it has been given to do, and to do it in an orderly manner and with some intelligence.

Some Hon. Senators: Hear, hear!

[*Translation*]

Senator Flynn: Honourable senators, the debate we held on that motion strenghtens my conviction that during the debate on Bill C-22, the Opposition majority constantly carried on obstruction.

Senator Haidasz: That is not true.

Senator Flynn: You were not even here. You want to start the debate all over again from the beginning. You are referring to minor amendments. Had you been here at that time,

perhaps you could have brought them forward at the right moment, rather than from your seat and thus offending Senator McElman.

In any case, as I indicated, the debate shows that from the start the obstruction was systematic, calculated—

Hon. Jean-Maurice Simard: And anti-Quebec.

Senator Gigantès: Anti-Quebec? I am a senator from Quebec. I find it anti-Quebec and anti-Canada to consider each difference of opinion with the government and the Prime Minister as an anti-Quebec act. That is wrong. It is something that no statesman, which we are supposed to be, should do in this country, to divide Francophones and Anglophones. It is a very serious allegation to assume that we are capable of playing games in order to harm a Canadian province.

I am really shocked. I believe the senator who uttered such terms should apologize before the Senate for that serious insult to his colleagues.

Senator Flynn: I am not at all impressed by Senator Gigantès's pathos. I read the letter he circulated, in which he tried indeed to suggest the government was raising racial principles with that measure. You started that debate yourself. You would very much like to muddle in that kind of prejudice, but your present submission is totally unfounded.

Senator Gigantès: On a matter of privilege. Senator Flynn, if he looks through his files, will find that letter in which I complained that the Prime Minister himself had used such tactics accusing other people of being anti-Quebec whenever they do not agree with him on Bill C-22. I did not start that. The Prime Minister did. I find that unacceptable and detrimental to the country. Senator Flynn is not one of those illiterate people we were referring to yesterday. If he read my letter, he knows very well what it said. If he did not read it or has lost it, I can send him another copy.

Senator Flynn: I can tell you that I have read your letter and that it attributes wrongly certain comments to the Prime Minister. You are simply spreading untruths. You had no business making such an intervention, whether or not it is a question of privilege.

What I was going to say was this: The attitude of the majority Liberal opposition in the Senate since we have received Bill C-22 has been one of obstructionism. I have already said so and I am not going to go over the details. Everyone knows what has happened and what is still happening. I am not suggesting that Senator Sinclair is an accomplice to the plans of the Opposition leadership. I do not believe so. However, maybe he is being used. Perhaps he will realize what is going on eventually.

However, this is certainly a fact. Everything is being done to gain time in the hope, that eventually, we shall capitulate or kill the bill. No one knows exactly. This tactic is not really new. It came to the Senate at the same time as Senator MacEachen, and he has refined it to an art form. Obstruction in the Senate is not done by speeches, but by silence, by adjournments and by referral first to one committee and then to another one. That is how it is done.

[Senator Flynn.]

What I wanted to emphasize, and here I agree with Senator Kelly, was that we must not confuse the problem of Senate reform or abolition with the history of Bill C-22. These are two separate issues. I hope that we shall get out of the trap of confusing the position of the Liberal Opposition in the Senate with that of the Senate as a whole. The Senate, as an institution, is being blamed for the behaviour of the majority Liberal Opposition. I do not like it at all.

A second issue which should not be debated either at this stage is the position taken by the minister and others elsewhere. The problem resides with the committee to which this bill was referred the second time. What happened? The committee met, but in my opinion, it did not understand its terms of reference. As explained by the Leader of the Opposition in the Senate, the committee was asked to determine whether there could be an agreement. No matter what the minister may have said or not. The committee was supposed to find a way to come to an agreement. I mentioned this point when I took part in the debate. After months of debate and after doing everything that we did, we must now decide whether we have to accept the position of the House of Commons or whether the minister is willing to accept some compromise solution. If this cannot be done, the committee will report to the Senate saying that there is no compromise possible, and recommend that we refuse the message of the House of Commons and that the bill die, if there is no other way, or else that the Senate give in and accept the position of the House of Commons. Such were the terms of reference of the committee. But what did the committee do? Senator Bonnell was appointed as a substitute. What did Senator Bonnell suggest?

• (1600)

[*English*]

> The Honourable Senator Bonnell moved that the Chairman, on behalf of the committee, direct the research staff in the preparation of studies, analyses and summaries relevant to the substantive issues contained in the message from the House of Commons dated August 31, 1987.

[*Translation*]

The chairman of the committee informed us yesterday that what he did in reply to this decision was to ask a staff member, and I do not know which one, to prepare a summary of all the presentations heard by the Commons committee and the Special Senate Committee because, according to him, we have to know everything that has happened. Can you imagine? He wants to know what has been going on for a year and a half. Such is the position of the committee, that we should begin all over again. According to its terms of reference, it should try to see whether we can reach a compromise and hear the people involved, especially those who were behind the compromise achieved in Bill C-22 and the minister, to determine whether or not an agreement can be reached.

If there is no way to reach an agreement, the only thing for the committee to do is to decide once more if it should recommend that the Senate maintain its opposition or that it

give up. Such are its terms of reference. There is nothing else. Whether Senator Sinclair agrees or not, what has been suggested is simply obstruction. You do not want to set a date. You simply say that it will be done in due time. But when will that be?

Even if the Canadian public could understand that the Senate is really serious about the program set by the committee and the suggestion of Senator Haidasz, that a few amendments could be made of which we have never heard before, can anyone imagine how long we shall have to wait?

I maintain that the committee should have the courage to decide whether the Senate will maintain its position or accept the position of the government. The committee should have some courage and stop this filibuster which is bad for the reputation of the Senate and makes us look wishy-washy.

In my opinion, the purpose of the motion proposed by Senator Kelly is to emphasize that we expect the committee to come to a decision as soon as possible.

Hon. Pietro Rizzuto: Honourable senators, as you probably know, I am one of the three senators who were at the meeting last Wednesday in Montreal.

Senator Flynn has said that it is perhaps because of the position taken by the majority in the Senate that the Senate has been criticized, and this is exactly what I told those who attended the meeting last week.

We have to ask who criticized us first by saying such things without considering the importance of Bill C-22 and the reasons why the senators did not agree with it, and who attacked us immediately by saying that the Senate should be abolished and that the senators should not be objecting to a decision already made by the House of Commons. This was certainly not said by senators!

I agree with Senator Flynn that we shall perhaps suffer the consequences of our actions, but I would add that this is unfair. Some people did not really look at everything in Bill C-22. They immediately attacked the reputation of the Senate in the media and suggested that it be abolished.

I do not believe that such criticism is useful. That is not the way to arouse the interest of the Canadian population. This is what I said last week, and I wanted to say it again today.

I suggested a compromise. As you know, I am from the Montreal region in Quebec. Naturally, the people from Quebec who were there last Wednesday had come to tell us that we should make the Senate understand that Bill C-22 should be passed to ensure that the benefits it will provide, such as investments and job creation, will follow. I said that I was aware of the problem and that I also wanted this to happen. I am also concerned with these investments and this job creation, as are all senators, in my opinion.

The government and certain organizations would like the bill to be passed in its present form. However, other people and many senators disagree with the fact that we would give in to all the demands of the companies, which are trying to take advantage of the Canadian population.

I think that what I suggested last Wednesday was well received by those who were there. This was that we should try to find a solution to the problem. What can we do? This would be better than calling each other names.

I repeat that we should try to find a solution to the problem, honourable senators. I agree with the people who are concerned about Bill C-22, especially in the Montreal region. I also agree that the companies are being given too much. Why should we not try to agree—

Senator Flynn: For how long?

Senator Rizzuto: —among honourable senators, including those from the government side? For how long, Senator Flynn? I believe that last week, as those who were present in Montreal will recall, I personally suggested a compromise when I said that perhaps a seven-year period could be reasonable for all.

Senator Flynn: No.

Senator Rizzuto: I made that suggestion in my own personal name. I went as far as saying that I would try as hard as I could . . . yes, Senator Flynn.

Senator Flynn: When I said "for how long?", I was not referring to the duration of the patent. I was asking how long should we try to reach a compromise.

Senator Rizzuto: How long should we try? I have suggested a time period. To my knowledge, there was no reaction from anybody as to whether that could be an acceptable compromise. On the government side, apparently, there is no possible compromise. The Senate must pass Bill C-22 as it is.

As we know, the majority of senators do not agree to grant a 10 year period to these companies, even after the improvements that have been proposed by the committee and after having travelled across the country. Why should we not try to reach a compromise? I recommended to our committee to try and seek solutions to see whether there would be a possibility of having everybody sit around the table and see whether it would be possible to find a solution to the problem, to reach a compromise.

I am also calling on the Liberal senators, the majority in the Senate, to say that we should contribute to the adoption of Bill C-22. Now, I ask some efforts from the government side.

Would it be possible, together with the executives and the companies involved, to reach an agreeable solution? We do not want to prevent anybody from benefiting from job creation and investment. I suggest this would benefit the country as a whole and not only the Montreal region. That is the solution, one cannot always remain unwavering in one's position.

Such good faith should not be shown only by Liberal senators but also by senators from the government side in order to show a willingness to find a solution to the problem in the best interest of the Canadian people who would benefit from more research and job creation.

I believe the committee should study the matter. The committee cannot decide on its own if it does not feel that there is a willingness to cooperate, and openmindedness on both sides.

Government should be prepared to sit at the table and to try and find a solution. Owners and company officers should accept the possibility of meeting the requirements of the Canadian people, who are not convinced that the legislation as originally proposed is in their best interest.

I simply suggest this: why should we not try to find a cogent solution so that Bill C-22 be acceptable? I do not think we on this side of this chamber should be accused of being the only ones responsible for Bill C-22 having failed to pass.

Personally, I said that the compromise must come from both sides. We must all be ready and willing to find a proper solution. This certainly will not be achieved by refusing to alter one's position.

If indeed the committee sends invitations to company spokesmen, I hope that government committee members will be ready to co-operate in some sort of give-and-take decision. I mentioned seven years, it could be six or eight years. We must assess the possibility of reaching a consensus.

I also call upon government members and Conservative senators on that matter. If the companies had agreed to six years in 1983, why would they not accept seven years now? Why must we give them ten years?

I am speaking strictly in the interest of the population, the people involved, keeping away from politics on that matter. Personally, I do not appreciate the suggestions that we are playing politics with this bill. Personally, I am genuinely looking for a solution and that is my contribution to solving the problem that involves Quebecers, especially from the Montreal area. That is one of the concerns and one of the worries of many people and agencies.

I promised last Wednesday in front of everyone that I was ready to look for a compromise that would be acceptable to all. I am telling my colleagues, the honourable senators that it is the only solution.

If the government keeps on suggesting that there will be no compromise, the committee may be sitting one, two, three or four more weeks. I am not trying to know why. I am simply trying to discover whether there is a possibility that we can sit down and find a proper solution.

In my view, if it is not 10 years, if it is 8, 7 or 6 years, that is fine. Honourable senators, I say this based on the fact that in 1983, the companies accepted six years. They could very well accept 7 years now.

I cannot see why the Government will not discuss with the company spokesmen and reach a proper solution to allow the passing of Bill C-22 as soon as possible.

● (1610)

[*English*]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I want to say a word before we reach a decision on the motion put by Senator Kelly. This motion, I hasten to add, was placed by him entirely on his own initiative. However, I do want to express the concern of the government with regard to the status of this bill in the Senate. I think honourable senators should be able to understand readily the concern of the government on this matter. I was not here on September 3. I was unavoidably absent when the debate took place on the motion to refer the message from the House of Commons to the Standing Senate Committee on Banking, Trade and Commerce. I have, however, read the debate.

When honourable senators who are supporters of the government attempted to place a time limit on the committee for its consideration of this matter, the chairman of the committee rose not once but, if I recall correctly, several times to assure the Senate of his intention and the intention of the committee to deal expeditiously with the matter. Accordingly, when Senator Phillips rose later in the day to move the adjournment of the Senate, he moved that we adjourn for some ten days, precisely, as he said, to give the committee an opportunity to get on with the mandate which it had been given by the Senate. One can imagine our surprise when the committee met on the Monday or Tuesday of the following week for, I presume, a couple of hours—

Senator Sinclair: A little more than that.

Senator Murray: A little more than a couple of hours, the chairman reminds me—then promptly adjourned its deliberations for two weeks. Honourable senators are entitled to ask themselves and to ask the chairman of the committee and others what is going on here. Yesterday the Minister of Consumer and Corporate Affairs indicated to some of us that he would be prepared to come to the committee this week to testify and answer any questions that the committee might wish to ask of him in its ostensible search for compromise.

I am told that yesterday a member of the committee made a motion that the minister be called and have an opportunity to testify this week. The chairman of the committee refused to put the motion; simply refused to put the motion to hear the minister.

Senator Sinclair: Just a minute—

Senator Murray: I am sorry, I was not present at the meeting and, if I am incorrect, the honourable chairman of the committee can correct me.

Senator Sinclair: You have been misinformed. The committee was not in session at the time. I called the committee into session subsequently. The committee was not in session; there was a general discussion and a suggestion was made that was contrary to a decision that the committee had taken, when it was in session on the 8th, as to how it would proceed, but there was no motion before the committee, because we were not in session.

Senator Flynn: There is nothing in the committee minutes of September 8 saying that the committee had decided otherwise. The committee decided what I had mentioned, but not that it would not hear the minister.

Senator Sinclair: Senator Murray is talking about what happened yesterday; not what happened on the 8th.

Senator Flynn: Senator Murray is saying that yesterday you refused to discuss the proposition made by Senator Roblin because the committee had decided otherwise at its previous meeting, and I say that that is not true.

Senator Sinclair: With all due respect, honourable senators, the committee met on the 8th and reached a decision as to how it would proceed.

Senator Flynn: Yes, but that did not exclude—

Senator Sinclair: Just a minute, please. During the discussion there were some members of the committee who expressed contrary views. However, when the motion was put, no one voted against it. There was silence. I am not saying that they voted for it; I am saying that no one voted against it.

Yesterday we had adjourned the Standing Senate Committee on Banking, Trade and Commerce until after the Senate rose in order to continue what we had on our order paper and what we had decided to proceed with, which was to work on tax reform. When the Senate rose, we went to the committee room, and when I walked in, and before the committee was called into session, a discussion developed. Senator Roblin, quite rightly, said that he felt that rather than waiting to know what took place or to have some knowledge of what was involved in the substantive issues, we should try to hear from the minister and the other parties to see whether or not there was the possibility of a compromise.

Honourable senators, there are a number of players here that some people seem to have overlooked. There are the generic drug manufacturers as well as the pharmaceutical people, who have said that they have compromised; there are the consumers and there are some provinces. The committee has not yet decided how we are going to proceed, but that was left to be decided when we see what we have to deal with on September 22.

Senator Murray: Honourable senators, as I say, I was not present yesterday at the committee meeting, but I think the honourable senator confirms my impression that yesterday he had the opportunity to agree to hear the Minister of Consumer and Corporate Affairs this week. I tell him on behalf of the minister and on behalf of the government that that opportunity is still open to him and to the committee, if they wish to hear the minister this week. The minister is available and, for all I know, there are other witnesses who may be willing to be heard and may wish to be heard. I understand that the Patents and Trade Marks Standards Institute sought to be heard by the previous committee and could not be heard. Perhaps they too would like to be heard, if my honourable friend wants to use the time of the committee wisely this week.

The point I make is that, while there was talk on September 3 of an expeditious consideration by the committee of this matter, the committee met for a day, adjourned for two weeks, met again, and will meet once more on the 22nd of this month. Today we had a debate, and at no point during this debate has the Senate been given any indication at all as to when the chairman of the committee believes that that committee might be able to report. Is it days? Is it weeks? Is it months? Is it years? What is it? It is expeditious, so he tells us, but what does that mean? Does it mean that the committee will continue to meet every second week? I think the concern of the government should be obvious when this bill has been in this chamber for five months. It has been here since April.

Senator Frith: The subject matter has been here since April.

Senator Murray: I need not put on the record—I beg the honourable senator's pardon: The special committee has been studying the bill—the subject matter of the bill, if he wishes to split hairs on that—since April, but the bill has been before us in one form or another all that time.

Senator Frith: How long was it in the House of Commons?

Senator Murray: If the honourable senator wants me to place all of that information on the record, I can and will. The bill was introduced for first reading on November 7, 1986, in the House of Commons. The bill received one hour and 21 minutes of debate at first reading. Second reading in the House of Commons was begun on November 20, 1986, concluding with a reference to a legislative committee on December 8, after 11 hours of debate.

The legislative committee of the House of Commons examined the bill from December 8, 1986, until March 3, 1987. The committee had 24 meetings for a total of 54 hours and 31 minutes of deliberation. The committee considered briefs from approximately 100 witnesses representing 46 organizations.

The bill was debated in the House of Commons at report stage from March 31, 1987, until May 4, 1987, for a total of 13 hours and 16 minutes. A time allocation motion on Bill C-22 was debated on May 5, 1987, for a further two hours and 11 minutes in the House.

The third reading stage in the House took place on May 5 and 6, 1987, and the bill received a further five hours and 40 minutes of consideration. If my arithmetic is correct, that takes us up to approximately 80 hours of deliberation by the House of Commons.

In the Senate, I may say that my friends opposite—and I have pointed this out on an earlier occasion—were invited to undertake a pre-study of this bill as long ago as last November, but they declined. The Deputy Leader of the Opposition himself stated that there were perhaps temporary problems, as he put it, about the pre-study of Bill C-22. Temporary, indeed!

Senator Frith: As it turned out, that was exactly correct, because we had pre-study, so the problems were only temporary.

Senator Murray: On April 8, 1987, the special committee was set up. The committee held hearings from April 8, 1987, until August 12, 1987, touring the country on a budget of more than $300,000. The special committee held 52 meetings for a total of more than 150 hours of deliberation. On their cross-Canada tour, the committee heard from more than 200 witnesses representing 130 organizations.

Meanwhile the bill received first reading in the Senate on May 7, 1987. On June 23 the special committee reported on its pre-study and, on June 25, had the bill itself referred to it for further deliberation. The further deliberation took until August 10, 1987. On August 11 the report of the special committee was referred back to the committee and reported back to the chamber again on August 12. The bill was amended on August 13 on third reading and sent to the House of Commons.

The House of Commons returned the bill on September 2, accepting one amendment, further amending two amendments, and disagreeing with the remainder. On September 3 the message from the House was referred to the Standing Senate Committee on Banking, Trade and Commerce.

Honourable senators, that is the chronology of events, and it is no wonder that the government is concerned about what is happening with the bill. After all of this deliberation in the Senate and in the House of Commons, what is going on? After the undertakings that we have been given by the chairman of the committee that that committee would deal expeditiously with the matter, we still have no undertaking from anyone in a position to give an undertaking as to when the committee will complete the consideration of the message that has been sent by the House of Commons.

I still think that the committee has an opportunity to hear the minister this week, if they so wish, and he is ready to be heard.

Meanwhile, I think the Senate should well understand the concern of the government when we hear from the pharmaceutical industry by way of an article in yesterday's *Financial Times of Canada* stating that:

> Canada's pharmaceutical industry is quietly moving its much-touted research plans off the drawing boards until the House of Commons and the Senate end their feud over the new federal drug patent bill.

● (1620)

> The brand-name drug companies, including heavyweights such as Merck-Frosst Canada and Glaxo Canada Ltd., had promised to spend $1.4 billion over the next decade in new Canadian research if the bill, which offers these companies ten years' patent protection from generic copies, becomes law.

It goes on to quote various executives of the various drug companies, expressing their concern and their dismay with what is happening. It says:

> Until now, the industry's response has been to simply release their research plans more slowly than originally planned. Last year, drug companies enthusiastically announced how they would spend the first $770.5 million of the promised $1.4 billion in new research money over the next ten years. At that time, the bill seemed set to pass.
>
> So far this year, however, the drug companies have held back spelling out precise plans for more spending commitments. An exeption has been $40 million in new research announced earlier this year by Bristol-Myers Canada Inc.

One of the representatives of that company indicates that the money is wasted without the bill being passed.

Naturally the government is very concerned about the investment that is threatened by the delay in dealing with this bill, one way or another, and the jobs that are at stake. There are perhaps 3,000 jobs at stake, jobs that are important in the research and development sector of this country.

The Deputy Leader of the Opposition has suggested that we are asking the Senate to rubber-stamp something. That argument is surely ridiculous after the Senate and its committees have spent over 100 hours—150 hours I think it was—debating and studying the bill and listening to witnesses and reading briefs.

Senator Frith: Except that at every stage you asked the same thing.

Senator Murray: We are not asking the Senate to rubber-stamp the bill.

Senator Frith: You did.

Senator Murray: Today I am not even asking the Senate to pass the bill. If I get an opportunity, I will do that. I am asking the Senate to deal with the bill, to get this bill back from the Banking and Commerce Committee and to make a decision.

Honourable senators, with regard to compromise, Senator Cogger has referred to the letter from the industry that is in the hands of the chairman, copies of which have been sent to many of us. This letter indicates that Bill C-22 is itself the product of a compromise and that no further compromise is possible.

Senator Frith: So were our amendments.

Senator Gigantès: A compromise between what and what?

Senator Murray: Honourable senators, that is a matter for debate when the bill comes back to us. I can go through it in some detail. I can read the letter again or I can discuss how and why Bill C-22 is a product of a considerable compromise between the various sectors in the industry and between the industry and the government on this matter. However, the industry takes the position that Bill C-22 is the product of a compromise and that no further compromise is possible. I assure the Senate, on behalf of the government, that that is the position of the government.

The government has worked at this matter for several years now. The result that is before the committee, Bill C-22, is itself a product of compromise.

Senator Frith: Between the government and the industry.

Senator Murray: The government does not contemplate any further compromise. We do not see how any further compromise is possible or acceptable. We think that, after several hundred hours of debate and discussion in the committee, the time has come for the Senate to decide.

My final point is regarding the idea of *in camera* meetings of the committee. *In camera* meetings of committees, in my

experience, have been held only when the committee is discussing the business of the committee or the schedule of the committee.

Senator Frith: Which was this case.

Senator Murray: Yes, what witnesses to hear, and so forth, or, at the end of it, when the committee is sometimes down to the business of drafting the report. My friend, the chairman of the committee, has suggested this afternoon that witnesses might be heard *in camera* by this committee. I want to state that the government and members of the government are unalterably opposed to hearing witnesses *in camera* in that committee on this matter. Whatever the committee does it should do in public so that the government and the people of Canada and the industry and those people who are depending on this bill for that investment and for those jobs will see exactly what is going on.

Senator MacEachen: Honourable senators, I hesitate to add to the long hours of deliberation that have been spent on Bill C-22 both in the House of Commons and in the Senate. It is a fact, as Senator Murray has pointed out, that the bill did begin its rather stormy passage in the House of Commons last November and did not get out of the water of the House of Commons until May. The bill has been in the more placid waters of the Senate since that time, but it has not been able to escape yet.

My purpose in rising is to deal with two points made by Senator Murray. Before I deal with those points, I would like to express my own disability in dealing with what has happened at the meeting of the Standing Senate Committee on Banking, Trade and Commerce.

We have no evidence before the Senate; we have no copies of proceedings, and it has been my understanding, certainly in the House of Commons, that one never discussed what happened in a standing committee until the committee itself reported. I do not know if that is the rule in the Senate. However, as I listened to the discussion I found that I was out of the discussion because I had not been present, and most others were out of the discussion also. I asked what had happened in the committee, as others did. Contrary to what Senator Flynn may have inferred, I certainly had no influence nor did I know beforehand the decision that was made by the Standing Committee on Banking, Trade and Commerce to adjourn its discussions on Bill C-22 until a particular date in the future. That was the decision of the committee itself. It was certainly not suggested by me or by the deputy leader. It was its own decision. I read later in the press that Senator MacDonald said that that decision had been taken in good faith.

I would like to make the point that it is very difficult to deal with what happens in a committee when one is not present, when one does not have the proceedings, and particularly when there is a sound parliamentary rule that one ought not to talk about committee proceedings until the reports are before the senior body. That is by way of introduction.

Senator Murray: All the more reason they should sit in public, you would agree.

Senator MacEachen: I have never attempted to dictate what has happened in the committees. Usually they sit in public. Senator Sinclair explained his *in camera* meeting fell under one of the categories that normally would be *in camera*. However, I am not going to deal with that.

I was worried a bit about Senator Murray's approach, because he did express the concern of the government, and I understand his concern. The government wants its legislation passed. Senator Murray used the words, "the ostensible search for a compromise". We know the meaning of the word "ostensible". It means that we are doing this for a show, and that the "ostensible" search is not a real search; that it is concealing some other purpose.

I want to tell Senator Murray that when the amendments came back from the House of Commons and reached the Senate and when he put down his motion, it would not have been difficult to terminate the career of that bill at that point.

• (1630)

Senator Murray: As I pointed out to you.

Senator MacEachen: It would not have been difficult, but it was the decision taken on this side of the house that it would be better in the circumstances to seek a solution, a compromise or an accommodation. That was the tenor of my remarks. It is not a search for an "ostensible" compromise; it is a search for a real compromise.

As has been stated by Senator Sinclair, the referring of this matter to the committee was not for the purpose of delay. If one wanted to delay the bill further, there is an easier way to do that than to refer the message to a committee. That could have been done directly.

Senator Flynn: How?

Senator MacEachen: It is not necessary to refer the message to the committee in order to delay the passage of the bill, if that was the purpose. The message was referred to the committee in order to engage not in an "ostensible" search for a compromise but in a real search.

I believe that Senator Flynn accepted that in following my statement in the Senate. I believe he accepted—

Senator Flynn: The record is there! Read it!

Senator MacEachen: —that it was an honest effort to secure a compromise, and that is still the position.

I support totally the comments made by Senator Rizzuto that it is essential to try to get a solution, and that there has to be some give on the part of the government, the industry and the majority in the Senate; otherwise, it is impossible to achieve a lasting solution.

I understand Senator Murray said, "Well, the government today is not inclined to compromise."

Senator Murray: I said more than that. I think it was stronger than that.

Senator MacEachen: He told us at the end of June that the government would recall Parliament and stand guard while the Senate dealt with Bill C-22. Well, the government had second thoughts, and Parliament was not recalled, and there was an agreement to extend the deliberations on Bill C-22 well into the summer.

So the government can and does show occasional flexibility. If it was the intention of the Leader of the Government in the Senate to have the minister appear before the Senate standing committee this week and give testimony and maintain an inflexible attitude, then, of course, that would have been futile. I hope that the Leader of the Government and the Minister of Consumer and Corporate Affairs will accept the statement made by Senator MacDonald that the Standing Senate Committee on Banking, Trade and Commerce is acting in good faith, and that senators on the majority side are acting in good faith in seeking a compromise and a solution that will discharge this bill and that will give the industry some stability.

Senator Murray: How long do you think that will take?

Senator MacEachen: I ask the Leader of the Goverment to drop the word "ostensible" in the future. That would make a big difference.

Senator Murray: How long do you think this will take?

Senator MacEachen: The second point, honourable senators, deals with Senator Murray's comment, "Imagine our surprise, following the meeting of the standing committee, when a date was fixed to meet two weeks later."

I inquired why the delay—

Senator Murray: So you could get an executive summary of the testimony!

Senator MacEachen: I inquired why the delay, and I was told that the chairman of the committee and the members of the committee had established a work program—

Senator Murray: They had not!

Senator MacEachen: —for staff which could not be completed one moment earlier than that particular date. Senator Murray can say that that was unnecessary, that that was useless, that they should not have done that. Nevertheless, the committee itself established a work program for staff, which I understand is to be completed on that particular date, and that was done, in the words of Senator MacDonald, "in good faith."

So it was not my intention nor was it the intention of any other senator to say, "Well, let's put it down the road two weeks and we will use that two weeks and it will be easier to delay this bill." That was not the case.

Senator Murray: That is the result.

Senator MacEachen: I make these comments in order to ask Senator Murray to understand that there is a serious objective here. The objective is to seek a solution that will give both houses of Parliament an opportunity to support the bill, and that is achievable if there is some flexibility shown by the government and the industry. That is the challenge that faces the government, the industry and the Senate. I do not believe that it is beyond the capability of any one of them to reach a conclusion on this particular bill.

Hon. Finlay MacDonald: On a point of order, honourable senators. Senator MacEachen has been kind enough to quote me three times in his remarks.

Senator Frith: He was not motivated by kindness, just excellence!

Senator MacDonald: Senator MacEachen was referring to an article written by Mr. Steve Bindman in the *Ottawa Citizen*. Mr. Bindman called me and asked me if there was any hope that any compromise or accommodation could be found. I made it clear to him that I had voted against the reference of this matter to the Standing Senate Committee on Banking, Trade and Commerce, and he asked for my feeling on the matter. If I recall correctly, I said, "We are approaching our task in good faith. We are not sulking." I did not make reference to the fact that we were dealing in good faith in respect of the matter of the delay of the bill for three weeks; I said that we were not sulking, that we were doing our best, that hope springs eternal.

Senator Frith: Well said!

Hon. Duff Roblin: Honourable senators, I had not thought it likely that I would speak this afternoon because much of what I had to say deals with the activities of the committee. I happen to agree with the Leader of the Opposition that in regular parliamentary proceedings committees are not debated on the floor before their reports are tendered, but, as the subject has been opened up by others, and as my position has been referred to with respect to the activities of the committee, I think it might be as well, at least for my own satisfaction, to express my views on where I stood, what I did, and what I think.

The first thing I want to say is that I attended the committee on the 3rd of the month at which time the resolutions were passed that we should get a summary prepared of all of the evidence that had been presented, all of the evidence that we could lay our hands on. I may be exaggerating, but that is the impression I had—evidence given before the Senate committee, before the Commons committee, and heaven knows where else—and that we were to prepare a summary of all the work that had already been done and, in effect, undertake to do again the work that had been done by two other committees of Parliament. In other words, the view that we had a narrow task to explore the possibilities of compromise, if I can use the definition of the function of the committee that I think the Leader of the Opposition and the Deputy Leader of the Opposition would approve, seemed to be set aside. I found myself wondering how that task fitted in with this ambitious program to rehash the whole proceedings from stern to gudgeon, and I expressed myself before the committee in those terms.

● (1640)

Senator Frith: Stem to gudgeon.

Senator Roblin: I am going to go from stern to gudgeon. My honourable friend can go from stem to gudgeon if he likes, or he can also go elsewhere if he likes.

Senator Frith: And the same to you, sir.

Senator Roblin: I want to tell him that the charming habit he has of correcting us all when we are engaged in our proceedings here does not really endear him to anyone but me. I rather enjoy these little interventions, because it gives me a chance to get off the serious tenor of the discussion and to perhaps say something else.

Senator Frith: That is its purpose.

Senator Roblin: The point I want to make is that my position in the committee was that this was unnecessary, that our job was to find out if a compromise was possible. I did not think we had to arm ourselves with all the pros and cons from the beginning of time in respect of this matter in order to approach the question of a compromise, because the compromise, surely, had to be limited to the refusal of the government to accept the Senate's amendment.

That was not the majority opinion on the committee. Senator Bonnell was there and he proposed the resolutions which have been read here, and he took the view—and it was supported by the majority—that it was necessary to do this work. So the majority has its way.

Now the chairman of the committee says that the minority did not record their view at the time the vote was taken, and perhaps that is correct. I do not dispute that, but I do say that my own position, I think, was clear. It was that I did not agree that this course should be followed, and that we should be seeking some more expeditious way of doing our work. "Expeditious" is a very good word, and I am sure it means as speedily as possible. I hope it does.

In any case, that is my position in respect of the proceedings on that day. I would not like this chamber to think that I was not alert to the desirability, in my view, of focusing on this question of accommodation or a compromise. I do not really think that the information we are waiting for is going to be critical in our approach to that question. In fact, my view is that it would be better to deal with this question of compromise head on. Let us find out what the attitude of people is. We are told that the attitude of the chemical industry is a bargaining ploy. Well, let us ask them. Let us find out. We are told that the minister perhaps is not quite so inflexible as my friend here thinks him to be. Well, why don't we ask him and find out? If the facts are as thus represented—that these two important players in the problem do not think that compromise is something that they would be willing to endorse—then I think the sooner we find out about that the better.

When the committee met yesterday I took the liberty of making that suggestion. If my memory of what happened is correct, it is that we entered the room in the afternoon, the chairman came in, and he started the proceedings by telling us that our witnesses would not be available until another hour and that we had some time to put in. I must confess that I took the opportunity to say that I would like to raise these points, and I did suggest—in fact, I moved—that the committee hear from the chemical industry and the minister as soon as possible. I used words to that effect.

The chairman decided that that motion was not in order. He did not say anything to me about the committee not having been formally convened. I really think that is neither here nor there, but he said it was not in order. I thought it was in order, but I am a peaceful chap and, if the chairman rules, I do not really like to go beyond that, because one has to accept the authority, or perhaps the desirability of allowing the presiding officer to direct affairs. I did make my position clear. In fact, I said, "Let the record show that today I do not agree with the chairman's ruling, and I do think we ought to hear these people as soon as possible." The chairman said, "No, I am not going to put the motion. You are out of order." He did this in his usual kindly way, so I accepted that admonition, I accepted that advice, and I did not press it. I just said, "I have stated my position." I know that whatever the numbers in the committee at this present moment happen to be, really, the opposition have a majority, so there is no use trying for any quick tricks or any funny business of that kind. I simply accepted with what I think was good grace the ruling of the chairman and proceeded with what we had to do.

My concern now is with none of those things. I feel better that my version of events, for what it is worth, is now enshrined in the immortal annals of the Senate. What I really want to talk about is the fact that I do not know where this committee is going and I do not know what it intends to do. I suggest to you that the committee does not know either.

All we know at the present time is that the committee will meet on September 22 and that it will receive what will undoubtedly be a voluminous aggregation of paper to review the whole proceedings of the evidence that has been given since the whole issue began. What we will do with that when we get it I do not know, because, unless the abbreviations are so abbreviated as to be useless, it is going to take a great deal of time to find our way through all of that evidence and then, presumably, to make some findings. Because, if we have all this evidence before us, the purpose will be, surely, to make some findings. If that does not take us a little while, I will be surprised.

When we have found whatever we are looking for—and heaven only knows what that is—what do we do next? The committee does not know what it is going to do next. I presume it is going to call some people, although I do not know how many. I have heard that the committee will call the minister, representatives of the chemical industry, the generic drug people and we will probably hear some evidence from the consumers' side of this issue. It really is a Pandora's box and, unless we are very self-restrained—and there has been no sign of that so far in our proceedings—I do not know how long it will take us to get through this.

To come down to my position in this matter, I am certainly going to support Senator Kelly's resolution. I will not debate the Australian situation with him today, although Senator Frith and I would be happy to take him on sometime, because

I think he has made a fundamental misreading of what happened in that instance. However, we will let that go, because that is all in good fun between senators who enjoy the subject of Senate reform.

My real point is that I am going to vote for this resolution not because I think it is going to pass, because I do not think it will. I am going to vote for it because it may say to the committee, "Okay, chaps, get your act together; decide what you are going to do; set some kind of a termination, at least in your own minds, even if you are afraid to tell anyone, because it may mean that they will drag their feet and not bargain in good faith; but somehow bring this matter to a conclusion."

As far as I am concerned, I think it is unlikely, to put it mildly, that we will find, no matter how deeply we study this, an area of compromise which will be acceptable to all of the major partners in this proposition.

However, I have to confess that the committee is set to try, so try it will, but I do hope that, regardless of the outcome on this resolution before us now, the committee will pull its socks up and make up its mind about what it is going to do after September 22—if it is determined to do nothing until then, and there is no good reason for that. What are they going to do after September 22, and what kind of termination date can we look for in respect of this matter?

One of the things that is important in the constitutional process, it seems to me, is reasonable time limits. Unreasonable time limits we have seen and we do not like. The Senate has exercised its functions. It has examined this bill in great detail. We are not being asked to rubber stamp anything. We have not rubber stamped it in any case. No one can fault us for our lack of thoroughness. How far do we take this process and to what constructive ends do we take it?

It seems to me that when we next meet in committee we ought to decide what our program will be. I do not know why we cannot make some findings on that immediately. There is nothing that I can see holding us up. We should decide what we are going to do and set some kind of a termination date as to what or when we are going to report to this chamber. That will depend, of course, on the program we outlined for ourselves.

I have to warn the Leader of the Government that if he is expecting that this matter will be resolved as quickly as he would like to see it, I think he may be disappointed.

● (1650)

While I do not challenge the integrity of anyone in the Senate, and while I do not quarrel with the word "ostensible"—if some senators don't like it, I certainly won't use it—it seems to me that in the minds of many the element of delay is not absent from the mix which they perceive in the way in which the committee at present and the Senate as a whole has dealt with this matter. Delay is not an unreasonable attitude for the Senate to take—we have done it before—but unreasonable delay is. After we have done all that we can reasonably do as intelligent men and women in ventilating an issue, then we ought to decide.

[Senator Roblin.]

If we decide we do not want this bill, that is within our legal power. I would strongly reprobate it if we were to do that, because I think it is wrong, and I think the Leader of the Opposition thinks the same thing, too. I don't think I'm going to catch him thwarting the House of Commons—I might, but I don't think so. I told him the other day that he had convinced me it was his view that he was not going to thwart the House of Commons, and I am waiting for him to stand up and tell me that I am wrong, because I think I am right. The only thing is I do not want to wait as long as he wants me to wait; that is the whole thing. I want to have a decision made within a reasonable amount of time. I agree that we can have delays, yes, but not unreasonable delays.

Honourable senators, I do not think that I have added much to the progress of mankind in these last few minutes, but I appreciate the opportunity the Senate has given me to express my views and to express the hope that this committee will pull its socks up and get the job done.

Hon. John B. Stewart: Honourable senators, I was not going to enter this debate, but Senator Roblin has brought this intervention upon his own head. I am a member of the committee. What I am going to say initially bears out the wisdom of the rule that proceedings in committee should not be discussed until the report of the committee is available.

It was not until yesterday that I learned that Senator Roblin disagreed emphatically with the course of action the committee had adopted. He said just now that the chairman started proceedings and that he immediately spoke up. That is not my recollection of what happened. The chairman did not begin the proceedings; rather, he noted that the witnesses on tax reform were not there. At that point Senator Roblin said that that gave him an opportunity to raise a point concerning the work of the committee on Bill C-22. There was no formal beginning of the proceedings, and that is why the chairman said that the motion which Senator Roblin sought to move was not in order. The committee was not operating at that point and, indeed, if it had been, the motion would have been out of order because there was an established agenda of business for that meeting—an established agenda of business which had nothing whatsoever to do with Bill C-22. The meeting was on tax reform.

Now I go back to the earlier meeting about which Senator Roblin has said he is happy to have put some things on the record. Well, I wish that I could confirm what he has said—that he stood resolutely, that he spoke firmly, and that his view was put aside and that Senator Bonnell's motion was supported by the majority. Coming out of that meeting I was not aware that there was a majority and a minority on that particular motion. It was my impression that all the senators present, some more enthusiastically than others, supported the decision of the committee to proceed as they had decided. Obviously, then, Senator Roblin was attending one performance and I was attending another.

Senator Roblin: I just got it right, that's all.

Senator Stewart: Honourable senators, it is wonderful to have one person in this place who always gets it right. The rest

of us can then use that person as a sort of star by which to correct our compasses from time to time.

Senator Roblin has said that the work which the committee decided to undertake was irrelevant to the purposes of the committee. I do not agree. We have before us the message from the House of Commons. That message contains certain assertions. The body of evidence which is most readily available to us as we undertake to evaluate the assertions in the message from the House of Commons—and we do not want to repeat the work of the special committee or, indeed, that of the committee of the other place—is contained in the records of those committees. That is why the work that has been assigned to the staff of the committee is essential if we are to perform the task which the Senate gave to the Banking, Trade and Commerce Committee.

Honourable senators, I think it is important that we take that task very seriously, because it brings us to the main purpose for which the message and the motion were referred to the committee. As I understand it, that purpose is to ascertain whether some form of accommodation, some sort of compromise, is attainable. I think that Senator MacEachen was absolutely correct—

Senator Flynn: As always!

Senator Stewart: —when he said that the purpose is not to delay. He was correct, honourable senators, when he said that.

Senator MacEachen: Now we have two stars!

Senator Frith: There is always magnetic north and true north.

Senator Stewart: The purpose of the committee's assignment is not to make an ostensible effort to achieve an accommodation; rather, it is to achieve a genuine accommodation. Let me say why I think it is important to do so.

The argument has been made that the pharmaceutical industry will invest large sums of money in Canada if it can expect to operate within a reasonably favourable legislative environment. I certainly understand that argument. But what would be the prospect if all the Liberal senators were to abstain and this measure became law? If I were in the pharmaceutical industry, I would not turn a single sod on the basis of a bill passed in those circumstances.

Senator Haidasz: Hear, hear!

Senator Stewart: Look ahead to the next election. At least one party and possibly two would be using as a major political argument the fact that Bill C-22 was rammed through both houses. That is what would be said.

Senator Murray: If this is "ramming"—

Senator Stewart: Well, we have had a great deal of ramming here this afternoon. We have been told that if we even contemplate defeating the measure, we will be violating the conventions of the Constitution. That is the argument that will be made.

Now, I ask the following question: In the event that after the next election we have a government formed by a prime minister who is not of the Progressive Conservative Party, what is the prospect for this piece of legislation? I am looking at it now from the viewpoint of someone who is proposing to invest millions of dollars in new plant. There is no prospect at all, except repeal—that is the story.

Honourable senators, it may be that the polls will turn around and that the present government will be re-elected. That is a possibility. But that is not a possibility on the basis of which I would invest millions of dollars.

• (1700)

Senator Guay: Don't bet on it.

Senator Stewart: If the government and honourable senators want to see the Canadian pharmaceutical industry put on a sound basis, they should try to achieve some sort of accommodation.

Senator Murray: I think they may have taken some comfort from Mr. Turner's advice.

Senator Stewart: Without an accommodation, even if the measure were to pass, there would be the kind of uncertainty in which no one would be prepared to invest large sums of money; and, of course, there is the possibility that the bill would be defeated—which, of course, might simplify the situation for the pharmaceutical industry, because then at least it would know where it stood.

Senator Murray: The government has to take its chances.

Senator Stewart: But surely the government is concerned for the pharmaceutical industry. It is not simply concerned with saving face. It is concerned for the pharmaceutical industry for the good of this country—and that is what is at stake, and that is why it is so important that this committee should achieve the task that has been assigned to it.

I do not think it helps anybody—neither the pharmaceutical industry, the people employed in that industry, nor Canadians generally—for the Leader of the Government to heap scorn on the possibility of achieving a workable compromise. I do not believe that is at all constructive.

Senator Guay: Shame!

Senator Stewart: The time has come for the Leader of the Government to convince his colleagues that if they are really interested in the Canadian pharmaceutical industry and its future, they should undertake to put on the statute books of this country the kind of legislation which has the prospect of surviving for 8, 10, 12 or 15 years—

Some Hon. Senators: Hear, hear!

Senator Stewart: —otherwise there will be no satisfactory legislative foundation for massive investment in this industry in this country. I mean that quite seriously. I do not think that we are helped at all—

Senator Murray: What about Mr. Turner's comment?

Senator Stewart: —by having a partisan game played here. We have to look at the political realities of the future, the prospects of the future, and see how we can give the industry a

good foundation for investment in Canada. That is the work of the committee. It is important that the committee know what the evidence is before it ventures upon this task. The staff is not being given time to luxuriate. The time limits given to it are quite rigorous. I am sorry, but I did not hear Senator Roblin's comment.

Senator Roblin: I was talking to a colleague, asking whether it was possible that you had read the report of the special committee.

Senator Stewart: Honourable senators, I do not think that our committee has the role of acting as a review court on the report of the special committee.

Senator Flynn: That's what you said.

Senator Stewart: No. I said that it is necessary for us to see how the evidence presented to the two committees bears upon the assertions in the message from the House of Commons, the message sent to the standing committee. That is the situation.

This whole business would be much improved if we could get out of this mode—I believe that is the current jargon—of thinking that there is some sort of deliberate delaying operation going on here. The real aim is to achieve a sound legislative regime for the pharmaceutical industry in Canada. That may not be possible, but Senator Roblin admitted that there was a possibility. I believe he said that it is rather unlikely that a compromise will be achieved, but that there is a chance. Well, let us proceed optimistically. Let us proceed—to borrow some words from Senator MacDonald—in good faith, and let us give it a try, and at the end—

Senator Flynn: Ten months?

Senator Stewart: —we may have an arrangement that we can all accept. Otherwise, it is probable that sooner or later this measure will die.

Hon. Hartland de M. Molson: Honourable senators, it may be more in the nature of comic relief when I step in to speak in this highly charged political discussion. But it is not a bad thing once in a while in this chamber to have an independent voice, even though it be a lone voice at this particular moment.

I have heard a great deal from the public on this bill, as have other honourable senators, since it first saw the light of day, and the concern on the part of the public is every bit as widespread as that expressed by honourable senators on both sides. I believe that the Canadian public is extremely browned-off at the delay. I have heard the remarks and points put forward of why and how; but the fact remains that the Senate has not emerged from this debate shining with glory. It has taken an inordinately long time to deal with a very important bill. I am not trying to attach blame, but what has happened has not helped the image of the Senate in any way. Most thinking people in this country would not deny the Senate its right to consider, give second thought to and amend bills. I do not believe that is the issue. But when we are faced with something as important as this bill, we should be making every effort to hasten to find a proper solution.

Since the House of Commons sent its message to the Senate, and seeing the obvious reaction of the opposition in the Senate, I must say that I felt that a desirable solution would be to find an accommodation or compromise of some sort. What the possibilities were I did not have the slightest idea, but I felt that there could be some chance of moderating attitudes on both sides of the chamber, and I am still somewhat of that opinion.

I have heard Senator Murray talk about the government's position. I heard the minister say that there is no compromise, and I have followed the public utterances of the opposition in this chamber. Unfortunately, I believe that both positions have been a little hard. For the sake of argument, the "no compromise" viewpoint on the part of the government seems to me to be definitely hard, and I thought in the case of the opposition that its amendments were so sweeping they could not have been accepted.

Among other matters involved with the bill and the amendments, it seems to me, from listening to the arguments of the opposition, that eliminating the Drug Prices Review Board was an unnecessary amendment, and personally I do not happen to agree with it. I feel that the time has come to stop delaying and to push forward with this matter.

There seems to be something about Ottawa—I do not know what it is, but one sees it in the public service and also in Parliament—where we appear to be like a cocoon, where we are ingrown and inward looking, and we are satisfied to thrash out things *ad infinitum*. Very often we take a very long time and a great many words to say something that could be said very much more quickly. Decisions could be taken more quickly.

● (1710)

This may have nothing to do with it, but I was surprised when I heard about the preparation of a summary of the evidence, of the mammoth circus, which was the original committee. I do not ever remember a situation in this chamber where the staff was given a monumental task to analyze all the evidence and all the representations made in committee hearings. I believe that is part of our responsibility. I cannot tell honourable senators that I have read every word of the proceedings of the special committee, because it would not be true, but I have certainly read enough to get a feel for a great number of the meetings and the representations. It was not necessary to delay proceedings by nearly three weeks in order to give the staff time to go through 10,000 pages, or whatever, to make a nice summary of what happened. My view is that if senators were not able to follow what was happening, then they should not be here.

An Hon. Senator: Oh, oh!

Senator Guay: He is getting fed up.

Senator Molson: Getting fed up with me? I do not blame him; that is reasonable. It has been said quite often during the discussions that Quebec wants this bill and that the other provinces do not. According to the evidence, that is not quite the case. Senator Rizzuto and Senator Cogger have referred to

a meeting in Montreal. Unfortunately, I did not receive notice of that meeting and therefore did not attend. Senator David was also there. I am not sure that the Senate realizes the composition of that meeting. It did not involve just a small group of people trying to bring pressure. It was made up of a most impressive group of people in the province of Quebec.

Senator Haidasz: Who was there?

Senator Molson: The chairman of the Montreal Urban Community, representatives from the Board of Trade, the Conference of Suburban Mayors, the Chambre de Commerce de Montreal, the Quebec Conseil du Patronat, the Université de Montreal, McGill University, Laval University, L'Institut de recherche clinique de Montreal, and a whole flock of other people. It was a most impressive gathering of people, including people representing approximately 100,000 of our old people, like some of us here. It constituted a very loud voice in Quebec, and they were not just talking about dealing with the drug industry. It is also a case of employment and a case of high tech.

I recall when the Conservative Party in its wisdom scrapped the Avro Arrow program. It is one of the saddest blows in a technical sense taken by Canada that I have known in my lifetime. Now, it is not the same party—the Conservatives are trying to bring us more research—but another party is in that position. I do not think that there is anything in the nature of research and technology that we in Canada can afford to bypass, not to mention jobs. We do not want to be just hewers of wood and drawers of water all our lives. We need the high tech industry, and this is one instance where we could get it.

The argument that the poor will have to pay more is another point. I have looked at all the figures that were put forward. It is true that there may be some very moderate difficulty or hardship in some cases. However, the vast majority of prescription drugs, if protected in a reasonable way, as has been suggested, will not work hardship. It is said that Ontario does not want the bill because it will cost more for drugs. It will cost the province more, but that is not hardship. The other day in Montreal there were 54,000 people at the baseball game. The next day the attendance was 35,000. The following day at a rock and roll concert at the Forum 15,000 people attended. I hear so much about all the hardship prevailing, but, yet, you cannot get a $20 seat anywhere for any of these events in Montreal. I think that sometimes we get a little carried away.

I do not criticize the chairman of the Banking, Trade and Commerce Committee, because, as their work load is set out, the delay seems to be necessary. However, when a committee of the Senate meets on September 3 and adjourns to September 22 without doing anything, I do not think there is anybody in the world who would say that we are in a hurry.

Senator Sinclair: With all due respect, I wonder if Senator Molson would permit a question.

Senator Molson: Yes.

Senator Sinclair: The honourable senator has said that we adjourned without doing anything. We adjourned after consultation with the staff, having made a decision that we needed a summary, not of all the evidence as the honourable senator has said but only the evidence with respect to the issues that were raised in the message.

Senator Molson: I still revert to the thought that over the many years I have been sitting around here most of that work gets done without having to get a staff to spend the next three weeks on thousands and thousands of words to come up with a summary. Be that as it may, as I say, the committee decided on its program, and I am not critical of the committee beyond the point I have raised. I think that the decision is certainly a rather questionable one.

From where I sit and from what I have heard of the evidence, I can only say that I think that the Quebec position, that they would like to see this industry and this employment in their province as weighed against the possible disadvantages, is a valid one. I would like to think that there is some room for compromise. I hope that both sides will find it possible to draw back a little bit and give compromise a chance.

Some Hon. Senators: Hear, hear!

[*Translation*]

Senator Rizzuto: Honourable senators, allow me to convey some information about a poll taken by the Gallup Institute last week.

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I rise on a point of order. I believe the honourable senator has already spoken in this debate, but I stand corrected.

[*Translation*]

Senator Rizzuto: Honourable senators, I thought this would be useful to you. If it is not allowed, I will circulate this copy so that the senators will know about it tomorrow.

[*English*]

Senator Frith: Do you mean that leave is not granted?

Senator Doody: He has not asked for leave.

[*Translation*]

Hon. Eymard G. Corbin: Honourable senator, let me have that copy, I can speak.

Senator Rizzuto: Are honourable senators granting me leave to convey that information?

The Hon. the Speaker *pro tempore:* Is leave being granted honourable senators?

Some Hon. Senators: Agreed.

Senator Rizzuto: Honourable senators, we are referring to the position of the public and speaking of public opinion. This is normal. We are aware of the response of certain organizations in the Montreal area. Several senators have referred to it.

We are aware of the response of those who were there at the meeting.

I have also insisted on the importance which this bill has for many people in Canada, but especially in the province of Quebec, in the Montreal area.

One of the questions asked by the Gallup Institute poll was the following: Do you agree with the position of the Senators and should they continue to debate? 49.4 per cent of the Quebec people agreed. The other question was: Do you feel that the bill should be adopted as it is? Forty per cent of the people said yes.

If we examine carefully the public opinion poll replies as such, I do not think it can be said that we are blamed by the Quebec people. They are not saying that the Senate has made a mistake and was wrong when it decided to study this bill. The poll results which I have just received this afternoon are an indication of what the Quebec people think.

Senator Flynn: This is absolutely irrelevant.

[*English*]

Senator Frith: Honourable senators, before we proceed with the motion, I have a point of order. Some honourable senators have mentioned the fact that the general rule—and we do not want to be slaves to *Beauchesne*—is that the proceedings of a committee may not be referred to in debate before they have been laid upon the table. The preferred procedure is not to comment on committee proceedings before they are laid on the table. We had a bit of an illustration of that today when we had these various versions of what took place before the committee. I am not blaming either side. Nor am I blaming Senator Roblin, Senator Stewart or other senators for continuing on with it, because, once we got that far with it, of course, no one wanted to refrain from putting the record straight as they saw it. However, I think we should make sure that this is not considered a precedent for breaking with what I think is basically a good practice, and that is to refrain from commenting upon proceedings before they are laid on the table.

● (1720)

Senator Flynn: I do not agree that the position taken by Senator Frith should be accepted as the one that we should follow. Senator Frith, you are not asking the Chair to rule—

Senator Frith: No, I am not.

Senator Flynn: —and I do not agree that we must necessarily accept your point.

Senator Frith: It depends on what you mean by my point. If you think my point was that I was making a ruling, that is not so. I am saying that I think we have had an illustration today in part of our debate of why it is undesirable to comment on committee proceedings in debate before they are laid on the table.

We are now all aware that Senator Flynn takes the opposite view; he thinks it is a good practice to comment. All I am saying is that I hope that by having done so today we are not making it a precedent that it is in order to do so any more than we thought that the decision as to whether rule 47 applied was a precedent one way or the other. That is all I wanted to put on the record.

Now that I know that there are some senators who think it is a correct practice to do it, I hope we are making it clear that this is not a precedent one way or the other.

Senator Roblin: I think my honourable friend would have done me justice if, when making reference to me, he had observed that I was replying to statements that had been made about my conduct.

Senator Frith: I did exactly that.

Senator Roblin: No, I was listening on the television; I heard it very clearly. I do not blame Senator Stewart for entering the debate as he did because he was following me. However, I want to make it clear—

Senator Frith: I did not say that. I said that I did not blame Senator Roblin—there is only one Roblin in this house, and it was you to whom I referred—or Senator Stewart.

Senator Roblin: I think it unfortunate that my friend did not give the whole story as I did when I made my remarks with respect to the matter. Furthermore, I reserve my position to disagree with my honourable friend at any time.

Senator Flynn: I want to make a point that the nature of the motion necessarily invites a reference to the decisions made by the committee.

Senator Roblin: Of course it does.

Senator Flynn: It is relevant, and it has to be accepted under those circumstances.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Kelly, seconded by the Honourable Senator Cogger:

> That the Standing Senate Committee on Banking, Trade and Commerce, to which was referred the motion of the Honourable Senator Murray, P.C., concerning amendments to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, together with the Message from the House of Commons dated August 31, 1987, on the same subject, be instructed to report the same to the Senate no later than Wednesday, 23rd September, 1987.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore:* Please call in the senators.

Motion of Senator Kelly negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Balfour	Molson
Bazin	Muir
Cochrane	Murray
Cogger	Phillips
Doody	Robertson
Doyle	Roblin
Flynn	Rossiter
Kelly	Sherwood
Macdonald (*Cape Breton*)	Simard
MacDonald (*Halifax*)	Walker—20.

NAYS

THE HONOURABLE SENATORS

Adams	MacEachen
Anderson	McElman
Argue	Molgat
Barrow	Petten
Bosa	Rizzuto
Corbin	Robichaud
Cottreau	Rowe
Denis	Sinclair
Frith	Stanbury
Gigantès	Steuart (*Prince Albert-Duck Lake*)
Guay	
Haidasz	
Hébert	Stewart (*Antigonish-Guysborough*)
Hicks	
Kenny	
Leblanc (*Saurel*)	Stollery
Lefebvre	Turner
Le Moyne	Watt—32.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, September 16, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

THE SENATE

DELAY IN COMMENCING SITTINGS

Hon. Hartland de M. Molson: Honourable senators, I should like to rise on a point of order. For some considerable time now the Senate bell has started ringing at two o'clock, and equally for some considerable time we have not commenced our proceedings until at least ten past two. Is there any valid reason why this chamber should always act in that way? It seems to show a certain lack of attention.

Some Hon. Senators: Hear, hear!

Senator Molson: I am not quite sure to whom I should address the question, but may I ask the chamber why this is happening?

THE HONOURABLE FREDERICK WILLIAM ROWE

TRIBUTES ON RETIREMENT FROM THE SENATE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, later this month—on September 28, to be exact—our distinguished colleague, the Honourable Frederick William Rowe, the senator from Lewisporte, Newfoundland, takes his retirement from this chamber.

As this may be the last opportunity that I will have to do so in his presence, I should like, on behalf of the government, to bid him farewell and to acknowledge with gratitude not only his 16 years of exemplary service to the Senate but also his 56 years of devoted service to his fellow citizens. It was in 1931—before he had reached the age of 20—that Senator Rowe began as a teacher in Newfoundland and went on to be a high school principal and supervising inspector. He interrupted that career for further studies at university. He took a B.A. at Mount Allison and a Bachelor of Pedagogy at the University of Toronto, as well as a doctorate in that subject from the latter university.

From teaching he went into the Newfoundland public service as its first Deputy Minister of Public Welfare, and from the public service into politics, where he won five elections to the Newfoundland House of Assembly and served in eight portfolios: Mines and Resources, Public Welfare, Education, Highways, Finance, Community and Social Development, Labrador Affairs, President of the Council, and Deputy Premier under the premiership of Mr. Smallwood.

Somehow he also found time to lecture, to give radio talks, to write books—seven of them—to bring up a most remarkable family, and to pick up some awards and honours, not surprisingly, such as an honorary doctorate from Memorial University of Newfoundland.

Since 1971 he has brought to the Senate all of that training and experience, that deep commitment to Newfoundland and to Canada, and an inquiring mind to his duties in committee and in this chamber. I have had the pleasure of serving with him on several committees, notably Foreign Affairs, and I have travelled with him. He is a most agreeable companion and always a hard working and dedicated colleague.

Honourable senators, since Confederation—and in this context when I speak of "Confederation", I mean 1949—

Hon. C. William Doody (Deputy Leader of the Government): The real Confederation!

Senator Murray: As Senator Doody reminds me, the real Confederation. Since Confederation, Newfoundland has sent many eminent people to this chamber.

I am reminded that Senator Rowe was vice-president of the Confederate Association of Newfoundland during 1947 and 1948. All his life he has done the old colony very proud. Since 1971 he has also done the Senate, Parliament and Canada very proud.

On behalf of my colleagues in this place and on behalf of the government, in saluting his excellent contribution to Parliament and the country, I am pleased to wish him continued good health and a long and happy retirement.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, it gives me great pleasure to second the remarks made by Senator Murray about our retiring colleague, Senator Rowe. On a previous occasion, in referring to Senator Rowe's retirement, I had the opportunity to draw attention to his maiden speech in the Senate, after he arrived in Ottawa in 1971. In fact, he made his maiden speech in March 1972. Obviously, the inquiring mind to which Senator Murray referred was also an imaginative and progressive mind, because, in his maiden speech to the Senate, Senator Rowe called for the legalization of marijuana. He is still ahead of his time, because that progressive action has not yet been taken. In addition, he suggested that consideration be given to supplying hard drugs, where such action is necessary, "in order to protect the public from the insane depradation of those who are addicted to hard drugs." So Senator Rowe's interests were quite pertinent, but included matters apart from drugs, such as the penal system, the abuses of the free enterprise system by both labour and big business, and the importance of a bilingual Canada. He also drew attention to the problems of the

youth of Canada as exhibited at that time by considerable student unrest throughout the country. So our friend Fred launched his career in the Senate in a stimulating way and drew to the attention of his colleagues at that time the many problems that existed.

While it is true that he has had a distinguished career as a member of the House of Assembly and a minister of the government in Newfoundland and as a member of the Senate, all of which are certainly creditable achievements, my admiration for Fred Rowe is based more on his career as an author than as a politician. Most of us, I believe, would like to add to our credit the fact that each of us had authored seven important books. That is Fred's achievement. As Senator Murray mentioned, he wrote several books, including *History of Education in Newfoundland* in 1952, *The Development of Education in Newfoundland* in 1964, *Education and Culture in Newfoundland* in 1976, *Extinction: The Beothuks of Newfoundland* in 1977, and *A History of Newfoundland and Labrador* in 1980. His most recent work was published in 1984 and is entitled *The Smallwood Era*. Certainly, it was a most welcome addition to our political literature and was described by another colleague of ours, Senator Hicks, as "one of the most interesting political commentaries published in Canada in our generation."

Therefore, I salute Fred Rowe for his work as an author. I am delighted to know that his publisher, McGraw-Hill, has asked him to continue his writing career and has undertaken to publish his memoirs, which Fred tells us will be commenced as soon as he has the opportunity to take up that work following his retirement from the Senate.

I am delighted to be able to make these comments of appreciation to Senator Rowe, both on my own behalf and on behalf of all of us, and to wish him much success and happiness, and particularly continued success as a literary figure in our country.

Hon. Senators: Hear, hear!

Hon. William J. Petten: Honourable senators, I would like to join the honourable senators who have spoken before me in paying tribute to my colleague and lifetime friend, Senator Fred Rowe. It is not often that I find myself agreeing with the Leader of the Government in the Senate, but this time I am most happy to do so.

Both the Leader of the Government in the Senate and the Leader of the Opposition are difficult acts to follow. Most of the things I had to say have already been said, but I would just like to comment briefly on two points. First, Senator Rowe's doctorate was an earned doctorate, it was not an honorary doctorate. I do not know how many people were aware of that, but I assure you that that is the case.

As Senator MacEachen mentioned, one of Senator Rowe's early books, *Education in Newfoundland*, was not only a book about education in Newfoundland, it was a mini-history of Newfoundland. I have given that particular volume to many people in many parts of the world and they have appreciated receiving it. As I said, it is a mini-history of Newfoundland.

As has already been mentioned, Senator Rowe served in many portfolios in the Smallwood Liberal government of Newfoundland and acquitted himself well in all of them.

In conclusion, let me say this to Fred and his wife Edith: I wish them many more years to enjoy travelling the world. Fred is quite a world traveller and an historian of note, and I wish him well in all of his future endeavours.

Hon. Senators: Hear, hear!

Hon. M. Lorne Bonnell: Honourable senators, my forefathers came from that great place, Newfoundland, and I had the privilege of travelling to the place of their birth with none other than the Honourable Fred W. Rowe and his good wife. We travelled down to Lamaline, that very prosperous part of the province of Newfoundland and Labrador. I think it behooves me at this time to say a few words.

Fred and I got started in provincial politics at approximately the same time in the early 1950s and came to the Senate at approximately the same time in 1971. Fred got his doctorate at Toronto and I got my doctor's degree from Dalhousie. The only difference between us is that he got his with honours and I got mine by the skin of my teeth!

Senator Hicks: Dalhousie's pretty tough!

Senator Bonnell: Honourable senators, I first met Fred Rowe in 1955 when I was Minister of Health for the province of Prince Edward Island. I went to St. John's, Newfoundland, on "The Bullet", after landing in Gander because Torbay was fogged in. Because there was no TransCanada Highway in Newfoundland at that time, I had to take the train, and it was so crowded that I had to stand. Because of that I got off the train at Clarenville and took a taxi from there to St. John's. At that time I was scheduled to meet with the Honourable S.J. Hefferton, the then Minister of Health for the province of Newfoundland. I also met with the Honourable Premier Smallwood, who took me up to the executive chambers to meet the Honourable Fred Rowe. That was the first time I had met the Honourable Fred.

• (1410)

The next time I met the Honourable Fred Rowe was in 1966 when I was Minister of Welfare. I went to Newfoundland to meet with the Honourable Miles Murray, the then Minister of Welfare for the province of Newfoundland. On that occasion Premier Smallwood again took me up to meet with the Honourable Fred. It seemed to me that if someone wanted advice in Newfoundland, they had to see the Honourable Fred Rowe.

The Honourable Fred Rowe ran in many ridings. Any time the Liberals wanted to win a riding they simply asked the Honourable Fred Rowe to run in that riding and he would win the seat for the government, whether that was in Labrador from 1952 to 1956, or White Bay South from 1956 to 1966, or Grand Banks from 1966 to 1971.

The Honourable Fred Rowe held many portfolios. He was Minister of Resources, Minister of Public Works, Minister of Education, Minister of Highways, Minister of Finance, Minister of Communications, Minister of Community and Social

Development, Minister of Labrador Affairs, President of the Executive Council, and Deputy Premier of Newfoundland.

The Honourable Fred Rowe was partly responsible for the great Churchill Falls development. He was in on the ground floor of the planning of that development. He was also chairman of the "Come Home Year" committee in 1966, when all Newfoundlanders were invited home to Newfoundland, and many Newfoundlanders did go home. That was one of the greatest success stories of the province. The tourism department still uses promotions that were devised by that committee.

The Honourable Fred Rowe has also distinguished himself in the educational field. He was principal of the largest high school in Newfoundland, Curtis Memorial High School. He received an honorary degree from his university. He received many awards for his endeavours in the heritage field and many literary awards. He has written many books.

Honourable senators will recall that during the debate last year on the fisheries dispute between Canada and France regarding fishing rights off Saint Pierre and Miquelon, we looked to the Honourable Fred to give us the history of those fishing rights.

The Honourable Fred Rowe, although he will reach the age of 75 on September 28, is still young at heart. He still has young ideas. In many ways he is ahead of his time. He has been ahead of his time in some of his views, and he has been ahead of his time in leadership in Newfoundland. Sometimes I regret that he did not have the opportunity to follow the great Joey Smallwood and become Premier of Newfoundland, even if that were only for four years. If that were the case, he could have shown everyone what he could do with the great province of Newfoundland and Labrador.

Honourable senators, while Senator Rowe was a member of the federal Parliament, two of his sons were members of the Newfoundland Legislative Assembly. One of his sons became the leader of the Liberal Party of Newfoundland. One of his sons is a Rhodes Scholar, and both sons have made a name for themselves in their native province as well as in the rest of Canada.

Fred Rowe is the proud father of four wonderful boys and has a wonderful wife. To his good wife, Edie, and to his family, I wish them much happiness, good health and many, many, more years to give the rest of us an opportunity to glean from his knowledge and experience. I hope that we have not heard the last from Fred Rowe.

Hon. Senators: Hear, hear!

Senator Doody: Honourable senators, I should like to take a moment of your time to endorse the comments that have been made by our colleagues here in the chamber in tribute to Senator Rowe. I do not take your time to repeat the well deserved accolades that have been heaped on Senator Rowe today but to endorse those comments that have been made.

Senator Rowe is well recognized as an educator, a civil servant, a politician, as a cabinet minister and as an author, as Senator MacEachen has so properly pointed out. We in Newfoundland remember him best for his contribution to education. His work in that field will be long remembered in the province. Everyone who remembers the Smallwood era thinks most kindly of the contributions that were made to the basic services that were so lacking in our province at the time: health, roads and education. When one thinks of education in Newfoundland one thinks immediately of Fred Rowe. I would like to thank him for the contribution that he made in that area and continues to make in our province.

With regard to the many books that he has written—and I have read most of them—the one that we in the province are most indebted to him for is his history of the Beothuks, the indigenous Indian tribe in our province. He took it on himself, quite laudably, to debunk the myth of the extermination of the indigenous people by the white settlers. It has long been held that this was a deliberate act of genocide by the white settlers in Newfoundland, and Senator Rowe has convincingly exposed this myth to be just that. We are all indebted to him for it.

I look forward to reading his latest project—his memoirs. So anyone who is congratulating and wishing him well on his retirement is premature, because he has no intention of retiring, he is just diverting his efforts into an area that he knows so well, the field of literature.

So, in his new endeavours, I wish him all the best; and to his wife and family I wish all the very best, with many years of good health and more contributions to the province and to the country.

Hon. Senators: Hear, hear!

Hon. P. Derek Lewis: Honourable senators, I would like to add a few words to what my colleagues have already said concerning Senator Fred Rowe. I must say that in the years that I have been here I have enjoyed very much travelling back and forth to Newfoundland with him. We have had occasion to look after each other on numerous occasions for one reason or another. Senator Fred has been a great help to me. I must say that in these travels back and forth I have got to know him quite well and have come to know and understand his vast experience and his various accomplishments. I would like to assure the previous speakers that everything you have said is correct. It is correct because I have had it on the best authority—from the subject himself!

Some Hon. Senators: Hear, hear!

Senator Lewis: I would like to say, Senator Fred, that I will miss you here and in my travels back and forth to Newfoundland. I look forward to Senator Rowe's further endeavours in his writing. I want to wish him, Mrs. Rowe and their family the best of everything.

• (1420)

Hon. Senators: Hear, hear!

Hon. Henry D. Hicks: Honourable senators, I am very glad that I can look down the row of seats here and see that Senator Rowe is still alive, because I have seldom heard such a magnificent and, I must admit, well-deserved series of accolades paid to anyone, particularly during his lifetime. I do

not want to try to add to them, because I think most of the important things that I know about Fred Rowe have already been said.

During most of the several years that I was a minister in Nova Scotia, Senator Rowe—Fred Rowe as he then was—was a minister in Newfoundland, occupying the various portfolios which have been referred to. At one time each of us was the Minister of Education for our respective provinces and we had occasion to meet and do business with one another on behalf of our respective governments at that time.

I, like Senator MacEachen, think that perhaps the most remarkable thing about Fred Rowe is that, in addition to his full-time occupation as a public servant in various capacities for the long period of time which has been mentioned this afternoon, he managed to write no fewer than seven scholarly works having to do with the history, culture and, particularly, the subject of education in Newfoundland. Senator Rowe has chided me on more than one occasion because I have not taken up my pen and written anything about my own political experiences in Nova Scotia. Now that Senator Rowe is leaving the Senate, I suppose that I will no longer be chided. However, I would not be surprised if he kept up the good work, and perhaps—I am not promising anything—it may have some results.

In any event, Senator Rowe's career has truly been a remarkable one. He is the sort of Canadian who endears this country to Canadians from every province. His interest in his own province of Newfoundland is, of course, legendary, and he has never missed an opportunity to speak on behalf of that province. At the same time, there is no question that he is a great Newfoundlander who has also become a great Canadian.

I join all those others who have spoken in wishing him and his family many happy and successful and, insofar as Fred Rowe is concerned, I am sure, productive years on his retirement from this particular phase of his career.

Hon. Senators: Hear, hear!

Hon. Ethel Cochrane: Honourable senators, I rise, with some regret, to bid farewell to one of our colleagues from Newfoundland, the Honourable Senator Rowe, who is retiring from this chamber after many years of service to his people, his province and his nation—Senator Rowe being the oldest senator from Newfoundland, and I being the youngest.

Like myself, Senator Rowe began his career as an educator, devoting himself to teaching the children of Newfoundland. He has written extensively about education in Newfoundland and about the history of the province. He served his province in public life for three years as Deputy Minister of Public Welfare before spending 19 years in the legislature, holding several cabinet portfolios including those of Minister of Education and Deputy Premier.

Since 1971 our colleague has continued his service to his province and the nation as a representative of Newfoundland in this chamber.

Let us wish him well in his retirement and hope that his replacement will prove as able and worthy of respect as Senator Rowe.

Hon. Senators: Hear, hear!

Hon. Peter Bosa: Honourable senators, I, too, would like to join all honourable senators who have preceded me in saying a few words on this occasion, because I have very much in common with Senator Rowe. We both became Canadians at about the same time. I came to Canada in 1948 and he came to Canada in 1949. We both came to Canada through the front door as landed immigrants. When I was first appointed to the Senate, Senator Rowe was one of the friendliest senators I met. He gave me encouragement and advice. Since that time, over the past ten years, I have served on committees and gone on parliamentary delegations with him. I have benefited a great deal from my association with him.

Senator Rowe has written several books, to which both Senator MacEachen and Senator Hicks have referred. I wish to make a comment about one book he wrote in 1967, *The History of Newfoundland*. Everybody knows that Senator Rowe is a highly educated man. I will also add that he is articulate, literate and erudite. But no one is perfect. Senator Rowe is among those who are not perfect, because in that book he made a spelling mistake. He wrote that a man landed in Cape Bonavista, and he spelled the name of that man J-O-H-N C-A-B-O-T instead of spelling it G-I-O-V-A-N-N-I C-A-B-O-T-O, Giovanni Caboto.

Honourable senators, I wish Senator Rowe a happy retirement.

Hon. Frederick W. Rowe: Honourable senators, this has been one of the most enjoyable half hours of my life. Where have you all been for the past 16 years? Let me first thank all those who have had something to say about me today and those who have, in one way or another, extended their good wishes in recent days and weeks. It is a pleasure mixed with some sadness, of course, to sever, to some degree, one's relationship with one's fellow men and women. However, my wife and I do have the satisfaction, although we did not move to Ottawa permanently, to have spent a great deal of time here. We made many friends, indeed, in Ottawa. I want to express to them my thanks and my good wishes.

Senator Bonnell mentioned that when we came here in December of 1971 there were arguments in this chamber about this, that and the other thing. I referred to a few of those in my maiden speech. He left out this, though, and I think it is worth noting, that the principal item in the minds of senators was reform of the Senate. Sixteen years ago it was under discussion, and it is still under discussion.

Senator Stanbury: It was in 1871, too!

Senator Rowe: That is quite true. My friend, Senator Stanbury, has reminded me that reform of the Senate has been a live issue right from the time of its inception.

Honourable senators, reference has been made to some of my books and to the fact that I am in the process of writing another. I mention this now because it may be of particular

interest to my colleagues here and perhaps to people outside the Senate as well. Several months ago my publishers, McGraw-Hill Ryerson, to whom I would take off my hat any day, wrote me and asked if I would be prepared to give them the right to publish my memoirs. I was very pleased, of course, and told them I would. Following upon that, yesterday the agreement arrived for me to sign, authorizing me to write, on behalf of McGraw-Hill Ryerson, my memoirs; and I hope that within the next 12 months or so the book will be available.

● (1430)

I am not in the book-selling trade, but one reason for my mentioning this—and I know that a lot of people are interested in this—is that I plan to incorporate in it at least one chapter on the Senate. I have not yet started on that chapter, but I believe it is time that I and other Canadians devoted more time to the history and background of this institution.

I do not need to tell honourable senators that over the years many people who have been talking about the Senate have done so from ignorance. They have not known what they were talking about. I will not go into that now, but I will mention it in my book, because I consider it important that my views, and those of many honourable senators and of many others outside the Senate, should be made known.

I have regarded my appointment here as something of an honour, and in one way or another I have tried to make some contribution to the work of the Senate. I felt that I could not do better—and I have no regrets about this—than to devote as much of my spare time as I could to writing another book which would serve, I hope, to make Newfoundland better known, or known to a greater extent, than has been the case in the past. Therefore, I make no apology for stating now that in my new book, which I hope will be published sometime in the coming year, I will be able to present to the Canadian reading public a book which, among other things, will contain some kind of an analysis of the Senate and related matters.

When making some notes the other evening I followed up on something that I had commenced at a reception given a few weeks ago for Senator John Godfrey and myself. I went over those notes last evening, and I feel impelled to say that I have always felt proud—in saying this I exclude myself—of Newfoundland's reputation in this chamber. We have nothing to be ashamed of. As a Newfoundlander I feel very proud of that. Our history goes back beyond Senator Petten to his father, who sat in this chamber for a number of years. It goes back to people such as Major Sandy Baird. Some honourable senators will remember him. Not only was he a distinguished soldier but he was also a scholar in many ways.

Speaking of individuals—I know that in doing so one lays oneself open to invidious charges; but I will take a chance—I have had the pleasure and honour, while in the Senate, of meeting a number of people. One of the first persons I met when I was first appointed to the Senate was Senator Jacques Flynn. By chance my wife and I, with Senator Flynn and his wife, went to Rome together, and I believe that is an episode which none of us will forget.

I am sure that honourable senators would expect me to deal first with Newfoundland. However, I should like to bring in the whole of Canada in saying a few words about the Senate. Sometimes I want to laugh, and sometimes cry—and perhaps sometimes curse—when I read some of the trivia and drivel that is written about the Senate.

Honourable senators, for 27 years a man may be the premier of a great Canadian province, and whenever he opens his mouth the province, the nation and, indeed, the world listens. What is it that brings about a transformation almost overnight when he is appointed to the Senate? He becomes a non-entity. You may say, "Could that happen?" Well, it did happen. It is happening here all the time. It happened in the next office to mine up on the fifth floor of the Senate, which was then occupied by Senator Manning.

Senator Manning had been premier of Alberta for 27 years; yet, when he ceased to be premier he ceased to be almost anything. It is no use anyone telling me that it did not rub him the wrong way, because I am sure it did. I am sure it still does. No matter how important the speech was that he wrote in that room on the fifth floor, when he delivered it in the Senate the chances were that no one saw any reference to it anywhere. They did not do that when he was active in politics; then why did they do it when he was out of active politics? A man who has been premier of a province for 27 years does not lose overnight his capacity to contribute to the country; yet, that is what one could infer from this.

However, I will be dealing with that a little later. I was doing a little cogitating last night. I could mention former premiers who have been appointed to the Senate. I have mentioned Senator Manning. There was also Senator G.I. Smith. We have with us Senator Hicks, Senator Roblin and Senator Robichaud. There was also Senator Harold Connolly. Those senators did not cease being men of ability and integrity overnight. Yet one would get that impression if one relied on the writing of some columnists or, I regret to say, even some newpaper editors.

The fact of the matter is that the Senate, this institution, this body, has accepted within its ranks some of Canada's leading men. That did not happen overnight. The Right Honourable Arthur Meighen was a distinguished member of this body, and others followed him. In the field of medicine we have had in this chamber some of Canada's most distinguished medical practitioners and specialists. I could mention the names of six people. We have already heard today from Senator Bonnell. We had with us Senator Joe Sullivan, and we now have with us Senator Haidasz, Senator David, Senator McGrand—I regret to say that I have not seen him here recently—and Senator Barootes.

● (1440)

Scholars: Eugene Forsey, a man whose name is a household word in Newfoundland for very good reason—he is a Newfoundlander; Senator Maurice Lamontagne, who used to sit where Senator Hicks now sits; Senator Yuzyk and Senator Cameron. These men were distinguished Canadian scholars,

but, perhaps with the exception of Senator Forsey, not many Canadians knew that they were anything.

Senators from the field of business: I am not a businessman, but, believe me, I know the value of businessmen and businesswomen to Canada. I jotted down five or six names. They include Senator Sidney Buckwold, Senator Doug Everett, Senator Molson, my old friend—though I have not seen him for some years now—Senator Paterson, who used to sit near where I used to sit opposite. There is also Senator Bourget. Younger senators may not remember him, but he was one of the leading businessmen of Canada. Senator Paul Desruisseaux is another one.

I could go on. For example, from the field of journalism we had Senator Grattan O'Leary, who was one of Canada's leading practitioners of that art. However, even Senator O'Leary received very little attention once he got to the Senate. Whose fault was that? I am sure it was not Grattan O'Leary's fault. Was it the fault of the people who spent so much time criticizing the Senate that they did not have time to read the speeches of such people as Senator Manning or any other senator?

I have taken up more time than I had anticipated. I have a plane to catch. However, I do hope that I will have a chance to meet many of you again—and I am sure that I will as time goes on. I thank you all for the more than generous comments made about me here today.

Hon. Senators: Hear, hear!

CANADA CUP

CONGRATULATIONS TO WINNING CANADIAN TEAM

Hon. Michel Cogger: Honourable senators, my remarks will be brief but, I think, in keeping with the mood here this afternoon, which seems to be one of congratulations and good wishes.

[*Translation*]

Honourable senators, last night, like millions of other Canadians, I spent several hours in front of the television. I became increasingly proud of being a Canadian as the third period went on.

Today, I would like to move, seconded by Honourable Senator MacDonald (Halifax), that the Honourable the Speaker transmit to the management and members of Team Canada the sincere congratulations and best wishes of the Senate for their remarkable victory last night, which gave them the 1987 Canada Cup.

[*English*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

16 September 1987

Sir,

I have the honour to inform you that The Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber to-day, the 16th day of September, 1987, at 4.30 p.m., for the purpose of giving Royal Assent to a Bill.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

QUESTION OF PRIVILEGE

Hon. Philippe Deane Gigantès: Honourable senators, I rise on a question of privilege. Before Senator Petten leaves the chamber, I want to say to him that my remark with regard to his holding his seat on an hereditary basis was addressed entirely to merit, which he obviously inherited from his father.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, yesterday I gave notice of a motion, and, in view of the time and the excellent feeling that exists in the chamber, I wonder if it would be appropriate to interrupt the proceedings to ask your permission for the Banking, Trade and Commerce Committee to sit now, at 3 o'clock.

Hon. Jacques Flynn: Will you be dealing with Bill C-22?

Senator Sinclair: Not today.

Senator Flynn: Tomorrow?

Senator Steuart: Very soon!

Senator Bazin: Expeditiously?

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Sinclair:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at 3:00 o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR—GOVERNMENT ACTION

Hon. H.A. Olson: Honourable senators, I wonder if I could ask the Leader of the Government a question that I have asked him a number of times before. He is aware that grain producers in western Canada are suffering from a severe reduction in price on that commodity in the international market which is having consequences on their financial well-being. I wonder if the leader can advise us today whether a deficiency payment is under active consideration by the government. If he is unable to advise us that such is the case, would he undertake to inquire of the Minister of Agriculture when some relief can be expected for the grain producers who are in this situation, bearing in mind that we are nearing the completion of the harvest season for 1987 in some areas and, indeed, the completion of all harvest operations in all areas of western Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, a number of actions are being considered by the government at this time. I cannot be more precise than that. Nor can I be very helpful today as to the date of a possible announcement on the matter.

Senator Olson: Honourable senators, would the minister give an undertaking that he will inquire of the Minister of Agriculture as to what options the government is considering to give some hope to the producers in western Canada who are facing a disastrous situation, and as to when they can expect some relief? I did not ask the leader to make an announcement today. I know that the government follows a certain procedure in these matters, and I would expect it to do so in this case, that being through the Minister of Agriculture. However, these people need some hope, and so far it has not been forthcoming.

Senator Murray: Honourable senators, I am aware of the options that are being considered by the government, but I do not think that it is useful at this time to go into any detail on the matter. I shall inquire of my colleague, the Minister of Agriculture, to see what further information, if any, can be communicated to the honourable senator on the matter at this time.

● (1450)

TRANSPORT

PORT OF CHURCHILL, MANITOBA—TRANSPORTATION OF GRAIN TO PORT

Hon. Joseph-Philippe Guay: Honourable senators, I have a question for the Leader of the Government in the Senate with respect to the Port of Churchill. This week an article appeared in the *Winnipeg Free Press* entitled: "The Port Seeks Grain Supply Increase".

[The Hon. the Speaker.]

Honourable senators, from past experience we all know that the Port of Churchill can make a fair profit by handling 600,000 tonnes of grain per year. This year, although the railroads have committed themselves to 3,000 cars per week, this goal has not yet been reached. In fact, only an average of approximately 650 cars per week have been arriving.

Honourable senators, as you know, this year there is a lot of grain and many of the farmers want to get rid of their grain. The Port of Churchill is wide open. If it were possible to receive sufficient grain, the port is capable of shipping 750,000 tonnes this year, thereby making a sizeable profit. In fact, there are ships waiting at the Port of Churchill for grain right at the moment.

Perhaps if the railroads were encouraged to supply more cars—in fact, if they were able to supply 1,200 cars per week from now to the end of October—the Port of Churchill would be able to ship more than 700,000 tonnes of grain, which would result in a sizeable profit for the town of Churchill and for the Government of Canada, as well as for the farmers in western Canada.

Therefore, my question is: Could the Honourable Leader of the Government in the Senate make representations to his colleague in the cabinet, the Minister of State for the Canadian Wheat Board, to encourage the railroad to provide more cars so that western farmers can ship their grain—even though it is at a low price—and so that we can provide Churchill with the amount of grain that they would like to handle in order to show a profit, which they do not get a chance to do very often? If we could have the cooperation of everyone involved, I am sure it would result in a great achievement, benefiting all of us in the west.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall convey my friend's representations to the Honourable Charles Mayer. I shall also ask my colleague whether he would care to comment, for the benefit of the Senate, on the statements made by Senator Guay this afternoon.

GOVERNMENT OF CANADA

ESTABLISHMENT OF SATELLITE COMMUNICATIONS NETWORK

Hon. Philippe Deane Gigantès: Honourable senators, I wonder if the Leader of the Government would be so kind as to convey our congratulations to his party and to his government for setting up a communications network by satellite in order to show themselves to the people of Canada. I hope they make sure that they invite to appear on that satellite such people as Mr. Grisé, Chairman of the Quebec Caucus, who stated that Liberals are a band of traitors. It is this kind of language that I am very grateful for. It will help us defeat the government at the next election.

Senator Flynn: What is the question?

Senator Gigantès: The question was whether the Leader of the Government in the Senate would kindly convey my thanks to his government for setting up this network.

NATIONAL CAPITAL COMMISSION

INCIDENCE OF ACCIDENTS ON MIXED-USE PATHWAYS IN OTTAWA

Hon. Peter A. Stollery: Honourable senators, I have a question for the Leader of the Government in the Senate which perhaps he could convey to the proper authorities. I would be interested in finding out from the minister responsible for the National Capital Commission what kinds of accidents take place between cyclists and pedestrians and between cyclists and other cyclists on the National Capital Commission mixed-use pathways. If it is possible for the Leader of the Government in the Senate to obtain that information, I would appreciate having the statistics for the last three years.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): If I may, I would suggest to Senator Stollery that he try to draft a question with somewhat more precision, indicating what statistics he is looking for, and put it on the order paper. We will then undertake to obtain that information for him as soon as possible. At the moment it is a little unclear as to what exactly he is looking for.

Senator Stollery: Honourable senators, I will certainly do that. The reason I raised the matter at oral Question Period is because that information is actually quite difficult to obtain from the National Capital Commission. What I am looking for are the statistics of accidents between cyclists and pedestrians and between cyclists and cyclists on the National Capital Commission mixed-use pathways around the Ottawa region. I think that is fairly specific. However, I will give the Leader of the Government in the Senate a written question, but would advise him that, so far, the National Capital Commission has been reluctant to provide those statistics, and that is the reason for my question in the chamber here today.

AGRICULTURE

POTATO INDUSTRY—PRINCE EDWARD ISLAND AND NEW BRUNSWICK—POTATO STABILIZATION PAYMENTS FOR 1986 CROP YEAR

Hon. M. Lorne Bonnell: Honourable senators, I wonder if the Leader of the Government in the Senate can inform me whether the government is considering paying a retroactive subsidy to the potato farmers of Prince Edward Island and New Brunswick for the crop year 1986 in order to compensate farmers for their tremendous loss due to the low prices paid for potatoes produced in those two provinces in that year.

Honourable senators will recall that before the provincial election in Saskatchewan a wheat subsidy was paid. Since we have a provincial election pending in New Brunswick, the announcement of such a payment would aid the premier in being re-elected and, at the same time, it would help the farmers of Prince Edward Island to cope with their bankruptcies.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the question of potato stabilization payments is still before the government.

Senator Bonnell: I would ask the honourable leader whether the government is giving consideration to that question, and, if so, can we expect an answer soon?

Senator Murray: Honourable senators, I cannot be more precise than I have been. The matter is under consideration by the government at the present time.

My honourable friend will appreciate that the potato question is not a matter related solely to Prince Edward Island, although I concede that it is very important in his province, as it is in New Brunswick. It is a national question, and it is being considered in that context.

TRANSPORT

ESTABLISHMENT OF PERMANENT LINK BETWEEN NEW BRUNSWICK AND PRINCE EDWARD ISLAND—ENVIRONMENTAL IMPACT

Hon. M. Lorne Bonnell: I thank the honourable leader for his remarks. However, I have another question respecting an altogether different matter. Can the Leader of the Government in the Senate tell me if the Government of Canada has made a decision with respect to a permanent link between New Brunswick and Prince Edward Island so that, in the near future, tenders from the general public might be called for that work?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I would advise the honourable senator that that matter is still under consideration by the government.

Senator Bonnell: Is the honourable leader telling me that no decision has yet been made?

Senator Murray: As of 24 hours ago no decision had been made, and I am not aware that one has been made in the interim.

Senator Bonnell: Honourable senators, I have a supplementary question. Can the Leader of the Government in the Senate advise me whether the environmental report in relation to that project has been returned to the government, and, if so, whether that report is satisfactory in that there is no detrimental impact on the environment of either Prince Edward Island or New Brunswick, and, further, that there is no detrimental impact on the fisheries or oceans?

Senator Murray: I shall have to make inquiries, honourable senators.

ATLANTIC CANADA OPPORTUNITIES AGENCY

AVAILABILITY OF INFORMATION ON MEMBERSHIP

Hon. Robert Muir: Honourable senators, I have a question for the Leader of the Government in the Senate. Usually, when ministers make announcements respecting the membership of boards, commissions, et cetera, senators receive on their desks a list of those who have been appointed, together with their qualifications, their background, et cetera.

I would like to ask the Leader of the Government in the Senate why it is that, in the case of the Atlantic Canada Opportunities Agency, senators are forced to rely on the newspapers to find out who are the members who have been appointed to that board and their backgrounds. It would be useful if those of us who are from that region could be notified and given that kind of information. We are in a position to provide, in a small way, some assistance to those who are appointed to an agency of that nature. I have searched, my secretary has searched, and I have inquired. I did make a call to the minister's office, but that information apparently was not available.

● (1500)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, in keeping with the decentralized nature of this agency, the announcement in question was made several weeks ago in Moncton, where the headquarters of the agency are located. I very much regret if, in doing that, honourable senators, and parliamentarians generally, were not sent copies of the news release in question. I will see that that is done immediately. I will have a copy sent by hand to my honourable colleague's office.

Senator Muir: I thank the leader for that.

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Balfour, for the second reading of the Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof.—(*Honourable Senator Grafstein*).

Hon. Jerahmiel S. Grafstein: Honourable senators, Bill C-84, respecting curbs on refugees, goes to the heart of Canada, our image of ourselves, our vision for our future. Will the twentieth century yet belong to Canada? This legislation appears to say no! Is that good enough for us? Is it good enough for Canada? From our earliest history the idea of Canada was rooted in the belief that Canada was a refuge for the oppressed. First the French, then the Anglo-Saxons, and then the oppressed of the world, east and west, north and south, came to Canada, slipped through our borders or were washed up on our shores, sharing one common dream—a better, freer life, new opportunities for themselves and their families. Aside from our fellow Senators Marchand, Watts and Adams, who are enriched with their aboriginal heritage, and who, by the way, graciously share the concerns of many on this side of the house, is there a senator in this chamber who is not an immigrant or a refugee, or a descendant of an immigrant or a refugee? Indeed, earlier today I asked my leader in the Senate, the Honourable Allan J. MacEachen, whether he could tell me if his roots were refugee or immigrant. He could not tell me that, but he said he believed they were immigrant. Honourable senators, Canada is a nation of immigrants. Do we not, honourable senators, share a common definition of national interest that we can build a better future in Canada by expanding our diverse, rich, humane immigrant foundation?

Let us for a moment look at the present demographic profile of Canada: Our birthrate is stagnant, our population is aging, yet our economic expectations continue to rise. We can now foresee that in the decade ahead our growth curve is flattening and it may even fall. So, the question we should ask ourselves in our own self-interest is not how many refugees we can keep out but how many refugees can Canada safely absorb and how quickly. Our humanitarian policy and our national interest converge on this question. Paul Johnson, the noted historian, in his splendid *History of the Modern World* traced the displacement factor in the absorption of immigrants and refugees, which did not cost society but, in fact, were sources of new growth, engines of growth. Johnson demonstrated that those displaced who came to the new world work harder, produce more to catch up, create more wealth, create new jobs, and in that sense they accelerate our entire economic growth pattern. In Canada we understand this; Canada has been enriched by those who have been displaced and who have come to our shores. Metro Toronto, the city I so proudly represent, is living proof of that economic thesis.

So, honourable senators, when we turn to Bill C-84, what do we find? First, let me deal with the preliminary issue that brought Parliament back this summer. Is there an emergency? Is there a national urgency? Earlier this month, when I asked Senator Murray what the basis was for this emergency, we were told that it was not the 174 boat people; it was loopholes in our immigration laws that caused the national emergency. Yesterday we heard from Senator MacDonald, on behalf of the government, on second reading of this bill, that the refugee crest had passed. He told us that earlier this year over 4,000 refugee applications had been made on a monthly basis, and now this has declined by 50 per cent to 2,000 per month. But, honourable senators, are these the facts? The government was informed on September 9 by the 47th Fast Track Monitoring Report, signed by Ralph Girard, Co-ordinator of the Refugee Determination Task Force of the Canada Employment and Immigration Commission, that refugee claims had dried up to 500 refugee claimants a month, which is way below normal.

It now appears, honourable senators, that we are not even achieving our minimum immigration quotas. The crisis that we

have now is that we do not have enough immigrants. Immigration officers are now seeking immigrants to fill quotas from certain countries. Therefore, I ask Honourable Senator MacDonald and the government, what emergency? What crisis? Is this a hoax that feeds on the fears of Canadians instead of fulfilling the dreams of Canadians? Therefore, it appears that if there is not presently an emergency, if there ever was one, we have dramatic legislation that exceeds in scope even the government's own concerns.

Honourable senators, we all know that refugee surges are not new. We have had refugee surges in the past; in the 1940s from Europe, in the late 1950s, in the 1960s, in the 1970s and in the 1980s, Hungarians, Czechoslovakians, Vietnamese and South Americans came to Canada, yet there is no public comparable statistical evidence to support the argument that the recent surges—which have now passed—in the number of refugees entering Canada are any greater than the surges of the past.

But the Canadian public is concerned about abuse. The Canadian public is concerned about real problems, not apparent problems. If there is a real problem, the problem is the backlog in the immigrant/refugee system. Solve it. Improve the efficiency of the system. Rather than that, the government chose to come forward, not solving the problem but keeping the problem intact with a new, long drawn out and cumbersome refugee process.

One wonders, honourable senators, when one examines the bill, in fairness and charity, whether or not there is a different agenda from that stated by the government.

Does this bill modernize the system, or do the retrograde measures increase the complexity and inflate the problems? In our present system, the way a refugee's claim is made, one party hears the claim, a second party advises on the claim, and a third party decides on the claim. What three people can do over three, four, five or six months one person could do in weeks. Yet, the present system, as one expert has pointed out to me, has not been improved. The present system invites abuse, invites delay, invites emergencies, yet there has been no solution to that fundamental problem. Naturally, the queue grows longer as the system backs up.

The government could very easily improve the process without dehumanizing it. This bill, even if one accepts the good faith of the government, exceeds the reach of the government under our Constitution. A person may be detained for up to 28 days if the department cannot identify that person. Many refugees travel without travel documentation. Documents are destroyed to avoid the refugee's return to his country of origin or to an intermediate country that was the source of demeaning living conditions, discriminatory refugee determination process or, indeed, denial of protection. This bill now allows detention for 28 days without adequate review, and after 28 days it allows review only on the narrowest grounds, that the department is making reasonable efforts to identify the applicant.

Honourable senators will recall very well that in the report of the Commission of Inquiry into the RCMP, headed by Mr. Justice Macdonald, he recommended that the War Measures Act be amended to prohibit detention without charge beyond seven days. No detention beyond seven days! So, in cases of war, Mr. Justice Macdonald recommended that nobody should be detained beyond seven days. Yet, refugees can be detained for up to 28 days without an adequate inquiry. What type of standard are we establishing for ourselves? What type of message are we sending to the world? The U.N. Convention on Refugees requires that we, as signatories, not penalize refugees for their illegal entry or persons without authorization provided they came directly from a country where they were oppressed, and provided they present themselves forthwith to the government authorities.

• (1510)

That U.N. convention also demands of Canada that we not impose penalties on the movement of refugees because of their illegal entry to or their presence in Canada.

Beyond that, our Charter dictates that everyone has the right not to be arbitrarily detained, citizen or not. Yet the detention provisions say that persons are punishable for illegal entry. What it does is extend arbitrary powers which become invisible powers—very unfair and obviously not necessary. Our Charter of Rights is rooted in our deep belief in Magna Carta, which dictates against arbitrary detention. This prolonged detention process in itself is a countermeasure against the purpose of the bill. The one thing that is crystal clear about refugees is that they do arrive without proper documentation. Thus, the problem and the backlog will be exaggerated.

Does the bill ease the alleged crisis, or does the bill trigger a true crisis requiring a throwback to the period when countries had large detention centres? This bill is not only offensive in this respect, it is offensive to our international obligations. The U.N. Refugee Convention, to which we are a party, and the U.N. High Commissioner of Refugees, in an extraordinary letter to the Minister of Employment and Immigration on August 12 of this year, stated the following:

> I have the honour to refer to an amendment to the Immigration Act, 1976 (Bill C-84) which the Government of Canada has most recently tabled in Parliament. My office fully understands the Canadian Government's preoccupation regarding abuses of procedures for the determination of refugee status and related problems. Certain provisions of the proposed legislation, however, give rise to serious concern inasmuch as lack of procedural safeguards could risk exposing bona fide asylum seekers and refugees to forceable return to territories where their lives or freedom would be threatened (refoulement).

He goes on to say:

> This pertains in particular to Clause No. 8 of the Bill introducing a new section 91.1 in the Act relating to the authority to direct ships to leave or not to enter the internal waters of Canada or the territorial sea of

> Canada, apparently without examination of passengers' status. The principle of non-refoulement to which Canada fully adheres as a party to the 1951 U.N. Convention Relating to the Status of Refugees and the 1967 Protocol thereto enjoins any action on the part of states which may result in refoulement.

The letter goes on to talk of Canada's example in the world.

> As you are no doubt aware the situations now being faced are not unique to Canada. Institution of the procedural safeguards referred to above would serve as an important example to the international community and help preserve the principle of asylum throughout the world.
>
> In light of these considerations I am confident that all persons who seek Canada's protection will be afforded adequate procedural safeguards against refoulement and that these will be incorporated in the operative part of the Bill in question.

What did the U.N. High Commissioner of Refugees mean? To turn back boats is the most direct and obvious denial going to the heart of the refugee problem. The minister has said that no genuine refugees will be turned away, but how can he tell? Will we have portable refugee determination platforms on the high seas, or will he suspend those platforms from helicopters? If a boat is turned away, how will we ever know if that boat contained real refugees or not? Was not this exactly what Canada accused others of when the Vietnamese boat people fled their land? Canada protested when Thailand did precisely that, and now Canada, humane Canada, generous Canada, is proposing laws to do what we preached to others would be wrong. Is this leadership? Is this the international example Canada wishes to give?

Bill C-84 also undermines a key umbrella of protection given to those who are alleged security risks. Under the present law, before such persons are removed they are allowed to claim refugee status. If recognized as a refugee, this gives this person an umbrella protection while he is here against the very oppression from which he fled. But once this umbrella is removed and there is no access to the refugee process, this puts him in jeopardy of being removed to his country of origin despite his claims. It makes it easier to get rid of those people who may most need assistance. Is this the best way, honourable senators? Is this the best way to protect the oppressed? Surely there are better solutions. Surely there is a better mode of solving this particular problem.

But while the bill is offensive to so many laws and policies of Canada, the most offensive part which has caught the public attention is that part of Bill C-84 that criminalizes church groups, volunteer groups, immigrant aid societies and lawyers who aid a person without documentation to come to Canada, even if those Canadians do so without any type of recompense. Now, honourable senators, we have for the first time in Canada a law against the Good Samaritan. Is that the type of model that we are constructing for our children? Is that the model of the Statute of Liberty that we are trying to project in our own minds, to hold out that we are prepared to assist the oppressed, or is it a new model that we are projecting for our children and ourselves which says, "Butt out; mind your own business; slam the door; keep out of trouble"?

Last year, honourable senators, Canada received the Nansen International Award for its contribution and assistance to refugees. It was a magnificent gesture on behalf of the world about Canada's enlightened policy to refugees. Now this government, having accepted that award, wants to criminalize the process and the efforts of those Canadians within and without the government that made that very award possible.

For those so concerned about Canada-U.S. relations, let us take a look at American law. American law does not penalize a volunteer for helping a refugee enter America as long as that refugee reports to the immigration authorities. It is only the assistance in evading the law, in evading the authorities, that is illegal. Under Bill C-84, volunteering to report to the authorities may be a crime; and if a person comes without documents and is aided in coming to Canada an offence is committed.

In the United States, under even less draconian measures, under less stringent measures, refugees who have not reported to the authorities have triggered a new underground movement, a new freedom railway, a new sanctuary network. We know Canadians will reach out despite these Canadian draconian measures, if they are passed, because their conscience and their values demand that they help others in need. Honourable senators, do we want to create a new generation of conscientious objectors in this country over this measure? Surely not! So, the House of Commons has penalized the Canadian's basic instinct of charity. Is this the public will of Canada? And what a crime it is! Normally, in criminal law, an offence is committed and one is penalized for assisting others in the commission of an offence. But here there is no offence, only charitable assistance. Crime or otherwise, what a distortion of the criminal process, what a demeaning of our criminal justice system!

Honourable senators, I can go on at length; I can move from the unnatural to the bizarre, as one expert wrote me. The search provisions of Bill C-84 are more draconian than those under our drug laws. Should drug busts demand higher standards than refugee busts? Under the Narcotic Control Act, homes cannot be searched without a warrant. But this Bill C-84 allows private homes to be searched without a warrant not just for illegal immigrants but where there are reasonable grounds for an official to believe that evidence will be found of helping ten or more refugees. Under our Criminal Code, when documents are seized from a lawyer they must be sealed and taken to court and a judge determines whether or not the solicitor/client privilege applies. This Bill C-84 offers no protection for solicitor/client privilege. Again, a fundamental breach of the Charter of Rights, a fundamental breach of the right that says that every citizen, every person on our shores, has the right to counsel.

Under the Customs Act, the search can only be made after an oath that there are goods liable to forfeiture, and a search must be made between dawn and dusk. There a search must be

made for goods, not just for pieces of paper. But Bill C-84 offers no comparable protection. Even the powers of search under this bill with warrants are a violation of our Charter. Bill C-84 states that a warrant may be issued where there are reasonable grounds to believe that evidence "may be found" that a person sought to help ten or more refugees come to Canada. Our own criminal law demands a much higher standard, a much higher evidentiary onus. There a warrant may only be issued upon reasonable grounds that evidence will be found about the commission of an offence.

Honourable senators, I am indebted to many experts who have written to me and who have spoken to me about these numerous other provisions that offend fundamental Canadian law and practice. This chorus of Canadians wishes to be heard.

• (1520)

Clearly, honourable senators, the courts will find that the standard in Bill C-84 allowing for search based on a possibility rather than on a reasonable belief will invite unauthorized intrusions of privacy, and those will be challenged successfully in the courts. However, I do not stand here as a lawyer. I stand here as a senator. Honourable senators, the courts will find that the provisions of this bill fall below those relating to our criminal standards, as set out in the Charter of Rights and Freedoms, as they deal with the protection of individuals against unreasonable search and seizure.

This brings me, honourable senators, to a fundamental drift in the government attitude towards legislation and towards Parliament. There is implicit in this bill a very dangerous trend, a trend that suggests we are moving towards irresponsible government. It is a dangerous and irresponsible trend that says that Parliament cannot legislate its own will in a careful, clear and precise manner consistent with the Charter of Rights and Freedoms and our international treaty obligations. Rather than taking its responsibilities in doing the painstaking work of drafting legislation that fits the problem, we find the Government of Canada saying, "Let the courts decide." We know, honourable senators, the courts were not established for that purpose, nor are they willing to become social engineers. Under our form of parliamentary democracy, surely this is still a job for Parliament.

Speaking only for myself, honourable senators, I believe that when we review this bill in committee, as we will, line by line, we will convince senators on all sides, and, hopefully, the government, that this measure requires serious change if we are to accomplish the goal which all Canadians share of a fair and humane refugee policy.

What is the role of the Senate? There has been some debate in the country about this. It is clear that a week of evidence in the committee of the House of Commons did not cover hearing from the the range of Canadians from the regions who wished to be heard. All witnesses were crammed into one week. There are those who wished to be heard and could not be heard. The role of the Senate now is to listen carefully, expeditiously and quietly to the voices of Canadians from those regions who want to be heard. Canadians are humanitarians. Canadians want fairness. The role of this chamber is to defend against any obvious breaches of our Charter of Rights and Freedoms and any obvious breaches of our international obligations.

The current system has lengthened the queue, and queue jumping offends Canadians. But clogging the system invites queue jumping, and that is a greater problem. Canadians want fair, humane reform, and I hope, in that spirit, the Senate committee will fairly, systematically and expeditiously review the background, the current conditions and the legislative solutions proposed in Bill C-84.

Honourable senators, let me end on a note from the Scriptures. As a drop-out from several theological institutions, I know that the Scriptures can offer us some guidance. Late last night, as I thought about this bill, I turned to the Gideon bible and I would commend the Senate to Matthew, chapter 25, verses 32 through to 46. I will not read those verses, because they are more familiar to many senators than they are to me. I would only turn to verse 43, which states:

> I was a stranger, and ye took me not in: naked, and ye clothed me not: . . .

The concluding verse of that chapter states:

> And these shall go away into everlasting punishment: . . .

Surely, honourable senators, we are not seeking a way to invite everlasting punishment. We can think of more creative ways to do that.

I ask that the Senate refer this bill to a committee where all senators will have an opportunity to examine the obvious abuses of this particular bill.

Some Hon. Senators: Hear, hear!

Hon. Peter Bosa: Honourable senators, I rise to take part in this debate and to make a couple of brief observations on Bill C-84.

At the outset I wish to make a point of how unfair it is for the government to have classed this piece of legislation as emergency legislation. An emergency involves something that has to be dealt with immediately, and that is not the case in this instance.

On March 5, 1986, Senator Barootes introduced a bill for first reading in this chamber, which, coincidentally, was known as Bill C-55. The objective of that bill was to increase the membership of the Immigration Appeal Board from 18 to 50 to deal with the backlog of refugee applications that had accumulated up to that time. If my memory serves me correctly, there was a backlog of approximately 19,000 cases. Senator MacDonald, who presented the bill in this chamber, said that the backlog has now reached 30,000. When that bill was dealt with and given third reading in this chamber, it was intimated that the then Minister of Employment and Immigration, Mr. McLean, would introduce more comprehensive legislation either at the end of the spring or in the summer, which would have been more than a year and three months ago.

The number of refugees who entered Canada during the period from March 1986 to August 1987 increased progressively to the point that in January of this year they were

entering Canada at the rate of 1,000 a week. Four thousand entered in January and another 4,000 in February. The comprehensive bill which was promised to be introduced in this chamber to cope with this particular difficulty did not appear on the order paper until August of this year, when the government decided to recall Parliament.

Honourable senators, this is doing a disservice to Canadians, because the government is presenting a bill under the guise of an emergency bill and it is not an emergency bill at all. The refugee debate has created hard feelings in the immigrant community and in Canadian society as a whole. There are people who now fear foreigners. Even immigrants of my generation who came to Canada after the war feel some resentment against other immigrants who have just arrived, because they feel that they are jumping the queue, as senator Grafstein has indicated. I think the government should address itself to this grave situation in order to alleviate this feeling of xenophobia which is prevailing among Canadians at this time.

The other observation I should like to make at this time relates to clause 95.1 of the bill, which describes under what circumstances a person can be found guilty of having committed an indictable offence. Without reading the clause word by word let me just say that it states that anyone who aids or assists an immigrant, a refugee, a person, to gain entry into Canada without travel documents can be subject to severe fines of up to $2,000 and a term of imprisonment not exceeding six months, or both. I would like to ask the sponsor of this bill whether he is in agreement with this particular aspect of this bill.

Honourable senators, let me describe a hypothetical situation to you. Let us take a person who desires to escape from a country where there is a dictatorship, where there is a totalitarian regime, and where there is no freedom as we know it. Let us take a Chilean, for instance. If a person who was persecuted in that country decided to seek refuge in Canada, is it reasonable to expect that that person would be able to obtain a passport or a travelling document from a government that is hostile to that particular person? Let us then assume that that person is assisted by a Canadian who volunteers to do so out of the goodness of his own heart. I am referring to someone who may be a member of a religious group or a volunteer group which assists immigrants and refugees integrate into Canadian society. They perform a noble task for Canadian society. If one of those persons happens to lend a hand to a person such as I have described, that person could be charged under clause 95.1 or clause 95.2 and could be be fined and/or imprisoned. Such a person would become a criminal. I say that, while we have the assurance of Senator MacDonald that the law will not be interpreted in this manner, the simple fact that this provision exists will not only intimidate people who engage in this sort of activity but will frighten them, and many people will suffer as a result.

● (1530)

Let me say that, while I do not condone illegal entry into Canada, I understand and I feel compassion for those people who desire to come to this country. I had that feeling myself.

[Senator Bosa.]

Honourable senators, I was 12 years old when World War II broke out and I saw what happened in Friuli, the northern region of Italy where I was born. I have seen a fratricidal war. I have experienced what life is like when people do not have the basic necessities such as food and clothing. I desired very much to come to Canada at that time and I would have done anything to do so.

I did eventually come to Canada in 1948, having been sponsored by my father who came to this country in 1927. I came through the front door to this country in accordance with our immigration policy. Honourable senators, I can only reiterate that, while I do not condone illegal immigration, I can understand anyone's desire to come here. I hope that Senator MacDonald, who has responsibility for this particular piece of legislation, will be able to see some of the anomalies that are contained in this bill. Perhaps he, himself, should suggest some amendments in order to rectify whatever hardships or injustices these clauses may impose upon people who engage in voluntary work in helping immigrants settle in this country.

Hon. Finlay MacDonald: Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator MacDonald speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator MacDonald: Honourable senators, before I ask that this bill be referred to committee, I should like to congratulate Senator Grafstein and Senator Bosa upon their interventions. They have spoken with a feeling I think we all share in what has been referred to as a common definition of our heritage. I think I could have answered the question put to Senator MacEachen when he was asked where he came from. He is a second generation Canadian, as am I, and our fathers came from the same country; they were immigrants. There is no question but that the concerns that he has are sound and that the deliberations of the committee will clarify or change a number of those concerns.

Yesterday I tried to point out that this debate is often muddled by extremes and that there are passions on both sides. There is one side that I will not share—that is the one which might be referred to as draconian—and there is the other extreme, which I feel sometimes does lose sight of what is, as I said yesterday, an intolerable national problem. Statistics will be easily determined by the committee. Yesterday I said—and this has to be subject to verification—that Canada expects this year 30,000 refugee claims. By the end of the year there will be a backlog of approximately 40,000 such claims. It has been said that the crest has subsided. I shan't get into that because I am persuaded that that is not the case. When we speak of emergencies, we speak of highly publicized incidents. As I mentioned yesterday, the boat arrival in Nova Scotia was just another signal sent around the world indicating that Canada really is the last place where a person can physically set foot on the soil, claim to be a refugee, and then go into a system which would take as long as five years or more to have his status verified.

We are seeking a determination to re-establish the distinctions between legitimate immigrants, legitimate refugees and illegal aliens. This bill does not seek to escape the provisions of the Charter of Rights and Freedoms. There is no "notwithstanding". This is good news for the Canadian Bar Association—as long as there are lawyers there will be all manner of challenges. Honourable senators, I read recently with great delight of the appointment of the chairman-designate, Gordon Fairweather, who will leave the Human Rights Commission to be the new chairman. That is an absolutely first-class appointment and one which will assure us that we will abide by the conventions.

Senator Grafstein quoted scripture when he said that this is not the Good Samaritan approach. I say to him that this is about as "according to Luke" as this government can make it.

Senator Frith: That's not saying much for Luke!

Senator MacDonald: Honourable senators, there are other areas, particularly those to which Senator Bosa has alluded, which tempt me to get into specifics. I think I will resist that temptation and, at the appropriate time, I will make the motion to refer the bill to committee.

Motion agreed to and bill read second time, on division.

● (1540)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Finlay MacDonald: Honourable senators, I believe it has been agreed that this bill is to be referred to the Standing Senate Committee on Legal and Constitutional Affairs. I so move.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, perhaps it should be noted for the record that we gave unanimous consent to that. In order to make this technically immaculate, I think the record should show that we gave leave to refer this bill to the Legal and Constitutional Affairs Committee rather than to the Social Affairs Committee.

On motion of Senator MacDonald, with leave of the Senate and notwithstanding rule 67(1)(*m*)(ix), bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—DEBATE CONTINUED

On the order:

> Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, are the very nature and the *modus operandi* of Opus Dei compatible with the concept of democratic organization?

My answer to that is no!

For the simple reason that Opus Dei, created in the shadow of a Facist régime, nurtured by the spirit of the radical right, enamoured of ideas of grandeur and the quest for honours, shuns light and public scrutiny.

Bill S-7 which was tabled in the Senate is the most telling evidence and the most disturbing illustration of this mysticism of the secret of Opus Dei.

Drawing suspicion in a number of jurisdictions, Opus Dei is attempting to swarm like the African bees which were brought into South America and are now headed for our hemisphere through Central America and Mexico where their presence has become endemic. Although Opus Dei has already set foot on Canadian soil, there is still time to spell out on what conditions it will be allowed to exist under our democratic system.

I have made a serious effort to try to understand the true aim, the *raison d'être* of Opus Dei. In fact I did spend a lot of time on this endeavour, abandoning more pleasant and undoubtedly more productive activities. If at the end of this voyage through piles and piles of documents, articles and books, I had at least reached the conclusion that Opus Dei is essentially composed of and especially governed by pure hearted and innocent men, well meaning people, then I would rectify today the orientation of the intervention I made in June.

Alas, such is not the case. I must conclude that in the matter of Opus Dei we are dealing with illusive and constantly fleeting shadows.

I have been able to gather some information by referring to author-investigators who are much better qualified than I am and their verdict was disturbing.

Daniel Artigues, who I believe is Spanish, wrote the following in 1967 in the French magazine *Esprit* by way of a conclusion to a most thorough research:

> On the other hand, while the organization . . .

That is Opus Dei, in full the Prelature of the Holy Cross and Opus Dei.

> . . . while the organization has somewhat relented on the veil of secrecy surrounding its activities, its behavior toward those who question its value remains unchanged. In 1965, Alfonso Carlos Comin, a well-known Catholic Sociologist, in a spirit of Christian good will but also with a sharp critical mind, has written a public message to Opus Dei in the Barcelona magazine *El Ciervo*. The initial article by Comin was titled "Dialogue with Opus Dei" (Dialogo con el Opus Dei). Three months later, Comin analyzed the reactions to his article and noted that writers who were sympathetic to the organization almost

exclusively confined themselves to personal attacks. None of them had answered questions that come to mind when one examines the case of Opus Dei.

In the magazine entitled *L'information médicale et paramédicale*, the issue dated August 15, 1972, published in Montreal, Hermas Bastien wrote an article titled *Le Dossier de l'Opus Dei*. Here is his conclusion:

> Secrecy, coercion, hypocrisy plus a few devils that have slipped through human motives, contribute to the success it has achieved in Spain, under the guise of catholicism, nationalism and dictatorship, always pretending to do good and to work for Christian perfection while, strangely enough, showing a compulsive need to hide away.

In the previous paragraph, the same author wrote:

> Finally, the organization has used and abused all possible credit, private or public. Such was the advice of Escriva.

He is the founder of Opus Dei, and he wrote:

> He who seeks only God is justified, in order to further his apostolate, to apply this principle as worded by one of our good friends: one spends what must be spent even if what is spent is owed.

Opus Dei is handling considerable amounts of money, amounts that are mysteriously shuffled from here to there across the world, sometimes in Swiss bank accounts, as is rumoured, or else in banks whose collapses were clouded in mystery. One can presume that this money is not mere peanuts when we know that this organization is centered mostly on the upper ranks of society, that it deals with people who are in a position of influence, of prestige in the circles of business, professionals, trade and commerce and yes, even the Church and yes, even politics.

Opus Dei, if one is to believe according to its own panegyrists, is not a secret organization according to some definitions or the conclusions of some investigations. However, I would like to quote here Daniel Artigues:

> It is a powerful organization that is shrouded in mystery. In these conditions, accusations and denials are vainly spread about.

Here is what the investigator from the magazine *Esprit* had to say and I quote:

> The conclusion cannot be escaped: this manner of organizing the access of Catholics to commanding positions, this quest for power are the opposite of the wordly dedication characterized by modesty and selflessness as advocated by the Council (Vatican II) and, I would add, as preached by the Gospel that is common to all Christians.

However, I have difficulty with the argument that the Holy Father approves of that body, that the founder of Opus Dei is in the process of being canonized, that some of our superiors, the Canadian bishops, although not all of them, and I emphasize not all of them, see no objection to Opus Dei taking root in Canada.

The Opus Dei formula seems well suited to some countries, within ultraconservative churches, within top-notch rightist political regimes. But what need have we of such an agency in democratic systems as we have in Canada and the United States? Opus Dei does not fit in at all with our traditions. We all aspire to remain open, democratic, tolerant, receptive societies. So why do they come around to us with an application for civil incorporation as an organization shrouded in mystery, suspicion, dissimulation?

● (1550)

Let no one suggest that my sense of democracy is dulled because I am against Opus Dei settling down in Canada. What I say is clear. I find it shocking that they want to clothe in a legislative, and thereby legal garb, an agency that is the very opposite of true democracy.

We in this house who oppose Bill S-7 allowed it to be put forward for first reading in the name of democracy. But now that we are still at second reading stage, we will decry Opus Dei. In committee, we will unveil Opus Dei—

Hon. Jacques Flynn: Hear, hear!

Senator Corbin: At the report stage, we will do all we can to show it stark naked, and at third reading stage, we will oppose the bill.

Senator Flynn: You don't say! Beforehand—

Senator Corbin: —as is our democratic right.

Senator Flynn: I know, but you assume that scrutiny in committee will not clear up your objections.

Senator Corbin: Not at all. I am keeping an open mind.

Senator Flynn: Oh well, you said beforehand! Do not suggest you will oppose it.

Senator Corbin: I am already convinced the committee will fall in the traditional Opus Dei *cul-de-sac*.

I have no intention of unduly delaying the legislative process. But we reserve the right to go on and complete our research in order to be in a position to inform all our parliamentary colleagues. The idea that I wanted to block this bill is a mere hallucination. I have never had such intentions. To the contrary, I thank Heaven for this opportunity to show our Senate colleagues and fellow citizens the other face of Opus Dei.

That Parliament has or has not in a distant or recent past allowed the incorporation of organizations that are or claim to be of a religious or pious nature does not affect our duty to scrutinize Bill S-7. Nothing must be taken for granted in a legislative assembly.

I find it wrong to try and sell us through intermediaries the idea of the integrity and angelic purity of Opus Dei by surrounding it with the cape of the Pope, who cannot know all the time what is going on everywhere in the church, no more than Canada's Prime Minister can know what is going on in the Canadian Security Service for instance. This is why we want to know what the Reverend Haddock and other members of Opus Dei who came here to hive off are doing in Canada. I

have no problem about personal sanctification *per se*. I aspire to it, like most everyone else. But I cannot get it into my mind that one must necessarily incorporate in order to go to heaven.

As a general rule, people incorporate in order to make transactions, deal in big business, to receive, board, give or loan money, property—the money, gifts and property of well-meaning albeit naive or ignorant individuals. The law is there or should be there at least to protect the individuals, the members, rather than just the institute and the sole person who manages it in Canada.

Our parliamentary responsibility, as I see it, is to go to the bottom of things and decide whether we should or should not grant Opus Dei a corporate status. We must also try to protect the rights of its members, whether called regular, oblates, extras, co-operators, priests, and thereby protect Canadian society in general.

Senator Bélisle, the mouthpiece of Opus Dei in Parliament, sweated a lot over his intervention on June 29, but without succeeding in advancing his cause.

His only relevant comments came at the very end of his speech. For the rest, we heard the same broken record played by the Opus Dei every time someone, somewhere, dares to question its *raison d'être* or has the courage, if not the wisdom, to sound the alarm.

Senator Bélisle had this to say, and I quote:

> However, the Canada Corporations Act allows a person to be incorporated for business purposes, while the same act does not provide a procedure for persons who want to be incorporated on a non-profit basis.

Senator Bélisle's reference to the Canada Corporations Act is wrong. He should have quoted the Canada Business Corporations Act. The old act, to which he referred, that is the Canada Corporations Act, no longer applies to business corporations. However, this act is still in place for non-profit corporations wishing to incorporate, but it does not apply to individuals wishing to incorporate.

Indeed, in the first part of my intervention on Bill S-7, I mentioned that the request of Opus Dei comes to us at a time when the reform and modernization of the old and primitive Canada Corporations Act are still not completed. As I have just pointed out, the part of the old act dealing with business corporations has been revised to take modern practices into account, but on three occasions since 1979, the Canadian government has been unable to reform the legislation dealing with the non-business sector, which includes both corporations and individuals.

I said at the time, and I say it again, that this reform must take place. It has been held up for too long! And let no one accuse the Senate of procrastination in this case as this house has twice approved legislation at all stages, legislation which then died on the order paper of the House of Commons. Moreover, a third piece of legislation introduced in the Commons by the government met with a similar fate.

It is no longer practical or even acceptable to grant exceptional favours by privileged legislation to incorporate the type of organization referred to in Bill S-7. Only exceptional and urgent circumstances could justify such a procedure.

All Canadian non-profit corporations must in my opinion be subject to identical legislative procedures and standards to achieve similar conditions of existence before the law.

This would certainly not be the case if Parliament were to adopt Bill S-7 in its present form.

Senator Bélisle made a surprising statement during his intervention on the bill when he said, and I quote:

> However, clause 7 of the bill obliges the Regional Vicar to appoint an auditor who is, by definition, an independent accountant.

I do not understand how Senator Bélisle can come to the conclusion that, "by definition", an auditor would be an independent accountant in the specific case of Opus Dei. The bill contains no such guarantee. I would say that the opposite is true. Indeed, the practice is to choose the auditor at the annual general assembly of members. In the case of Opus Dei, the members are a single person, the Very Reverend Haddock. That is self-absorption of the worst kind. I would even go further. As Opus Dei avoids the control of provincial laws as concerns auditing, which I suspect is its reason for wishing to incorporate federally, no one outside the excessively limited framework of Opus Dei itself will ever know if this corporation is behaving properly. Anyone with a minimum of sense would require that the "independent" person appointed as auditor meet at least the standards set by the provinces as concerns qualifications and responsibilities. Otherwise, it will be a farce! If Opus Dei has its corporate headquarters in Montreal, it should comply with provincial law.

Senator Bélisle also said the following;

> Furthermore, the general statute, in other words, Part III of the Canada Corporations Act, Section 158, makes companies incorporated by special legislation subject to the same control requirements as any other corporation.

Under section 158 of the Canada Corporations Act, which, I repeat, is the old act, the Regional Vicar of Opus Dei in Canada would be subject to sections 102, 133, and 150 of this same act.

What do these sections provide?

Section 102 would have no meaning in practice as it prescribes an annual meeting of the members of the corporation. In this case, the corporation has only one member, the Regional Vicar of Opus Dei for Canada—me, myself and I. This is tantamount to saying that section 102 does not mean anything at all and exempts Opus Dei in Canada from holding an annual meeting. It might be interesting to know whether indeed the Regional Vicar holds a meeting for and by himself. Section 133 requires the corporation to produce an annual return.

Such a provision—and this I emphasize before an assembly which includes well known and competent board members of Canadian companies—is essential for the control and democratic government of any corporation. To whom will the

annual return of the Opus Dei curacy be addressed? Would it be to the Minister of Consumer and Corporate Affairs, to the Canadian Parliament, to the protective cardinal, to the Pope, to the archbishop of the diocese, to Senator Bélisle, to the active and qualified and not so qualified members of Opus Dei in Canada? We do not know, and we will never know. This calls for an answer.

Section 133 makes it possible to find the identity and particulars of the Regional Vicar. It makes it possible to identify the corporation by its corporate name and civic address. It would enable us to find the identity and address of the comptroller, and this is important.

Section 150 of the original *Canada Corporations Act* provides for the winding up of the corporation by the court, at the request of the attorney general, on specific grounds, namely failure to comply with any one of sections 102, 128 or 133 of the act.

Contrary to what Senator Bélisle would have us believe when he claims that the Regional Vicar of Opus Dei, once incorporated, would be subject, and I quote:

> To the same control requirements as any other corporation.

It is debatable whether, and even unlikely that, the corporation of the Regional Vicar would be liable to winding up procedures were it to fail to meet the requirements of section 128.

The fact is that section 150 does not apply section 128 to corporations incorporated pursuant to special legislation, as would be the Regional Vicar of Opus Dei under Bill S-7.

Besides, since there is no shareholder or member of the corporation sole other than the Regional Vicar, the financial statement and the report of the comptroller, designated by him, are intended for him, and for him alone. And there is nothing to prevent him from designating another member of Opus Dei.

So I ask you: How are the members, the Canadian citizens, protected in Opus Dei? What guarantee, what rights do they have? What protection do they get under the legislation we are asked to pass for the benefit of a single individual? Should the Opus Dei situation turn sour, as was the case in many other jurisdictions, what would be left to people who, in good faith, gave Opus Dei their worldly possessions, their life?

I, for one, because this is Opus Dei, am not prepared to grant this extraordinary privilege to a single individual.

And in case you might have lost the over-all perspective of the objections raised by my colleagues, Senators Hébert and Le Moyne, I would remind you that my remarks relate to strictly legal considerations which, in my estimation, have their importance because of the nature of the organization which seeks to be incorporated in Canada.

If there are no secrets for Opus Dei, it seems to me that Parliament has every right to request the Institute of the Holy Cross and Opus Dei to produce its statutes and regulations.

If it is mandatory for Opus Dei to produce such statutes and regulations for the archbishops concerned before it can establish itself in a Canadian diocese, then it stands to reason, if not for the same reason, that Opus Dei, which seeks civic incorporation and wants to honour us with the accomplishment of the mission of laity within Canadian society, has to do the same thing with respect to the Canadian Parliament.

Should Opus Dei be reluctant to accept our invitation, then our worst fears will be confirmed.

After all, neither the Canadian Parliament nor the provincial legislatures are forcing Opus Dei to incorporate; it is Opus Dei which is asking for this privilege, it is the Very Reverend Haddock who has asked for this, the ball in now in his court.

Hon. Jean Le Moyne: And he is a "simple abbé" yet!

Senator Corbin: He is called "Very Reverend".

Senator Le Moyne: A mistake.

Senator Corbin: Some people simply love titles.

Senator Le Moyne: There are many! He is a "simple abbé", nothing more. He is not even Canadian.

Senator Corbin: You do not hold that against me, Senator Le Moyne, do you?

Senator Le Moyne: No, not at all.

Senator Corbin: I am only quoting from official texts.

Senator Le Moyne: I do have something against that man.

Senator Flynn: Do not get mad for nothing!

Senator Corbin: Well, Senator Flynn has just taken my last breath!

Otherwise, I would advise the "reverend" "abbé", Haddock, to try to seek incorporation in each of the provinces, as the Roman Catholic bishops did. Thank you, honourable senators.

On motion of Senator Stollery, debate adjourned.

• (1600)

[*English*]

The Senate adjourned during pleasure.

• (1630)

At 4.30 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gérard V. J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act (*Bill C-71, Chapter 37, 1987*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, September 17, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-NINTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Royce Frith (Deputy Leader of the Opposition), Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, September 17, 1987

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

TWENTY-NINTH REPORT

Your Committee has examined and approved the budget presented to it by the Joint Chairman of the Special Joint Committee on the 1987 Constitutional Accord for the proposed expenditures of the said Committee with respect to its examination of the 1987 Constitutional Accord signed in Ottawa on June 3, 1987 by the First Ministers of Canada. The said budget is as follows:

Professional and Other Services	$ 58,821
Transportation and Communications	44,640
All Other Expenditures	6,360
	$109,821

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

The Hon. the Speaker *pro tempore:* When will this report be taken into consideration, honourable senators?

Senator Frith: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now. I am prepared to explain why.

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

Hon. Senators: Agreed.

[*English*]

Senator Frith: Honourable senators, this is the budget for the Senate's share of the expenses of the Joint Committee on the Constitutional Accord. I find it a little uncomfortable to have to propose its adoption since I did not think we should have any truck or trade with a joint committee under the 1982 Constitutional amendment. Therefore, I voted against the adoption of the resolution to set up such a committee.

However, the Senate did decide to establish such a committee, and this represents the Senate's portion of the expenses. Since we did go ahead with it we ought to pay up. The Internal Economy, Budgets and Administration Committee looked at it today and did not quarrel with it. I ask that the report be adopted.

Motion agreed to and report adopted.

[*Translation*]

THIRTIETH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Royce Frith (Deputy Leader of the Opposition), Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, September 17, 1987

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRTIETH REPORT

Your Committee has examined and approved the budget presented to it by the Chairman of the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories for the proposed expenditures of the said Task Force with respect to its hearing representations thereon. The said budget is as follows:

Professional and Other Services	$ 25,400
Transportation and Communications	107,886
All Other Expenditures	2,500
	$135,786

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

The Hon. the Speaker *pro tempore:* When will this report be taken into consideration, honourable senators?

Senator Frith: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

[*English*]

Hon. Jacques Flynn: Honourable senators, I should like to ask Senator Frith to tell us what the situation is with regard to the expenses authorized for committees up to the present. Is there some money left in the budget?

Senator Frith: No, honourable senators. That question, of course, is relevant to this as well as to the motion we just adopted.

The report to the committee today—and I do not have the exact figures; I can give you the rough figures—is that if these motions are adopted and are added to what has been adopted up to now, the overrun on committees would be some $900,000. If one applies the rule that has been applied in the past that one usually spends approximately 70 per cent of one's budget, it would amount to some $600,000.

Senator Flynn: On division!

Hon. Orville H. Phillips: Honourable senators, I have a question for Senator Frith. When he says "if one applies the rule," would he mind telling us what rule he is applying?

Senator Frith: I suppose that "rule" is not the correct word. If one applies the factor that is based on experience in the past, namely, at the end of the day—a popular expression these days—which in this case—

Senator Phillips: It is past the end of the day.

Senator Frith: —can be clearly stated as being March 31 of each year, the committees, based on past experience, spend approximately 70 per cent of what they have estimated.

That does not mean that the total committee budget is necessarily 70 per cent. The system the committee uses, as honourable senators are aware, is to ask at the beginning of each year that the committees give an estimate as to how much they expect to spend in the forthcoming year.

It is difficult for the chairmen of the committees to do that, because they do not know what special studies might be referred or what bills might be referred.

Senator Flynn: And there are special committees.

Senator Frith: Yes, but even the standing committees have a certain amount of difficulty estimating what their work will be, but they do try to estimate that. It is on that basis, plus some contingency, that the Internal Economy Committee establishes a budget for the committees and then recommends that budget to the Senate.

Then, of course, as Senator Flynn has pointed out, there is the problem of anticipating whether there will be any special committees struck. So it is very difficult to know what the situation will be. Of course, the Catch-22 situation—

Senator Phillips: Twenty-two is correct.

Senator Frith: Yes, Senator Phillips is quite right. The Special Senate Committee on the Subject Matter of Bill C-22 is a good example. The Catch-22 situation applied to that committee. The Catch-22 situation is this: Is the Standing Committee on Internal Economy, Budgets and Administration going to say to the Senate, "We, the members of the Internal Economy Committee, have now decided, for practical purposes, what work the Senate will be able to give to its committees. And you might as well not talk about special committees, because we are deciding that there will not be any money for them, or we cannot estimate accurately what money will be required."

So, it is a recurring problem, what can accurately be called a chronic problem, and a problem I do not think the Senate will be able to escape if it does not want to have the Internal Economy Committee decide a year in advance what the Senate's committee activities will be.

That is why it is not unusual for us to find that we are over budget on the committee portion of the budget at this time of year. How we will stand towards the end of the year is not clear, but the Internal Economy Committee has taken the position that it will ask for a review, as it did today, in September, and as it will ask to review the situation again in November. At that stage the Internal Economy Committee will be in a position to know better if the budget will come out all right because of some understanding, or the committee might ask that some committees retrench, or it might ask for supplementary estimates. It sounds like the wrong way to run a railroad. But if someone can tell us a better way to run a railroad, in other words, if someone can suggest any system other than having the Internal Economy Committee making decisions each year in advance as to what the committee activity will be, I think the Internal Economy Committee would be glad to consider such an improved formula.

● (1410)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, until very recently the experience has been that the major charge on that committee budget has not arisen from the ordinary legislative work of committees. Rather, it has resulted from special studies—

Senator Frith: That's correct.

Senator Murray: —undertaken by standing committees or by the creation of special committees.

Quite a few months ago, before I became Leader of the Government and when I was chairman of one of the standing committees, I suggested that we consider each year putting into the budget a certain amount, based on our experience, for the ordinary legislative work of the committees and then another amount for special studies by standing committees or for the creation of special committees, and then that we allocate that money generally between the two parties so that a certain number of studies could be undertaken at the initiative of honourable senators on both sides of the house. That is not the last word by way of a solution to the problem, but I think it is a suggestion which, if I may say so, is worth considering.

I do not know at the moment whether we will be in a crisis situation with regard to committee budgets before this fiscal year ends. The information that I have been given informally—and if I am far off I would like to be corrected for the record—is that, in terms of the budget that was contemplated for committee work as against the total of budgets that have been approved for committee work, we are approximately 100 per cent in excess of the original figure. If that holds then we will be in somewhat of a crisis. In terms of financial management, that is a difficult proposition for the Senate to justify in going back for additional funds. I will not emphasize the point any more until we see what situation we are in as we get closer to the end of the fiscal year, but I think it is in the interests of this institution that we put our heads together and try to come up with a solution to the problem that the Deputy Leader of the Opposition has alluded to.

Senator Frith: I agree, honourable senators. There is a real possibility that the budget for committee work will be found to be overcommitted as of, say, November, perhaps the end of the year—fiscal or otherwise. I agree that if a solution can be found, that would be very desirable.

But I do not believe that the Senate would want serious limitations placed on its future work by being told that there would be only a certain amount of money available. But that is to be seen; maybe some senators might feel that way. I agree with the Leader of the Government in the Senate that we should renew his proposal and have the committee consider that proposal.

As to whether it is a crisis or not, that, of course, depends on one's viewpoint. It will depend on whether the Senate got its money's worth from the committees, and whether the country got its money's worth from the Senate and its committees, which resulted in this overspending, that is, going beyond the original budget. But it still might not be a crisis. Supplementary estimates would not be that outrageous a solution since other bodies of government such as the House of Commons and government agencies regularly ask for supplementary estimates.

Anyway, I agree with the Leader of the Government that that is a decision to be made when we determine our position. I also agree with him that we should look at every possible solution, including the one suggested by him.

Hon. Hazen Argue: Honourable senators, this, of course, is a problem for the Senate. We have, on an *ad hoc* basis, from time to time decided to set up additional committees or provide for additional work, and this has been done on the basis of what senators at that time collectively thought the work priority of the Senate should be.

I would think that there are some dangers in the Senate itself giving committees of the Senate—and every committee of the Senate is subject to decisions made by this chamber—the responsibility of deciding, in a formal way, the future activities of the Senate itself in any given year.

There will, no doubt, be some over-expenditures in the committee portion of Senate expenditures, but my experience over the years has been that there are other parts of the Senate's overall budget that may not be fully spent. Within the global budget of the Senate, it has been the practice—and I think a good practice—to move moneys from one item to another.

This morning we had a long and, I think, productive meeting of the Senate Internal Economy Committee. Without disclosing any secrets as to the various items discussed by the Senate Eternal—Internal Economy Committee at that time, I think it is correct to say that, with regard to certain other possible expenditures in reference to certain other departments of the government, the general attitude of the members of that committee was that necessary and legitimate expenditures should be incurred.

I think that we need to make our decisions from time to time in this chamber based on all the facts as we see them at that time and not pre-judge months ahead, by way of a committee finding or recommendation, what the work of the Senate or its committees may be.

Senator Murray: Honourable senators, the fact that my honourable friend, Senator Argue, has intervened reminds me that he has a motion before the Senate at this point to set up a special committee having to do with health care, and I presume that will require some kind of a budget—this at a time when we are, if not 100 per cent overcommitted, at least considerably over committed in terms of committee budgets.

My friend, Senator Phillips, tells me that some 80 per cent of the budget has gone not to the legislative work of committees but to special studies.

Senator Frith: The overrun, not the budget.

Senator Phillips: The expenditures to date.

Senator Murray: I made the point when I stood up that the major charge on the budget has come not from the ordinary legislative work of committees but from special studies undertaken by standing committees and from the budgets of special committees.

In addition to the normal legislative work of studying bills and so forth, we have had the Special Committee on Terrorism, the Standing Senate Committee on Agriculture and Forestry, the Standing Senate Committee on Fisheries and the Special Senate Committee on National Defence proceeding with studies of various kinds, all of which, I am sure, will make a valuable contribution to public policy. My point is that, in terms of financial management, we work on the basis of fiscal years. There is no reason in the world why we cannot look at a whole series of these suggestions and establish some priorities between us as to which special studies we want to go ahead with.

● (1420)

It is true that departments and agencies do come back to the government from time to time for supplementary estimates, and I am sure that we will also do so. However, I think it is difficult to justify, just as a simple matter of financial management, finding in a given fiscal year that we have overcommit-

ted ourselves by as much as 100 per cent. I will leave it there for the moment.

Hon. Efstathios William Barootes: Would the deputy chairman of the Standing Committee on Internal Economy, Budgets and Administration entertain a simple question?

Senator Frith: What was the adjective? Civil? I am prepared to accept a criminal and, perhaps, an uncivil question, yes.

Senator Barootes: No, "simple".

Senator Frith: "Simple"—I thought he said "civil".

Senator Barootes: To the extent that he asks whether there is a better method of operating a railroad, would the deputy chairman tell me, referring to the twenty-ninth and thirtieth reports, both of which have to do with the Constitutional Accord, whether these studies show any duplication or overlapping which might have been avoided and which might have resulted in some financial savings if only one of the committees had undertaken the work?

Senator Frith: Very definitely, and that is one reason I consider the joint committee a constitutional abomination. It ought not to have been established. Senator Barootes is quite right. The simple answer to his question is, yes, it would certainly have avoided a lot of duplication if we had not set up the joint committee and if we had gone, as the Constitution provides, with our own study and allowed the House of Commons to go on with its study.

Senator Barootes: Senator Frith was one of the very few who felt that way at the time. However, if we had gone along with only the joint committee, there would have been a saving of $25,000, as I add this up.

Senator Frith: Yes, but the problem with that is chronology. We had set up our own committee before the joint committee was formed. Therefore, to establish the "Barootes formula," we should have rejected the joint committee.

Senator Phillips: Honourable senators, in the committee this morning I pointed out that the committee was more or less making an NSF vote. There is no fund, but we continued to go ahead and vote. I ask the Honourable Senator Frith this: Has the Senate ever committed $2 million to committee study before?

Senator Frith: I do not know.

Senator Argue: It probably should have.

Senator Frith: I suppose I should take that also as a rhetorical question, with the implication that therefore it ought not to do so now. I think there are differences of opinion about whether this year's activity has been worthwhile. It may have cost more than it has ever cost before. If we took a poll, I think we would find that some senators would say that the work of the terrorism committee was a waste of time, while others thought it was worthwhile. I have no doubt that we would find a small but strong-minded minority who thought that the work of the Special Committee on Bill C-22 was a waste of time. We would also find a number of senators who thought that it wasn't. We have these disagreements, but I believe that many senators would consider that this year's budget, including the overrun, was worthwhile and that, if necessary, a supplementary estimate should be asked for; but I do not for one moment suggest that everyone would be of that opinion.

Hon. Philippe Deane Gigantès: Honourable senators, I should like to take up the excellent suggestion of my colleague of the same ancestry, Senator Barootes, who thinks that we should not have any duplication. There was a monstrously expensive case of duplication some time ago—namely, the Special Joint Committee on Canada's International Relations—which did not produce anything that our own Committees on Foreign Affairs and National Defence had not already produced. It was the most lavish exercise that one could imagine. It went around the country twice. We heard the same witnesses twice—all over the place, all the time, for no reason at all—to produce a report that was a copy, a paraphrase, of things that had already been written by Senate committees.

So, if we are going to look at duplication—which means not doing a second time what has already been done—we should look at both chambers and say, "If the Senate has done it, perhaps the House should not saddle the Senate with the expenses of the most expensive special joint committee to produce something that already existed."

Senator Murray: Honourable senators, I should, perhaps, state for the record that a good deal of interest was shown by honourable senators in taking part in that committee. That committee became a joint committee because honourable senators asked for that procedure. Without belabouring the point, I should also indicate to my honourable friend that a simple committee of the House of Commons on such a matter would have had a very tiny representation from his party. Making it a joint committee enabled his party to have a rather greater representation proportionately than otherwise they would have had.

Finally, I am glad to hear him express his support for the work of the Senate Committee on Foreign Affairs. One point that I should draw to his attention is that the Senate committee brought in a much stronger recommendation in favour of bilateral free trade with the United States than did the joint committee.

Senator Gigantès: I remember a chapter in the report of the Special Joint Committee on Canada's International Relations, which special staff was hired to draft, to quote from the work of a particular Harvard professor. After it was read to us, I said, "Isn't this saying that Canada should seek small ponds in which to be big fish?"

We are now talking of 40 pages, 8.5 by 14, to say in obscure language that we should only bite off as much as we can chew—something that was fairly well known before we went around.

So, if we are thinking of the Senate's being at all wasteful—and there seems to be some suggestion that some of the work done by the Senate is not useful—I should like to point out that the other house does things which are not useful in which

we have to participate and which have cost us money. Of course, if they start one of those studies, we will have to participate, because they would exclude the Liberals.

Hon. Charles McElman: Honourable senators, as one who has been a member of the Internal Economy Committee for quite a few years—more than 20 years now—I should like to make a few comments. I thought it was interesting, when Senator Argue rose to speak, that he made what could be judged a Freudian slip when he began to refer to the committee as the "eternal" committee. I should tell honourable senators that this morning it seemed that way. Without going into what happened, perhaps I might suggest that at times it seemed almost like a zoo.

In any event, we all showed great patience with each other and reached some conclusions.

I might say to the Leader of the Government that his references, not intentionally misleading, to the 100 per cent overrun of estimate at this point—because that is what it is—

Senator Murray: Overcommitment.

Senator McElman: Overcommitment of estimate at this point, could be misleading in that when he talks about percentages he should talk about percentages of what.

• (1430)

I suggest to you that the money allocated in the budget for committees for the fiscal year is, in truth, a small amount considering the commitments that one can reasonably expect to be made at this time. A cost that is more pronounced than it has been in previous years, and I would guess that it is probably the most costly factor with respect to committees, is transport and communications, which is one of the specific items included in every budget, be it for a standing or special committee. The costs for transportation and communication have skyrocketed over the last very short period of years. As we all know, committees have been moving about much more than they did in previous years as they conduct studies. It has been said repeatedly in the Senate by honourable senators on both sides of the house that the Senate has some obligation to get out into the country, to get the views of people. That point of view is one to which I subscribe, as do, I think, most senators. However, I am sure that the increased costs in these areas have contributed very heavily to the costs involved in committee work.

As to the global amount that we have budgeted for committee activity, it was one of the items that, as we considered budgets for this year—and I think Senator Phillips will agree with me—took up a good part of the time. Many opinions were expressed. I expressed an opinion, as did some others, that we were budgeting far too little for committees. I recall very well saying in committee that the total budget for all our committee activity, both our many standing committees plus any special committees we might establish, was a smaller amount than some committees of the House of Commons spend individually.

Senator Guay: Right on!

[Senator Gigantès.]

Senator McElman: So, when we consider this matter, I do not think that we should get too greatly exercised. I realize that the government and the minister have a special responsibility as to budgeting for activities of Parliament. However, we should bear in mind that the Senate has been, while not penurious, very cautious down through the years in its budgeting. I suspect that this year it has been overly cautious with respect to expenditures for committees. So let us measure what we do with our committees, which, I am sure all will agree, is one of the most important aspects of our work in the Senate, if one wants to put it in relative terms, by the good work we do in our committees and compared with the good that is done by Commons committees. I am sure we will find that our budget is very small, indeed modest, as compared to the work we do for Parliament and for the Canadian people relative to what the other body does. Let us keep the whole thing in perspective.

Hon. Peter A. Stollery: Honourable senators, I would like to take a moment to emphasize what Senator McElman has just said. Last year I had the occasion to serve on the joint committee looking into international relations and the Special Senate Committee on Youth. As one who, over the past 15 years, has served on quite a few travelling committees of the House of Commons, but on only one travelling committee of the Senate, which was the Youth Committee, I take this opportunity to say how struck I was by the very tight budget under which the Youth Committee operated. I say that because almost at the same time that I was travelling on the Youth Committee, I was also travelling on the International Relations Committee, which was jointly funded, if I recall correctly, two-thirds from the House of Commons—

Senator McElman: It is 70/30.

Senator Stollery: Yes, 70/30. I would not go so far as to say that on the International Relations Committee we travelled extravagantly, but I would certainly say that on that committee which we shared with the House of Commons we travelled luxuriously in every sense of the word whereas on the Youth Committee with the Senate we went from what I would consider budget-priced hotel to budget-priced hotel and carried on the work of that committee with a minimum of services.

I know that other colleagues who served on that committee will remember a few of the episodes of those trips. At one time I think we went through four cities in the same day in order to save spending a night in a hotel. Therefore, I think it would be wrong to leave the impression that in any way the Senate operates extravagantly. In fact, in my view the Senate committees operate in a very frugal manner. I particularly recall that experience, because I was sitting on both committees almost at the same time, and it would not be an exaggeration to say that it went from a budget operation on the one hand to an extremely luxurious travelling committee on the other, and that committee originated from the House of Commons.

Therefore, I do not think that any impression should be left that the Senate committees are over-funded. Clearly, for many years Senate committees did not travel as much as they might

have done. Since it appears that Senate committees may now be travelling more, I for one, having spent quite a few years in the House of Commons, would like to say that I think that the funding for those committees should be increased, and increased quite dramatically.

Motion agreed to and report adopted, on division.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, September 29, 1987, at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

• (1440)

Senator Doody: Honourable senators, it is the intention of the Banking, Trade and Commerce Committee to meet just about every day next week to consider Bill C-22. Therefore, that committee will be fully occupied and will occupy the time of many of the senators.

As well, Bill C-84 has been referred to the Standing Senate Committee on Legal and Constitutional Affairs. I understand that they have scheduled a meeting for Monday, September 21, at 11 o'clock, to hear the minister. They will put their work schedule for the rest of the week in place at that time.

If Bill C-2, the Canagrex Bill, gets second reading today, I assume it will be referred to the Standing Senate Committee on Agriculture. If so, it is quite possible, and I hope probable, that that committee might have an opportunity to meet next week as well to deal with the bill. Although the Senate will be adjourned as a sitting chamber next week, nevertheless, the committees will be busy on very important matters.

Motion agreed to.

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

APPOINTMENT OF MEMBERS

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*i*), I move:

> That the following Senators be appointed to serve on the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories, namely, the Honourable Senators Bélisle, Bielish and Macquarrie.

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

Hon. Senators: Agreed.

Motion agreed to.

CANAGREX DISSOLUTION BILL

SECOND READING

Hon. James Balfour moved the second reading of Bill C-2, to dissolve Canagrex and to amend certain acts in consequence thereof.

He said: Honourable senators, I would like to say a few words in support of Bill C-2, an act to dissolve the crown corporation Canagrex.

This bill was referred to the Standing Senate Committee on Agriculture and Forestry last year for pre-study. Indeed, a committee report was issued in June of this year.

As the report noted, the Canagrex corporation ceased to operate in practical terms in 1984. It was in November of that year that the federal government announced its intention to phase out Canagrex.

The aim of the legislation before us is simply to dissolve the corporation officially.

No one doubts that exports are essential to Canadian agriculture. Indeed, half of all farm cash receipts in this country are derived from export sales.

There also can be no doubt that the international marketplace is tougher and more competitive than it has ever been before in our history. Government support and encouragement of export development initiatives is more vital than ever. The federal government fully appreciates these facts and, indeed, export development is a very high priority. That is why we are involved in providing key export development tools to the agriculture industry: market identification and intelligence, promotional and informational services, loans and guarantees, and grants and contributions.

The question the government had to ask themselves in 1984 was whether Canagrex was the best way to provide these necessary services. The decision of the federal government was that the services could be provided more efficiently and more cost-effectively through the cooperative efforts of the Department of External Affairs, the Export Development Corporation and Agriculture Canada.

In retrospect, I believe the decision was a sound and responsible one.

During the time since Canagrex ceased to operate there have been many important successes in agricultural export development. In a challenging world trading environment, we are succeeding in creating new export opportunities for Canadian agriculture. The lesson we can draw from this experience is that objectives can be attained without necessarily creating new corporations, agencies or bureaucracies.

Honourable senators, I have no hesitation in recommending the passage of this legislation.

Hon. Daniel Hays: Honourable senators, I would like to speak to this bill. I would like to thank Senator Balfour for his brief, but fair, summary of what has happened.

The main difference between the thrust of what he has said and what I have to say is that I do not agree that it is a good idea to dissolve Canagrex.

The Senate Committee on Agriculture and Forestry has carried out a pre-study of Bill C-2, which dissolves Canagrex. The committee tabled a report, pursuant to that pre-study, on June 23, 1987. As Senator Balfour indicated, Canagrex has, in effect, been dormant since November 8, 1984, the date of the government's expenditure and program review announcing, among other things, a $60 million cut in the Department of Agriculture's spending. With no staff and no budget for almost three years, Canagrex could not now be easily revived.

Looking into the way in which Canagrex is finally being brought to an end has been an interesting study from at least two perspectives. One, the manner in which the executive branch of the government can ignore the apparent will of Parliament. By that I mean that Canagrex disappears not because of what happens in Parliament but because of what happened in cabinet leading up to the Novmber 8, 1984, financial statement of the government.

As a practical matter, Canagrex was dissolved almost three years ago. Yet the government is only now obtaining the approval of Parliament to carry out that decision. If an initiative, such as Canagrex, were started without the approval of Parliament, I am sure that would be looked on as something very bad. It is apparent that putting an end to an initiative that Parliament has directed to be taken is not equally bad. I believe that is a wrong approach.

I believe that had the government respected the spirit as well as the letter of the legislation until the matter was actually dealt with by this Parliament, the fate of Canagrex would have been very different. It would have had an opportunity to operate longer to establish its worth, and people who wished to make representations about the government's decision to end the initiative would have had a meaningful opportunity to influence members of the House of Commons and senators, who should have been much more involved in the decision to end Canagrex.

The second interesting perspective arises out of the reasoning behind the government's decision announced in November 1984, which is a striking example of the triumph of conservative ideology over reason and common sense.

In studying the subject matter of Bill C-2, the Senate committee heard from representatives from three government departments having some responsibility for agricultural trade: Agriculture Canada, the Department of External Affairs and the Department of Regional Economic Expansion, as well as the Export Development Corporation. The information provided by the witnesses, to my mind, makes it quite clear that the Canagrex initiative was well worth trying, and that the government's criticisms of it and doubts about its usefulness are undeserved. In any event, the most troubling aspect of the matter is that the government pre-judged Canagrex and could not rise above that prejudice to give the agency an opportunity to help the agricultural economy at a time of great need.

● (1450)

I quote from a Department of Agriculture witness who appeared before the Agriculture Committee:

> It is clear that the intended purposes of Canagrex were admirable. It was to identify new markets, to promote exports of Canadian products, to participate in bilateral trade deals, to provide export counselling to industry, to make grants, contributions, loans and loan guarantees to exporters and to import, export, buy and sell agricultural products.

The witness went on to say that most of these functions were now being carried out by various government departments. The committee was told that this was happening in a more cost effective manner. On the other hand, it was also told that, while Canagrex had a 30 person staff, Agriculture Canada, by itself, now has 70 people working on international trade, not to mention those working in other departments.

The fact that so many people in so many departments are now working to do the job that Canagrex was doing does not mean that it has been adequately replaced.

All of the witnesses appearing before the committee told us that the focus which Canagrex would have given to Canadian international agricultural trade had to be substituted for within government departments. The committee was told, and I quote:

> Co-operation and aggressive networking or sharing of information are the ways I see to replace, although perhaps not perfectly, the focus that Canagrex would have had had it been allowed to live longer.

These statements expressed the point exactly; Canagrex was a useful and important vehicle that was not permitted to realize its potential.

From the point of view of the agricultural industry, one of the main benefits of Canagrex was the "one-stop shopping" aspect that it afforded. Although the committee was told that Agriculture Canada's Export Market Division is now taking over that role, the committee was also told that the Department of External Affairs Trade Section still has the main responsibility for trade.

As well, the Department of Regional Industrial Expansion, with its Program for Export Market Development, and the Export Development Corporation have major roles to play. I am aware that these departments and agencies played a part in the process while Canagrex did operate. Nevertheless, it would seem that terminating Canagrex has removed a focal point and has simply complicated the business of exporting, especially for new entrants into trade. Many of the complaints made during Senate committee hearings on the original Canagrex legislation had to do with excessive bureaucracy, red tape and an inability to find information easily.

I believe that with Canagrex there was the possibility of assisting the agricultural industry to develop a greater export

potential. If one were to look on the bright side, one could take comfort in the knowledge that the dissolution of Canagrex forced departments to focus on agricultural trade issues and to at least try to get on among themselves. As Yvan Jacques, Assistant Deputy Minister of Agriculture Canada's International Programs Branch, told the committee, "the spirit of Canagrex has lived on." It is evident, though, that the government, as a whole, has had to play catch-up since it shut Canagrex down.

I regret the demise of Canagrex, and I hope that in the near future a federal Government of Canada will see fit to provide the framework that the agricultural industry presently lacks for a more focused and effective initiative to assist our agricultural sector in fully realizing its export potential.

Hon. Richard J. Stanbury: Honourable senators, I also thank Senator Balfour for his explanation of the bill. It seemed to me, however, that he has been misled if he believes that the private sector has moved in to fill the role that was intended for Canagrex.

This bill represents the final act of a doctrinaire Conservative government in destroying an important government-sponsored trade vehicle. As Senator Hays has said, Canagrex actually died by executive order three years ago.

Senator Sinclair: It was murdered!

Senator Stanbury: The only reason for its death is that it was a Liberal idea which would have been of tremendous value to the agriculture producers, but which ran counter to the blind dogma of the Tory party. Their dogma demands that government intervention is bad, even when a great need exists and there is no private organization to fill that need.

The Canagrex idea had its origin at the convention of the Liberal Party in 1973. It came from Ralph Ferguson, then a farmer from western Ontario, and a group of other farm delegates. The idea was to produce a trade vehicle to serve Canadian agricultural producers abroad. There was great respect for the Canadian Wheat Board at home and abroad, but there was no such vehicle for producers of other farm products.

The need was clear. My first exposure to it was in February 1974 when I led the first trade mission to Baghdad. I came home with an order for 40 million eggs at a time when the Canadian Egg Marketing Board was unable to dispose of its surplus. That was just one of the farm products then in massive demand internationally.

CEMA sent an emissary to Baghdad to investigate what I had found, but he came home discouraged. The Iraquis had no facilities to store or to distribute the eggs. They would have rotted on the docks. However, the authorities in Baghdad—who in 1974 had lots of money available—said, "That's all right. We will give Canada the job of building the storage facilities and the distribution system." That would have been a multi-million dollar project, not unlike the telecommunications job given to Bell Canada by Saudi Arabia a year or two later.

But we had no organization in Canada which could put together the marketing of an agricultural product with the ancillary capital projects required to get that product to the foreign consumer. Had Canagrex been in place, that opportunity, and many similar opportunities, would not have been lost.

Eugene Whelan, the then Minister of Agriculture, asked me to head a task force to discuss the possibility of an agency, an agency which later became Canagrex. I met with all of the producer organizations across Canada and found enthusiastic support for the idea. Unfortunately, there followed a long period of negotiations between the officials of the Department of Industry, Trade and Commerce and the Department of Agriculture as to which department should have the responsibility for the corporation. That was finally resolved, and the legislation was passed incorporating Canagrex. It was not the animal that we had first contemplated, which would have been run by the producers and would have been less complicated in purpose, but the final result met our needs, and we were happy to have it.

Unfortunately, it never had time to get into action before a doctrinaire Conservative government got into the act, supposedly on behalf of private enterprise, and to prevent government intervention in the field.

But what has been the result? No element of the private enterprise community has filled the vacuum. Segmented and fragmented efforts have been made, but a coordinating agency has been missing. Instead, the government has to gerry-build a conglomeration of departmental agencies, employing far more civil servants than Canagrex or anything before to handle, in a typically uncoordinated and bureaucratic manner, some of the functions to which Canagrex would have brought an aggressive focus.

It is too late now to save Canagrex, but at least we can be optimistic that a less doctrinaire and more realistic government will resurrect it in the near future.

Some Hon. Senators: Hear, hear!

Senator Balfour: Honourable senators, may I—

The Hon. the Acting Speaker: Honourable senators, I must inform the Senate that if the Honourable Senator Balfour speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Balfour: Honourable senators, I have a question for Senator Stanbury. I am not sure if I caught my honourable colleague's comments accurately. Did he say "40,000 eggs" or "40,000 dozen eggs"?

Senator Stanbury: I said 40 million eggs.

Senator Argue: A lot of eggs.

Senator Haidasz: They would make a lot of omelets; two for every Canadian.

• (1500)

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Balfour, bill referred to the Standing Senate Committee on Agriculture and Forestry.

The Senate adjourned until Tuesday, September 29, 1987, at 2 p.m.

THE SENATE

Tuesday, September 29, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-68, an Act to amend the Bretton Woods and Related Agreements Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

NEWFOUNDLAND

QUESTION NO. 8 ON ORDER PAPER—BREAKDOWN OF SPECIFIC FEDERAL GOVERNMENT SPENDING—REPLIES BY MINISTERS TABLED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a reply to a written question asked by Senator Marshall. It is Question No. 8 on the order paper, and it contains a great deal of information. As the answer is voluminous, Senator Marshall has generously agreed to allow it to be tabled rather than printed. Copies are available from the Journals Branch.

Hon. Royce Frith (Deputy Leader of the Opposition): What is the question?

Senator Doody: I shall read it:

> 1. What is the breakdown of spending directed to the Province of Newfoundland, by federal district, on (i) regional development; (ii) equalization payments (where applicable) and (iii) established program funding?
>
> 2. What is the list of each project and the amount allocated by federal district?
>
> 3. What is the cost-sharing ratio in each project?

I am sure that it is of great interest to all honourable senators.

Answers tabled.

THE SENATE

MR. WILLIAM J. CULLETON, ASSISTANT EDITOR OF DEBATES (ENGLISH)—FELICITATIONS ON COMPLETION OF 25 YEARS' SERVICE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to draw to the attention of the Senate the fact that Mr. William J. Culleton, Assistant Editor of Debates (English), has just completed 25 years' service to the Senate. I am sure all honourable senators would wish to recognize the fact and congratulate him on the event.

Hon. Senators: Hear, hear!

[*Translation*]

CONSTITUTIONAL ACCORD, 1987

SPECIAL JOINT COMMITTEE REPORT DEPOSITED

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that Senator Tremblay has deposited with the Clerk of the Senate the report of the Special Joint Committee on the Constitutional Accord of 1987.

Honourable senators, when shall the report be taken into consideration?

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

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—ORDER RE CONSIDERATION IN COMMITTEE OF THE WHOLE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*h*), I move:

> That commencing on Wednesday, 7th October, 1987, and on each subsequent Wednesday, the Speaker shall, unless otherwise ordered, interrupt the proceedings at 3.00 o'clock p.m., at which time the Senate shall adjourn during pleasure to form a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have no problem with the motion or with granting leave. However, I do wish to bring to the attention of the Senate that, of course, government legislation does have a place on the order paper, and I would fully

expect that a way will be found to accommodate the legitimate desires of the government in having its legislation passed.

Senator Frith: Honourable senators, I think that is quite reasonable. It is also the role of the Senate to give priority to legislation, for the reasons expressed by Senator Doody.

However, we have discussed this aspect of it and I have assured Senator Doody that we will cooperate to find a way to solve both of those imperatives. By that I mean our desire to deal with the accord and the government's legitimate right to have priority given to its legislation.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION

Hon. H.A. Olson: Honourable senators, I have a question for the Leader of the Government in the Senate respecting the sale of Teleglobe Canada to Memotec some time ago. This question is a follow-up to a number of questions I asked him earlier this year, and particularly on February 17.

● (1410)

At that time the Leader of the Government in the Senate, after a number of highly defensive answers, did give an undertaking on February 17. He said:

> I think the honourable senator can be satisfied that if there is the slightest indication of any leak or impropriety on the part of any person, those matters will be followed up by the RCMP or the appropriate authority.

Inasmuch as the Montreal Stock Exchange has found some impropriety, namely, insider trading, I would like to ask the Leader of the Government in the Senate whether or not the government is going to initiate the investigation that I asked for on February 17. The Leader of the Government promised that there would be an inquiry as to the process inside the government as to why and how Memotec's bid was accepted over and above all other bids.

This is as important today as it was then, because neither the Montreal Stock Exchange nor the Toronto Stock Exchange has the competence to investigate actions taking place in the government process. They do, of course, have the competence to investigate whether or not insider trading took place on either one of those markets, and they have done that. However, if they find that to be the case, which they apparently have in the case of one person, they do not have the competence to look into the government process to see whether or not there was a leak or if information was passed to anyone in advance of the date that Memotec's bid for Teleglobe was accepted.

I would like the minister to tell us if the government will be taking any action to clear up this matter and, if so, when that action will be undertaken.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the honourable senator who has just spoken raised these matters some months ago. I took the occasion today to review the exchange that we had at that time. His concern was, and apparently still is, that there might have been a leak somewhere in the government that led to the unusual trading in the stock of Memotec at a given point.

I gave the undertaking that he has referred to, namely, if there was any indication of a leak from the government or any questionable involvement by anyone in the government, those matters would be followed up. As far as I am aware, nothing of the kind has been discovered. Therefore, I must assume nothing of the kind has happened.

However, I would like to add that the investigation to which I referred earlier by the director who was appointed under the Canada Business Corporations Act is continuing to ascertain if there is any evidence of additional civil liability by other persons. As the honourable senator has noted, a number of people have been charged under the Quebec Securities Act. Since that matter is now before the courts, it would be inappropriate for me to comment, except to say that the charges against them relate to trading in securities of Memotec while allegedly in possession of confidential information about the corporation's proposal to purchase Teleglobe. The charges also relate to the possibility of improper trading, using confidential information after learning the intention of that company to make a bid.

Senator Olson: Honourable senators, I would like to ask a supplementary question. The press reports tell us that the basis of the charges was that they were aware that Memotec had made a bid for Teleglobe, which was not public information at the time. I understand that.

Senator Murray: If I understand the situation correctly, all of the people involved are people who have a relationship with Memotec and not people who have a relationship with the government.

Senator Olson: If I ever heard an unusual statement, that is one—that is, that they do not have any relationship with the government that is in office.

I will leave that for the moment, because it is also clear that somebody—a number of people, apparently—believed that Memotec's bid was going to be accepted. There was some leak or some indication or firm information—I cannot say absolutely firm information—given in advance that led some of those who have been charged, and perhaps others, to invest money in the hope that they would make more.

An Hon. Senator: Speculation!

Senator Olson: Well, someone says "speculation." The question that needs to be answered, and which is not being investigated, is what kind of activity was undertaken inside the government, either by its advisers or by members of the government, that would indicate Memotec's bid was going to be accepted.

The leader has now said that there is no indication yet of impropriety there. He gave an undertaking that there would be an investigation, or what he called a follow-up, if there was any indication of impropriety.

Is the fact that the Quebec Securities Commission has laid a charge of insider information not an indication of impropriety as far as the government is concerned?

Senator Murray: Honourable senators, when this subject came up several months ago I undertook to follow up on any information of that kind that was unearthed during the course of the various investigations that were ongoing. That undertaking stands.

I challenge the honourable senator to produce the information, if he has any, on which he founds the suspicions to which he has referred on a number of occasions—that is, that something improper was going on within the government.

Senator Olson: Honourable senators, I can state that briefly. I say there is evidence, an indication or the suspicion that something improper was going on inside the government, because those who engaged in the trading of Memotec shares knew in advance that Memotec's bid was going to be accepted. That is clear.

Senator Murray: Knew what in advance?

Senator Olson: When the government sees a *prima facie* case, the government should initiate an inquiry. I am asking the Leader of the Government if he is going to deliver on his undertaking that there be a proper in-depth inquiry by a committee of Parliament to find out what kind of action led to the conclusions that we are finding in some of the investigations conducted outside of government, but by people who do not have the competence to investigate the government's activities?

Senator Murray: Honourable senators, I have heard no suggestion in the announcements that have been made by the various authorities that there was any impropriety from within the government.

If I understand the allegations against a number of individuals, it is that they traded in the stock of Memotec, knowing that Memotec intended to make a bid for Teleglobe. That, as I understand it, is the basis of the allegations, and perhaps I should not comment any further than that.

I tell the Senate that an investigation has been ongoing as to whether there have been any violations of the Canada Business Corporations Act. Mr. Andre, the minister responsible, told the House of Commons yesterday that he asked the director to expedite the investigation so that the government will have the results as soon as possible. The government will table those results in Parliament as soon as it is appropriate to do so.

• (1420)

Senator Olson: I have a final question. Perhaps one should never say that, but I think this is as far as I will carry this today. Is it the opinion of the government that the evidence that has been brought to light to date—that is, as to the impropriety of Mr. Blaikie and others involved in trading in Memotec shares—is not sufficient indication of impropriety or that some leak or other information got out of the government ahead of the actual date when the public knew that they were going to accept Memotec's bid? Is that insufficient evidence for the government to take some action?

Senator Murray: Again, honourable senators, I tell the house that nothing that I have seen in the reports of the charges that have been laid and of the investigation by the authorities in Quebec would lead me to believe that there is any suggestion of impropriety on the part of anyone within the government. I add to that that an investigation is ongoing by the director under the Canada Business Corporations Act, and we shall see what that investigation produces. When we receive a report, we will make it available to Parliament.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS—GOVERNMENT ACTION

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government in the Senate. Can the government leader say whether or not the government has agreed in principle to making another deficiency payment to western grain producers this year? If the answer is in the affirmative, could he give us some general idea as to what the extent of the payment may be?

It is fair to say that there are two schools of thought out there: one is that the government will not make any payment at all; the other is that the government's payment is likely to be more generous this time than last time. I am soliciting the facts from the minister on that question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Minister of Agriculture and others have made it clear that the government will be seeking to provide further assistance to Canadian farmers. But the exact nature of the assistance, the exact amount of assistance and the kind of program are matters still under consideration by the government.

Senator Argue: Honourable senators, I appreciate the minister's answer—and perhaps he has already answered this question—but can he assure the Senate that no gun is being held to the heads of the provincial premiers to the effect that they should cough up more money for agriculture or for grains and oilseed producers before a payment is made? That seemed to be an inference in a question asked in the House of Commons. My reading of the reply as found in *Hansard* was that it was not completely clear. I am not saying that as an accusation, I

am just asking: Is it clear that there does not have to be any trade-off before a payment is made?

Senator Murray: Once again, honourable senators, our past record on these matters is the best guarantee of our future performance. We are not holding a gun to anyone's head. We do believe that it will be in the interests of the country and of the farmers that we—the federal government, the provinces and the industry—tackle this problem together.

Senator Argue: Well, honourable senators, I do not really think that that is a satisfactory answer. We were getting along pretty well up until now. The trouble that the grain industry is in in Canada has been caused by the fact that the Canadian government has refused to support Canadian farmers in a way comparable to the support provided by the American government to American producers. The American wheat producer gets close to $6 a bushel in Canadian funds; the Canadian producer gets less than half that amount. That tells the whole story.

Is the government considering increasing those deficiency payments on grain and oilseeds to western producers to an extent approaching $3 billion or $4 billion?

Senator Murray: Honourable senators, the assertions of the honourable senator not only do not tell the whole story, they do not even tell a good part of the story.

Senator Argue: What I said was that a Canadian farmer gets less than half what the American farmer gets in the U.S., and that is a fact.

Senator Murray: The honourable senator is barely telling even part of the story so far as the relationship between the federal government and the farmers is concerned.

I repeat to him that we are determined to stand by the farmers of Canada. We hope to give them as much assistance as we can and to do so in collaboration with provincial governments, if that can be done. I think there is a role here for both levels of government to tackle this problem.

Senator Argue: What you give with one hand you take away with the other. Crop insurance, that is what you want to have.

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to return to the question asked by Senator Olson with regard to two points. The first is that, in passing, the Leader of the Government in the Senate made reference to, I take it, the *sub judice* convention. I want to put on the record that I do not believe that the *sub judice* convention would apply to the investigations by the securities offices. But he did not really invoke it. I just make that comment in case it should be invoked with reference to the Memotec and Teleglobe question.

The other point is that I want to understand what his undertaking was to Senator Olson. I thought what Senator Olson was getting at was that the charges or the allegations might not be based simply on what the persons charged—or against whom the allegations are made—may have felt about the intention of Memotec to make a bid but on whether they had information that, in fact, that bid had been accepted.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The allegations relate to the period before the bid.

Senator Frith: I understand that. I will give the Leader of the Government a full opportunity to explain.

If the allegations relate to information had between the time the bid was accepted and the time it was made public, then it would be within the particular province of the government and, perhaps, of a committee of Parliament to look at what the proceedings and steps were in order to determine whether that was possible or not. I think that is what he was getting at.

If I understood the undertaking of the Leader of the Government in the Senate, it was that if there is evidence or some indication that that may be true then, of course, he would follow it up and would be sympathetic to further investigations beyond the investigations made either by the securities people or under the companies act.

Senator Murray: Honourable senators, let me put it very simply: We are charged—

Senator Olson: You are charged?

Senator Murray: We have a mandate. I trust the honourable senator is speaking in jest, and I will take his interjection in that spirit.

We have the duty to administer and enforce a number of federal statues, including the Canada Business Corporations Act. The purpose of the investigations at present being carried out by various federal officials is to ascertain whether there is any evidence of any offence under that or any other statute that is within our responsibility. I am not attempting to situate a possible offence at one time or another in the process. If there is evidence of a contravention of any of those statutes, then the appropriate action will be taken.

● (1430)

Senator Frith: Would the Leader of the Government not agree that any government has a responsibility to be sure that people cannot profit from the sharing of information—such as the knowledge of the acceptance of a bid—with someone prior to its being made public?

Senator Murray: Well, of course I agree. I think that is covered in not one but in several statutes that are the responsibility of the federal or, perhaps, the provincial governments to administer. The investigations that are taking place, as I indicated several months ago, are exceedingly thorough. Mrs. McDougall, the Minister of State (Privatization), has placed before the officials all of the information regarding the process insofar as it affects her ministerial responsibility. Her staff, her records, and so on, have been made available. As I have said, the investigation is very thorough. I presume that is why it has taken so much time.

As I indicated earlier, Mr. Andre has asked the director to expedite the matter in view of the fact that these other charges have been laid in Montreal. We may have a report soon, in which case we will be able to share it with Parliament.

Senator Frith: These investigations are all private, are they not? They are not public.

Senator Murray: That is correct.

Senator Frith: As I understand it, then, the responsibility that the government feels in this matter, expressed through its spokesman, the Leader of the Government in the Senate, is not limited to the Canada Business Corporations Act.

Senator Murray: I was about to say that I presume the evidence arising from the proceedings that have been instituted in Montreal will be made public.

Senator Frith: What I was saying when you were consulting Senator Flynn was in furtherance of my purpose in the first place, which was to understand more fully what your undertaking was. It was to pursue, consistent with your earlier undertaking, the government's responsibility in such matters, which you have said is not limited to what is covered by the Canada Business Corporations Act.

Senator Murray: The honourable senator can take that for granted.

Senator Frith: Good!

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—PROSPECTS FOR RESUMPTION

Hon. Ian Sinclair: Honourable senators, my question is for the Leader of the Government in the Senate. All senators have been following with a great deal of interest what has been going on in Washington and Ottawa with regard to free trade or a comprehensive agreement to enhance trade between Canada and the United States. Can the Leader of the Government assist us by telling us what progress is being made as to the resumption of negotiations at this time?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am not sure that I can add much to what honourable senators already know from statements made by my colleagues. The two governments continue to exchange views to see whether a basis exists for the resumption of negotiations. Our colleagues, Ms Carney and Mr. Wilson, reported to cabinet this morning, and we will have a further meeting later today.

Senator Sinclair: Could the government leader inform us whether the Prime Minister has utilized every initiative that is open to him to bring about a successful conclusion?

Senator Murray: We have been doing that for two years.

FREE TRADE NEGOTIATIONS—BINDING DISPUTE-SETTLEMENT MECHANISM—GOVERNMENT POSITION

Hon. Philippe Deane Gigantès: Honourable senators, on September 15, 1987, I asked the Leader of the Government to explain how it was that in the two weeks preceding that date congressional leaders of the United States—who have and always have had the final word over the executive—had said they had only just become aware that a binding dispute-settlement mechanism was a deal-breaker, the bottom line, for Canada. After I asked him why we had not made these people aware of this fact much earlier during those two years that he has spoken about, Senator Murray said:

> Honourable senators, I cannot explain what one senator or congressman, or two senators or congressmen, may have known or not known, or may have said on television.

Now here we are facing a proposition in which Senator Murray has said that the Prime Minister "has made it very clear that a binding dispute settlement mechanism was, for us, absolutely essential to any bilateral trade treaty with the United States."

We hear that we are now discussing not a binding dispute-settlement mechanism covering everything, that is to say, something that is not necessarily binding but definitive. So what is this? I have a feeling that we have not just been kept in ignorance of the inner workings of the negotiations to preserve some kind of secrecy but that we have been misled, not by the Leader of the Government in the Senate but by his government. Would the Leader of the Government clarify this?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will not take the responsibility of trying to plumb the feelings of my honourable friend.

Senator Gigantès: Well, would the Leader of the Government give us some facts? Is a "binding dispute-settlement mechanism" still our absolute bottom line, as quoted in *Hansard* at page 1812 in the right-hand column? I repeat that you said:

> . . . for us, absolutely essential to any bilateral trade treaty with the United States.

Is that still the bottom line today—on all issues, with no exceptions?

Senator Murray: Honourable senators, I do not have before me the quotation that the honourable senator has attributed to me, but let me state again the fact that for Canada a binding dispute-settlement mechanism is an essential part of any bilateral free trade agreement with the United States. Does that satisfy my honourable friend?

Senator Gigantès: "Binding"? We will hold you to it. Not "definitive"—"binding."

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

LUBICON LAKE INDIANS—NEGOTIATIONS FOR ALBERTA RESERVE—APPOINTMENT OF NEGOTIATOR

Hon. Joyce Fairbairn: Honourable senators, I should like to ask the Leader of the Government whether he can tell me when a new federal negotiator will be appointed to try to reactivate discussions with the Lubicon Lake Indians on the

question of a reserve for them in Alberta—something to which they are entitled and have been waiting for over the past several decades.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am afraid that I cannot answer that question. My old boss, Mr. Fulton, was involved in that some months back and brought in a report to the department on that matter. Since that time various statements have been made and I believe that some negotiations have taken place. Another lawyer has represented the federal government in some of those matters, but I will have to make inquiries to see whether another negotiator is to be appointed. Is the honourable senator suggesting that we undertook to appoint another negotiator?

Senator Fairbairn: Honourable senators, it is my understanding that Mr. Tassé, who had been conducting those negotiations, removed himself from them for personal reasons, and that to date a successor has not been appointed. I was wondering whether or not the Leader of the Government could ascertain whether the appointment of a new negotiator might be in the works.

I ask the question particularly because of the recent outbreak of tuberculosis among those Indians, which is tragic evidence of a degree of deprivation which we in this house—and, indeed, in the country—really cannot tolerate.

Referring to the report of the Honourable Davie Fulton, for whom I share the Leader of the Government's respect, I wonder whether the leader can find out when that report will be made public.

Senator Murray: I will do that. I thank the honourable senator for refreshing my memory. It was Mr. Roger Tassé who took up the matter, following Mr. Fulton, and he has, indeed, removed himself. I shall see what the intention of the department is in this regard.

● (1440)

CANADA-FRANCE FISHERIES AND BOUNDARIES AGREEMENT

PROGRESS OF NEGOTIATIONS

Hon. John B. Stewart: Honourable senators, we know from reports in the press originating with the Premier of Newfoundland that the discussions on the fisheries and boundaries question between Canada and France are under way. Will the Leader of the Government in the Senate, either today or at an early date, give us a statement on the status and progress of those negotiations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall do my best. Meanwhile I remind my friend that we still have on our order paper the Committee of the Whole inquiry into this matter.

Senator Stewart: Honourable senators, I realize that very well. I thought that perhaps a full statement by the minister might save the Senate some time, the time that would be used if we went into Committee of the Whole at an early date.

Senator Murray: Honourable senators, I shall take the advice offered by the honourable senator. I regret that he is tiring so soon of that Committee of the Whole initiative. Perhaps the honourable senator might indicate what information in particular he is seeking. I am not sure that it would be helpful at this time to discuss in any detail the negotiations between Canada and France on this matter or to discuss the Canadian government's position, which I think in general is quite well known. If there is some particular information he would like to have, I would invite him to pose some questions.

Senator Stewart: Honourable senators, I had in mind particularly the reason for Senator Brian Peckford's withdrawal—

Senator Doody: "Senator" Peckford?

Senator Stewart: I am sorry, Premier Peckford.

Senator Doody: Do you know something we don't know?

Senator Stewart: There is a vacancy for Newfoundland—

Senator Frith: He might well appoint himself under the Meech Lake Accord!

Senator Stewart: —and I assume that if Mr. Peckford were to resign before an election his succcessor would be happy to appoint Mr. Peckford to that vacancy.

Senator Sinclair: On the suggestion of Senator Doody, of course.

Senator Stewart: We know that the Premier of Newfoundland has withdrawn his representatives from those discussions. The specific question to which I would like an answer now is whether those representatives were withdrawn because of some new concession to France or whether the concession is the one set forth in the original agreement, which agreement was in place before the Premier of Newfoundland or his representatives took their place at the table.

Senator Murray: Honourable senators, I do not have before me a copy of the statement made by Premier Peckford on the matter the other night. I can, however, obtain a copy of Mr. Crosbie's reply, which, in my judgment, covers the situation quite fully.

SPORT

BEN JOHNSON—ALLEGED MISTREATMENT OF WORLD CHAMPION SPRINTER BY VANCOUVER AIRPORT CUSTOMS OFFICIALS—GOVERNMENT ACTION

Hon. Keith Davey: Honourable senators, knowing the government leader to be a fair-minded man, I wonder if he would share my concern and perhaps find some way for the government—or perhaps he could personally undertake to do so—to make amends for the disgraceful treatment to which Ben Johnson was subjected yesterday in Vancouver. Ben Johnson, as the leader will know, is a 25-year-old world class track superstar who has been breaking records all around the world,

including winning the World Championship in Rome one month ago.

I hope honourable senators will forgive me for making a short statement, but I am thinking of the way the Americans treat their superstar athletes as compared to the way we treated this superstar yesterday. This 25-year-old Canadian has shattered all the world records. Yesterday he arrived in Vancouver. Apparently, there was no Canadian delegation to meet him. Instead, he was asked to pay $1,900 in duty on prizes he had won, including a Japanese ceremonial sword, and so on. As a result, he was delayed for two and a half hours, causing him to miss a flight which would have enabled him to attend a reception in Toronto at 8.30 last evening. The reception did not take place until 11 o'clock.

I anguish over the treatment of this young Canadian superstar, particularly when I think of how the Americans would have handled the situation. I am wondering whether there is anything the Leader of the Government or his colleagues can do to rectify the situation.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, of course, I know who Ben Johnson is, as do, I think, most Canadians, and we celebrate his achievements on behalf of Canada. I am not aware of the matters to which the honourable senator has drawn my attention. I shall look into them to see whether there has been some rather over-zealous enforcement of the rules or whether we simply have the rules to blame for this kind of incident. In any case, I shall look into the matter and see what kind of report I can bring back.

Hon. M. Lorne Bonnell: Honourable senators, I have a supplementary question. Would it be going too far to ask the Leader of the Government in the Senate to arrange for an apology to this Canadian superstar, who has broken world records, for having to pay $1,900 in duty on trophies that he won, trophies that he was bringing to this country and which we should be proud and honoured to receive? We should be honoured to have such a superstar. I think Parliament and the government owes the man an apology, and perhaps a public apology could be made.

Senator Murray: Honourable senators, if I could find the minister or ministers of some time ago who drafted the laws and regulations that caught Mr. Johnson in this unfortunate predicament—

Senator Argue: Why not be generous?

Senator Murray: —I would obtain the apology.

Senator Frith: What a gracious response!

An Hon. Senator: Shame!

Senator Bonnell: Honourable senators, I am quite sure that if this young man came from the Prime Minister's riding he would not be treated in this way.

AGRICULTURE

POTATO INDUSTRY—SUBSIDY PAYMENT FOR 1985 CROP YEAR—GOVERNMENT ACTION

Hon. M. Lorne Bonnell: Honourable senators, I have another question for the Leader of the Government in the Senate. Earlier this afternoon I heard him say that the Minister of Agriculture wanted to treat all farmers fairly and equally. Could he tell us whether or not the government intends to assist the potato farmers of Prince Edward Island, New Brunswick and the rest of Canada for the terrific loss they suffered as a result of the poor potato prices of 1985, and will a subsidy payment be going out to these farmers before October 13, 1987?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure what the relevance of the October 13 date is.

Senator Argue: You'll find out!

Senator Murray: However, I have answered this question on a previous occasion. I am sorry, but I do not have anything to add at this time.

POTATO INDUSTRY—REQUEST FOR REDUCTION OF INSPECTION FEES

Hon. M. Lorne Bonnell: Honourable senators, I have a supplementary question. Would the Leader of the Government take under consideration and tell the Minister of Agriculture with regard to Prince Edward Island, which is a very small province that exports about 90 per cent of its potatoes—consequently, it has inspections on 90 per cent of its crop—that he is not being very fair to P.E.I. by doubling the inspection fees, which inspections were always free until September 4, 1984? This year the minister doubled the inspection fees as compared to the amount by which he increased them last year. Consequently, Prince Edward Island has been harder hit than any other part of Canada simply because it exports 90 per cent of its potato crop. New Brunswick is next, because they also export a large percentage of their potatoes. The provinces who can probably afford these fees use most of their potatoes within their own boundaries and, therefore, do not have to pay these fees. Would the leader ask the Minister of Agriculture to reconsider this increase which amounts to doubling the inspection fees for potatoes in this country?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think we have heard these representations from the honourable senator on a previous occasion, but I shall again draw them to the attention of the government.

● (1450)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to the

following oral questions. Following the usual procedure, I will identify the question, and if honourable senators wish the answer read into the record, I shall be happy to do so. Otherwise, I will ask that the answers be printed as part of today's proceedings. I would add that some of these answers are quite lengthy.

AGRICULTURE

GRAIN—1987 CROP YEAR—DECLINE IN PRICES—GOVERNMENT RELIEF MEASURES

Hon. C. William Doody (Deputy Leader of the Government): The first answer is to a question raised on August 10, 1987, by the Honourable H.A. Olson regarding Agriculture—Grain—1987 Crop Year—Decline in Prices—Government Relief Measures.

(*The answer follows:*)

Agriculture expenditures have increased by over 300 per cent to $3.8 billion in the first two and a half years of this government. In total, the government has taken over 400 initiatives worth over $6 billion, the bulk of which has been of immediate benefit to farmers.

Existing government programs address the problems of producers through various mechanisms. Two such programs are the Western Grain Stabilization Program (WGSP) and crop insurance. Payments to producers under these programs during the past three years total $2.1 billion and $1.1 billion respectively. The WGSP interim payment of $705 million paid out this spring is a record and will be followed by a final payment later in this crop year.

Additional payments have been made to grain producers under the Agricultural Stabilization Act (ASA). The ASA stabilizes the prices of other agricultural commodities including corn, soybeans, wheat, oats and barley grown outside the prairie provinces. In 1985/86, federal payments to producers amounted to $332 million. It is likely that a similar or even larger payout will be in made in 1986-87.

The government implemented the $1 billion Special Canadian Grains Program (SCGP) in response to the world agricultural trade war between the U.S. and the European Community (EC). This program was available to all producers of the ten major grains and oilseeds grown in Canada.

Export subsidies of the U.S. and the EC have reduced world prices for grains and oilseeds to the detriment of Canadian farmers. The Prime Minister has clearly stated that the government has and will continue to support our farmers in the face of this devastating trade war. Consultations with farm leaders are in progress to arrive at a consensus on how best to assist farmers in the coming year.

The root of the price problem lies in foreign farm support policies and thus a true solution can only be achieved at the international level. For this reason, the reduction in agricultural export subsidies is a priority for Canada in its international negotiations. Canadian representatives are pursuing this issue aggressively at the current round of talks on the General Agreement on Tariffs and Trade (GATT) and at the Organization for Economic Co-operation and Development (OECD). The Prime Minister is also discussing the reduction of subsidies at a variety of international conferences and summits, as are Ministers Wise and Mayer. It is through such negotiations that we can ultimately achieve a fairer trading environment for all agricultural exporters.

ABORIGINAL PEOPLES

INUIT OF WESTERN ARCTIC LAND CLAIMS SETTLEMENT—REQUEST FOR INVESTIGATION OF DISBURSEMENT OF FUNDS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the answer to a question raised in the Senate on August 10, 1987, by the Honourable D.G. Steuart regarding Aboriginal Peoples—Inuit of Western Arctic Land Claims Settlement—Request for Investigation of Disbursement of Funds.

(*The answer follows:*)

One of the primary objectives of the Inuvialuit Final Agreement (IFA) was to give the Inuvialuit the ability to manage and control their own affairs. The Agreement therefore provided for corporate structures, accountable to the Inuvialuit, in which the government would have no involvement. These are private corporations responsible for the management of the settlement funds provided pursuant to the Agreement. The funds in question are outright payments from the federal government to the Inuvialuit. As the IFA provides no mechanism for an accounting of settlement moneys as private corporations, they are not subject to government audit or control. The government, therefore, has no basis on which to carry out an investigation as was suggested. Those Inuvialuit who have concerns with the investment decisions that have been made should raise those concerns with their representatives in the respective Inuvialuit Community Corporation or the Inuvialuit Regional Corporation.

REFUGEES

DISPOSITION OF SHIP USED FOR TRANSPORTATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question asked in the Senate by Senator Paul Lucier regarding Refugees—Disposition of Ship Used for Transportation.

(*The answer follows:*)

The vessel Amelie, which was used to bring 174 refugees to Canada, is presently under Customs seizure in Halifax. The final disposition of the vessel is unknown due to legal proceedings in the Federal Court of Canada initiated by a foreign company claiming rights to the

vessel for damages incurred prior to the seizure. Should the Court rule in favour of the Crown and if there are no successful third parties, the vessel will be sold by public auction or tender with the proceeds going to the Crown.

TRANSPORT

TRANSFER OF AIR TRAFFIC CONTROL SERVICE FROM OTTAWA TO GATINEAU

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question raised in the Senate on August 11, 1987, by Senator Hartland de M. Molson regarding Transport—Transfer of Air Traffic Control Service from Ottawa to Gatineau.

(*The answers follows:*)

The implementation of bilingual flight information services within the National Capital Region will not in any way affect the present provision of Air Traffic Control service. This service is provided by the Ottawa Control Tower and Ottawa Terminal Control Unit, and will continue to be provided by these facilities at Ottawa International Airport.

It is the intention of Transport Canada, however, to consolidate the provision of flight information services within the National Capital Region and, at the same time, to offer bilingual service to pilots wishing to file flight plans, obtain weather briefings, conduct air-ground communications of a non-control nature, and receive other information related to the planning of a safe and efficient flight. This step is being taken in response to complaints from the Commissioner of Official Languages about the absence of bilingual air-ground communications within the National Capital Region and from the Office of the Auditor General with respect to the duplication of services brought about by the presence at Ottawa of an Air Traffic Control Tower, a Flight Service Station, and a Weather Office, all providing overlapping service.

There are presently two Flight Service Stations (FSS) serving the National Capital Region, one at Ottawa Airport and one at Gatineau. The Ottawa FSS is under-utilized and is therefore being moved and combined with the Gatineau FSS which meets the criteria for a manned Flight Service facility. It is expected that this move will permit operating efficiencies not possible under the existing arrangement and at the same time fulfill departmental objectives in respect of the provision of flight information service in both official languages.

It should be re-emphasized that the present Air Traffic Control Service at Ottawa International Airport will not be affected. Implementation of the plan is scheduled for October 1, 1987.

NATIONAL DEFENCE

COMMITTEE STUDY OF CONCERNS OF MILITARY FAMILIES—STATUS OF REPORT AND NATURE OF RECOMMENDATIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on August 28, 1987, by the Honourable Lorna Marsden regarding National Defence—Committee Study of Concerns of Military Families—Status of Report and Nature of Recommendations.

(*The answer follows:*)

The Advisory Group appointed by the Minister of National Defence to look into existing policy regarding political activity on military bases has been submitted. The report is now being carefully reviewed by departmental officials and the Minister. The Minister has taken note of the Honourable Senator's request to have the report tabled and will consider the Senator's representation when a decision is made.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question raised in the Senate on August 28, 1987, by the Honourable Joyce Fairbairn, and on September 16, 1987, by the Honourable H.A. Olson, regarding Agriculture—Deficiency Payments to Western Grain Farmers for 1987 Crop Year.

(*The answer follows:*)

The federal government's major thrust is to resolve (export) subsidy and surplus-related problems at the international level. In the interim, the government will continue meeting with farm leaders and their provincial counterparts to design short-term assistance measures which will cushion the impact of the trade subsidy war.

The Minister of Agriculture, the Hon. John Wise, met with farm leaders in Winnipeg on August 27 to discuss future assistance to grain and oilseed producers. The majority of farm leaders had reached a consensus on a proposal for a future assistance program. Mr. Wise indicated to the leaders that he and his cabinet colleague, the Hon. C. Mayer, would have to be satisfied that the proposal was fair and equitable. If these criteria were met, the proposal could possibly serve as a basis for future assistance.

Mr. Wise clearly stated that the federal government will stand behind Canadian farmers. However, he did not commit the federal government to any dollar value for assistance. Any program and associated funding has to be approved by the government.

The $3 billion figure quoted in the media was one of several numbers suggested by the farm leaders as the amount of money required to maintain farmers' incomes. Mr. Wise and Mr. Mayer have heard suggestions ranging

from $1.6 billion to $5 billion, and will likely hear others. It should also be noted that statutory assistance to grain and oilseed producers under the Western Grain Stabilization Act and the Agricultural Stabilization Act amounted to over $1 billion for crop year 1986/87 and will again be substantial in 1987/88.

Mr. Wise clearly stated that the proposal would have to compete for funding with other urgent and pressing issues facing the government. This is especially true when the federal government is committed to reducing the deficit.

The government is now in the process of developing a wide range of options for consideration by cabinet as to how to assist Canadian grain producers. An assessment of the farm leaders' proposal is a part of that process.

TRANSPORT

PRINCE EDWARD ISLAND—PROPOSED TUNNEL OR CAUSEWAY AND FERRIES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer in response to a question raised in the Senate on September 3, 1987, by the Honourable M. Lorne Bonnell regarding Transport—Prince Edward Island—Proposed Tunnel or Causeway and Ferries.

(*The answer follows:*)

With regard to the first part of Senator Bonnell's question, the Department of Transport advises that no decision has yet been made regarding replacement ships for the Caribou/Wood Islands ferry service. The matter is, however, under active examination.

On the question of a fixed link between Prince Edward Island and the mainland, the Department of Public Works advises that last year the government funded a series of studies to examine the financial, economic, social and environmental aspects of a fixed crossing.

The results of these studies have recently been reported back to the federal cabinet and the government should soon be in a position to make a decision on the project.

THE LATE CHARLES H.E. ASKWITH

FORMER ACTING GENTLEMAN USHER OF THE BLACK ROD—NOTICE OF MEMORIAL SERVICE

The Hon. the Speaker: Honourable senators, it is with sadness that I inform the house that Mr. Charles Askwith died on Sunday last, September 27. As you know, he was the former Acting Gentleman Usher of the Black Rod.

A memorial service will be held for Mr. Askwith at St. Alban the Martyr Anglican Church, 454 King Edward Avenue, Ottawa, on Saturday, October 10, at 11.30 a.m. I will arrange to have this notice sent to the offices of all honourable senators.

[Senator Doody.]

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-68, to amend the Bretton Woods and Related Agreements Act.

He said: Honourable senators, the purpose of this bill is to amend the Bretton Woods and Related Agreements Act in three ways: First, it would provide legislative authority for Canada's participation in the Multilateral Investment Guarantee Agency; second, it would provide funds for the purchase of shares in the agency; and third, it would incorporate an amendment to the Articles of Agreement of the World Bank into the existing legislation.

The principal objective of this bill is to establish legislative authority for Canada's participation in the Multilateral Investment Guarantee Agency, or MIGA. The convention establishing MIGA was negotiated under the auspices of the World Bank and opened for signature on October 11, 1986. MIGA's goal will be to help Third World countries find much-needed additional resources to finance their development by tapping the private sector. The agency's mandate will be to promote private investment in developing countries and to help create in these countries a climate conducive to foreign investment.

The agency will provide foreign investors with insurance against non-commercial risks such as currency transfer risk, expropriation and similar measures, breach of contract, war and civil disturbance. The agency also has a responsibility to conduct research and disseminate information on investment opportunities in developing member countries as well as to undertake other activities to promote foreign investment.

Foreign private investment will enhance the developmental prospects of host countries through the provision of non-debt creating transfers of resources as well as a transfer of technology and managerial skills. The government has emphasized the importance of the private sector to Third World development and the role to be played by non-debt creating foreign investment. The benefits of MIGA for the developing countries are substantial.

Canadians will also benefit from Canada's participation in MIGA. Over time, MIGA is expected to help improve economic conditions in developing countries. Canadians would stand to benefit from improved export opportunities. More immediately, Canadian companies investing abroad will be able to compete on an equal footing with companies from other countries that have joined MIGA.

The Multilateral Investment Guarantee Agency will complement national and regional programs rather than compete with them. Canada's Export Development Corporation already provides insurance and guarantee cover for some non-commercial risks. MIGA is therefore expected to focus on guaranteeing investments from members without a national program, co-guaranteeing investments with national and regional agencies, providing re-insurance for national and regional agencies,

and guaranteeing investment jointly financed by investors from different member countries.

The convention establishes MIGA as an autonomous international organization. Although legally separate from the World Bank, the President of the World Bank would be *ex officio* Chairman of the Board of Directors and would nominate MIGA's president. In addition, MIGA is expected to draw heavily on the services of the World Bank Group. This relationship is intended to promote the agency as an international developmental institution and to assist it to gain recognition.

Canada is entitled to purchase 2,965 shares in the agency at a total cost of $32,081,300 U.S. Within 90 days of the convention establishing MIGA coming into force, Canada will be required to pay 10 per cent of the above amount in cash, a further 10 per cent in non-negotiable, non-interest-bearing demand notes. The remaining 80 per cent is subject to call. Accordingly, Bill C-68 also authorizes the Minister of Finance to pay up to $6,416,260 U.S. for the purchase of the shares allotted to Canada under the convention. These funds would come from Canada's official development assistance program.

The bill also provides for a minor amendment to the Articles of Agreement of the International Bank for Reconstruction and Development, which is the main component of the World Bank Group. The amendment raises the share of the total voting power required to accept amendments to the institution's Articles of Agreement from 80 to 85 per cent. This amendment was agreed to by Canada and the other industrialized countries as part of the recent negotiations for the funding of the International Development Association, the arm of the World Bank which provides concessional loans to the poorest countries.

Honourable senators, this bill will help developing countries marshall the resources they need to finance development. It will do this without creating new debt obligations for these hard-pressed countries. At the same time it will provide useful investment opportunities for Canadians. It is a bill which deserves our strong support.

Hon. Henry D. Hicks: Honourable senators, in a moment I shall move the adjournment of the debate. However, there is one question which occurs to me now that I would like to put to the mover of the motion in the expectation that he will elaborate on it at a future time, in the event that he cannot answer it at once.

I would like to ask about the reasoning behind the amendment which increases the proportion of share votes required to accept an amendment to MIGA's articles from 80 per cent to 85 per cent. I would like to know what motivated the nations that asked for this increase to do so. I understand that here in Canada, with respect to our constitutional matters, we are moving towards requiring the unanimous consent of everyone concerned for a constitutional amendment, and I am rather sorry to see an international agency such as MIGA moving the requirement from 80 to 85 per cent. It seems to me that that will make it very difficult in the future to secure amendments. If there is some explanation as to the reason behind this amendment, I would like to hear it now or at a future time.

Senator Doody: Honourable senators, I do not have an answer to the honourable senator's question at the present time. I shall certainly make an inquiry and I hope I will be able to provide an answer tomorrow.

On motion of Senator Hicks, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, September 30, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

CANAGREX DISSOLUTION BILL

REPORT OF COMMITTEE

Hon. Dan Hays, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Wednesday, September 30, 1987

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FIFTH REPORT

Your Committee, to which was referred the Bill C-2, An Act to dissolve Canagrex and to amend certain Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, September 17, 1987, examined the said Bill and now reports with the following observations:

The Corporation of Canagrex has been dormant since 1984. Bill C-2 seeks to wind up the affairs of the corporation and to dissolve its statutory framework.

The Committee is aware that the concept of Canagrex was hotly debated within the agricultural community and that there were strong arguments on both sides of the issue. No one disputes the need for agricultural export assistance. Export assistance is, if anything, more crucial now to the viability of many Canadian agricultural commodities than even three years ago.

During the course of its hearings on the subject-matter of the Bill C-2 the Committee heard evidence from Agriculture Canada, the Department of External Affairs (Trade) and the Department of Regional Industrial Expansion. In each case witnesses told the Committee that each department was working to develop agricultural trade, assistance initiatives. It appears to the Committee that these initiatives closely parallel those which Canagrex itself was created to provide. These include: providing market identification and intelligence; providing promotional and informational services; providing loans and guarantees; and providing grants and contributions to help accelerate product development and promotion.

The Committee reports the Bill C-2, An Act to Dissolve Canagrex and to amend certain Acts in consequence thereof without amendment. In doing so it notes that the corporation has been dormant for nearly three years and as a statutory shell currently serves no purpose. The Committee does urge the government to carefully examine the elements of the Canagrex mandate and to ensure that those which could be of benefit to the Canadian farmer are implemented under the mandate of the appropriate departments.

Respectfully submitted,

DANIEL HAYS
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

TOBACCO PRODUCTS CONTROL

NOTICE OF MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-51

Hon. Arthur Tremblay: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the subject-matter of the Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products, in advance of the said Bill coming before the Senate or any matter relating thereto.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No.

The Hon. the Speaker: Honourable senators, since leave is not granted, this motion will be put to the Senate for approval tomorrow.

Senator Frith: It all depends, honourable senators. If it is a substantive matter, I believe a two-day notice is necessary. We could accept the motion tomorrow, if you wish. It comes as a surprise to us, it is the first we have heard of it. We would like to examine the substance of the motion.

The Hon. the Speaker: Honourable senators, is Senator Frith suggesting the motion be brought forward tomorrow?

Senator Frith: Yes, honourable senators.

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

Hon. Senators: Agreed.

Senator Tremblay: Honourable senators, I expected to be asked for an explanation that I could have given. I will do so tomorrow, if the Senate prefers to wait until then.

Hon. Jacques Flynn: It is getting to be a habit with them to give matters much thought.

Senator Frith: Wait and see, Senator Flynn.

[*English*]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at three o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

ELECTRONIC MEDIA COVERAGE OF MEETING

Hon. Ian Sinclair: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Banking, Trade and Commerce be empowered to permit coverage by the electronic media of its public meeting on Wednesday, September 30, 1987, with the least possible disruption of the hearing.

Honourable senators, I did not know it was necessary to make a motion in this regard. That may be because of my lack of knowledge of procedure. However, I remember that when the Standing Senate Committee on Banking, Trade and Commerce was holding hearings with respect to financial institutions we had before us a witness, and the electronic media, with their television cameras, were present at one of our meetings.

I am told that, in accordance with the procedure, the proper way to deal with this matter is to introduce the motion, and I do so at this time.

In addition to that, I should say that it would be my intention to limit the media coverage to approximately 15 minutes to enable them to take just a few pictures.

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

Some Hon. Senators: Agreed.

Hon. Finlay MacDonald: Honourable senators, this matter came up at noon today and the chairman of the Standing Senate Committee on Banking, Trade and Commerce, Senator Sinclair, was good enough to discuss it with me. At that time I told him I intended to speak in opposition to this motion.

Honourable senators, let us understand the request that is being made of us. While I am unenthusiastic about televising the deliberations of this chamber, I am totally in favour of making available to the electronic media any opportunity at all to televise committee hearings. However, we did set down some very clear rules, and those rules were laid down at the time of the hearings of the Banking, Trade and Commerce committee to which Senator Sinclair has already referred. It worked very well at that time. The term "electronic hansard" has a special meaning. At the time of those hearings we used a special room—in fact, the very room that we will be using today.

However, the difficulty in this instance is that the electronic media are coming in to film part of a documentary and are therefore not following the rules which this chamber agreed upon with respect to the unobtrusive positioning of a couple of cameras, certain switching equipment, et cetera.

If certain members of the electronic media desire to film, as part of their documentary, part of the proceedings of a committee hearing—in the same fashion as was done the last time for purposes of news clips—let them follow the same rules that we set down. They can do this. Perhaps it will cost a little more and perhaps it may cause them a little more trouble. However, I say to the chairman of the committee that I do not think he realizes the consequences of allowing a cameraman to come in with one camera and attempt to film a typical Senate committee hearing. I do not think that he fully realizes what is being asked. I say to the chairman that if he were to put it to these members of the electronic media that they should come on Friday, but that in the meantime they will have an opportunity to follow the rules which are all set out and with which we are all agreed, it would be a far better arrangement.

• (1410)

Senator Sinclair: Honourable senators, I quite agree that I do not know anything about the electronic media. However, these people have been filming short segments of people walking down the hall, and things such as that. I do not think this is a big deal. At the same time I think the Senate should accommodate the media by trying to assist them. I do not think we should ask them to come to room 250, East Block, and set up switching and everything they need for the evening news. This is going to be part of a documentary. It will be a small part of it. I was only asking the Senate to accommodate them in that little way, that is all.

There is an expert who knows how to set up and build up and break down people. I am not trying to do that. I am trying to be helpful.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the same permission, I believe, was asked for yesterday and was granted with regard to Legal and Constitutional Affairs. I believe it was the same group.

I understand the point that Senator MacDonald is raising. I agree with him that this is in a different context.

Senator MacDonald: They had to leave.

Senator Frith: That is right. In his comments Senator Sinclair said that he intends to limit them similarly.

Senator MacDonald: No, sir.

Senator Frith: Yes, he said that.

Senator MacDonald: With all respect, Senator Frith, we are talking about two different things.

Yesterday the group were shooting their movies and were asked to leave when Senator Neiman began the proceedings. They were not there during the proceedings. They were simply shooting.

Senator Sinclair is advocating letting these people in with a single camera during the proceedings of the committee. That is a totally different thing.

Senator Frith: Honourable senators, Senator Sinclair said that he intended to limit them. Perhaps Senator MacDonald did not hear that.

I recognize that some of the members of the Legal and Constitutional Affairs Committee felt that while we were in fact sitting, with the chairman present and with submissions being made about what our program should be, that was not treated as part of the meeting. I know that because several members were smoking, insisting that the meeting had not started, and, therefore, they were entitled to smoke.

It was quite clear that the committee, in any event, was sitting. How formal the proceedings were I do not know. The point is that whatever it is they want to do, we had an experience yesterday with them. It seems to me that it worked out fine.

Senator Sinclair: To satisfy Senator MacDonald, I would be quite prepared to tell these people that they can take pictures and then leave before we start hearing witnesses. We will talk among ourselves about some of our other problems.

The Hon. the Speaker: In light of Senator Sinclair's comments, I suppose we do not need a motion.

Senator Sinclair: I am in the hands of my colleagues, because I do not know the rules.

Hon. Efstathios William Barootes: Does this require the unanimous approval of the Senate?

An Hon. Senator: Yes.

The Hon. the Speaker: Honourable senators, I repeat that in light of Senator Sinclair's comments, I suppose we do not need a motion. Is it agreed, honourable senators?

Hon. Senators: Agreed.

[Senator MacDonald.]

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray will not be with us this afternoon. He is detained on business elsewhere. I will be pleased to accept any questions as notice and attempt to get the information for my colleagues.

FIJI

VIOLATION OF HUMAN RIGHTS—GOVERNMENT ACTION

Hon. Raymond J. Perrault: Honourable senators, I know the Deputy Leader of the Government is fully capable of being questioned and transmitting to the appropriate quarters the request for information that I intend to make.

Successive Canadian governments have established a good track record in the promotion of human rights both here and abroad. This present government is no exception. Indeed, there have been a number of constructive interventions by ministers, and the Prime Minister himself, in areas where there were violations of human rights.

Honourable senators, something not known to most parliamentarians, perhaps, is that the largest settlement of Fijians in the world, outside of Fiji, is located in British Columbia. There are approximately 30,000 people of Fijian descent living in British Columbia, primarily on the lower mainland, and they comprise both those of ethnic Indian and Melanesian descent—Canadian citizens and non-citizens. I have received calls of real desperation in recent days regarding the events taking place in that beautiful country of Fiji, which I know some of you have visited. It seems inconceivable to most observers that that beautiful country, with its tradition of democracy, should be subjected within just a few months to two military coups led by the same colonel. The first coup led to a serious attempt by the Governor General of Fiji to establish a National Unity Government. There have been ceaseless meetings held in Fiji to develop cooperation from both of Fiji's main ethnic stocks, but when the plan for the new National Unity Government was announced the other day, revolutionary Colonel Rabuka decided that that was still not to his liking.

I received a telephone call earlier today from Fiji via a Fijian representative living on the west coast. He told me that as of this morning all new members of the coalition cabinet are in jail, that they have been placed on bread and water, and that that has been their plight for the past four or five days. He alleges that all MPs have gone into hiding, that communications have been restricted, that censorship is fully in place, and that the Governor General had been asked to resign—he may even now be under arrest—to make way for a republican form of government.

Two justices who objected to the colonel's activity are said to be in jail, as of this morning, Justice Govind and Justice Mooney. A report in Associated Press 30 minutes ago indicates ominously that Colonel Khadafy has expressed his full support for Colonel Rabuka's activities.

As Canadians, we love to speak about violations of human rights in South Africa. Yet, Fiji is a Commonwealth country, and somehow we think that if a violation of human rights takes place within a Commonwealth country, we should be careful, because, after all, the thinking is that that is just a family problem and that they should be left to work things out for themselves.

I do not believe we should have a double standard. If there are violations of human rights taking place in Fiji, the members of the Commonwealth, and Canada as a senior member of the Commonwealth, should speak out and attempt to offer their good offices to try to restore democracy and harmony in that country.

At the very least, I hope that the Deputy Leader of the Government can give us assurances today that the subject of Fiji and the democratic rights of all Fijians, regardless of descent, will be placed on the agenda of the forthcoming Vancouver Commonwealth Conference. If we can be outspoken about violations of human rights around the world, as alleged by Amnesty International—and I think we should be, and we have even taken some action in that area recently in Parliament—then we must not stand by and do nothing about the events in Fiji. The main shops along Suva—and some honourable senators have been there—have all been burned down. The mobs have set fire to them.

I should like the Deputy Leader of the Government to bring to the Senate a report on what Canada is doing about the Fijian situation.

I have not seen or heard a word from Canada's Ambassador to the United Nations, Stephen Lewis. Perhaps he has spoken out eloquently on the subject, but those words have not appeared in the newspapers I have read or on the television news programs I have listened to. What has he said at the United Nations about this situation? Is this going to be kept as a Fijian family quarrel, or are we going to fight for human rights and put our actions where our sentiments have been for so long?

I ask the deputy leader, not out of a sense of political confrontation but in an earnest quest for the facts, to seek information regarding Fiji and what Canada intends to do about the situation there. Will we arrange to have this put on the agenda at the Commonwealth Conference? Have representations been made at any level to assure the democratic rights of the people of that country?

Finally, is there some source in the Canadian government that those people from Fiji living in Canada can turn to to find out whether their relatives are safe or whether they have been thrown into jail or otherwise mistreated by a seemingly capricious Colonel Rabuka and his supporters?

• (1420)

Hon. C. William Doody (Deputy Leader of the Government): I want to thank the honourable senator for his eloquent and stirring address. I will see that a copy of it is forwarded to the appropriate department and attempt to get an answer as quickly as possible.

CURRENT POLITICAL SITUATION

Hon. John B. Stewart: Honourable senators, twice earlier this year I asked questions concerning the Fiji situation. I asked for the government's assessment of that situation as it progressed. Perhaps that assessment has been prepared over the summer and could be given at the next sitting of the Senate.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will certainly make inquiries in that regard.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

LUBICON CREES OF ALBERTA—SETTLEMENT OF CLAIMS—RELEASE OF NEGOTIATOR'S REPORT—APPOINTMENT OF NEW NEGOTIATOR AND MEDIATOR

Hon. Charlie Watt: Honourable senators, my question is for the Leader of the Government in the Senate. I would like to know why the Government of Canada has not been able to resolve the land claim of the Lubicon Crees, which would allow this community to get on with building its future.

I have been informed that in 1899 the Lubicon band was missed by the Treaty 8 Commissioners and that they are, therefore, not a signatory to this treaty. In 1939, realizing this situation, the government proceeded to register the members under the Indian Act and, in 1940, identified a reserve. This process was stopped because of government priorities during the war years and because in 1942 the department erroneously erased half of those registered from the Indian Act list. The majority of these removals were judged to be unfair by Mr. Justice MacDonald of the Alberta Supreme Court. I believe that the Government of Canada does not disagree with this history. In 1981 and again in 1985 the government sought to resolve the claim and redress this injustice.

The Lubicon Crees inhabit an isolated region of northern Alberta and until the late 1970s and early 1980s they enjoyed a traditional way of life based upon hunting. However, in the past few years oil exploration and related road building have caused severe damage to this way of life. These people, without a reserve, without health facilities or adequate housing and schools, are undergoing the terrible effects brought about by developments over which they have no control. It has recently been discovered that 25 per cent of the population of 450 has been exposed to tuberculosis, with 28 cases of active tuberculosis under treatment.

In short, the aboriginal rights of the Lubicon Crees have not been adequately recognized by Canada. The urgent health and social needs of these people are not being provided for by

Canada. As a fellow Canadian and as an aboriginal person, I, personally, do not like to think that Canada does not have the sense of fairness and generosity of spirit required to negotiate a fair and reasonable resolution of this claim.

It should not take the pressure of major development projects such as the James Bay hydro-electric project or Beaufort Sea oil and gas exploration in order for the aboriginal peoples of Canada to have their aboriginal rights adequately recognized by Canada and to receive fairness in terms of the settlement of land claims.

I have also been informed that the situation of the Lubicon Crees has been considered by such respected bodies as the United Nations Committee on Human Rights and the World Council of Churches. As a Canadian, I am embarrassed that those international bodies have felt it necessary to express their sympathy with the plight of the Lubicon Crees, and that they are still seeking an adequate explanation from Canada.

The aboriginal people of Canada are looking for a sign that they will be treated reasonably and fairly by this government. They question whether there is the political will to understand aboriginal concerns and to resolve outstanding issues. The government's response to the Lubicon Cree will be an important indication of the commitment by this government to fair treatment of aboriginal concerns.

Over the next few days I will be discussing this subject with individual senators and with members of the other chamber to explore the various means by which further study of this matter could be undertaken. There are many unanswered questions that remain to be addressed. In the meantime I would like to address the following specific questions to the Leader of the Government. Since he is not here, I suppose they will be directed to the deputy leader.

The first question is: Will the government make a commitment to renew its efforts with the Government of Alberta and with the Lubicon Cree to reach a fair and reasonable settlement of this issue? Second, is the government prepared to release the report prepared by the Honourable Davie Fulton, and when can an announcement to this effect be expected? Third, will the government be appointing a new negotiator to meet with the Lubicon Cree on this issue, and when can an announcement to this effect be expected? Finally, would the government be prepared to appoint the Honourable Davie Fulton, if it is acceptable to him, to serve as a mediator in these negotiations?

Hon. C. William Doody (Deputy Leader of the Government): I thank Senator Watt and I will bring that series of questions to the attention of the appropriate minister.

AGRICULTURE

WITHDRAWAL OF BRITISH COLUMBIA FROM MARKETING BOARDS

Hon. Dan Hays: Honourable senators, in the normal course I would not raise this question in the absence of the Leader of the Government and Minister of State for Federal-Provincial Relations, but it is an urgent matter, and I wanted to have the question on the record as soon as possible so that I might follow up on it later. The question arises out of the announcement yesterday by the Premier and Minister of Agriculture for the Province of British Columbia that that province is going to withdraw from four marketing boards involved in the regulation of quotas for industrial milk as well as three marketing boards in the feather industries.

The withdrawal may have serious implications for Canadian agriculture, and the questions that I think should be dealt with are: Will this affect Canada's position under the General Agreement on Tariffs and Trade? That agreement provides that we are able to restrict imports of commodities such as these into Canada, provided that we comply with certain regulations. I believe that we are 80 per cent self-sufficient in the commodities. Will Canada be able to take steps to restrict imports of these commodities into provinces other than British Columbia so as to preserve these marketing boards in the rest of Canada? If so, will it take such steps? Finally, what is Canada's position with respect to payments under the Canadian Dairy Commission Program for industrial milk? I am also interested to know whether or not the Leader of the Government, in his capacity as Minister of State for Federal-Provincial Relations, will be involved in the negotiations that will undoubtedly follow British Columbia's announcement yesterday.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will attempt to get an answer for Senator Hays as quickly as possible.

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION

Hon. H.A. Olson: Honourable senators, I ask the Deputy Leader of the Government to take as notice a question respecting the statement made the day before yesterday by William McKenzie, President of Memotec Data Inc., when he said that his company delayed announcing its bid for Teleglobe Canada for almost a month at the request of the federal government. He went on to explain that he first suggested making a public announcement on January 9, the same day as Memotec formally made its bid to the federal government for Teleglobe, and that he repeated it a couple of times after that, but the government did not give him permission to make a public announcement until February 5. He went on to say:

> In my mind, there's no question that the longer you delay something like that with such a high profile, it becomes very difficult to keep that information (confidential).

● (1430)

I would like to know whether or not the government will confirm that this, in fact, happened, that it did make a request to Memotec that there be no public announcement about it. If that is true, then why, and what was the reason for delaying it for nearly a month when it is now obvious that Mr. McKenzie,

the president of the company, wanted to make a public announcement that Memotec had made a bid for Teleglobe?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will take the question as notice, as the honourable senator has requested.

DIEFENBAKER CENTRE, UNIVERSITY OF SASKATCHEWAN

FINANCIAL CRISIS—FURTHER REQUEST FOR GOVERNMENT ASSISTANCE

Hon. Sidney L. Buckwold: Honourable senators, I have a question for the Deputy Leader of the Government. On two occasions in the past I have raised the issue of federal assistance to the Diefenbaker Centre in Saskatoon, located on the campus of the University of Saskatchewan. The Deputy Leader of the Government will recall that this very fine facility, which is a major attraction in that area—one which recognizes the great contribution of a Canadian Prime Minister from Saskatchewan—was in the process of actually closing down.

There was no positive response from the federal government, and an announcement was made that the centre would close. However, at the last moment the Government of Saskatchewan came forward and provided funds to keep the centre going for a period of time in the hope that the federal government would still participate in the cost of operating the centre.

My question to the Deputy Leader of the Government is: Will the federal government give further consideration to this very imporant request? Since the request is not coming from me or other honourable senators but from the Government of Saskatchewan, is there any likelihood of an arrangement being made to ensure the continued operation of this very important facility?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will attempt to get an update for the honourable senator.

DELAYED ANSWER TO ORAL QUESTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer.

TRANSPORT

PORT OF CHURCHILL, MANITOBA—TRANSPORTATION OF GRAIN TO PORT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked by the Honourable Joseph-Philippe Guay on September 16 regarding Transport—Port of Churchill, Manitoba—Transportation of Grain to Port.

(*The answer follows:*)

CN Rail committed itself to the supply of 3,000 cars for the Churchill grain movement, not 3,000 cars per week and this commitment has been met: as of week 7 of the 1987/88 crop year, CN had 3,065 boxcars in service for the Churchill movement.

To ensure that the grain movement to Churchill proceeds in as orderly a manner as possible, a coordinating committee made up of representatives from CN, CP, Ports Canada, the Canadian Wheat Board and the Grain Transportation Agency meets regularly to address and resolve, where possible, operating problems.

In order to maximize the Churchill grain movement the committee noted that grain would have to be programmed from the Churchill catchment area and that directional loading would have to be implemented. However, producer deliveries in the Churchill catchment area as of week 8 had not improved and 800 out of 1,000 orders for Churchill were from Alberta.

As a result of the rail strike, it was estimated that the Churchil program lost some 1,000 unloads or more than 50,000 tonnes. This will be extremely difficult to make up given the short shipping season.

FIJI

CURRENT POLITICAL SITUATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, a few minutes ago Senator Stewart asked a question regarding the current political situation in Fiji.

I am informed that Senator Stewart's question, asked on May 26, was answered on June 30 and appears on page 1506 of *Debates of the Senate* for that date. The answer included an update by the Department of External Affairs on the then current political situation.

I assume that Senator Stewart is seeking a further update on the situation.

Hon. John B. Stewart: Yes.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Cogger, for the second reading of the Bill C-68, An Act to amend the Bretton Woods and Related Agreements Act.—(*Honourable Senator Hicks*).

Hon. Henry D. Hicks: Honourable senators, I noticed that the mover of the motion was about to rise. Perhaps he would like to answer my question of yesterday before I speculate on it and find myself out in left field.

Hon. C. William Doody (Deputy Leader of the Government): Senator Hicks is absolutely correct: The back field was in motion. I have no intention of closing the debate at this time. I simply wish to answer a question asked by Senator Hicks yesterday dealing with the section of the act which changes from 80 per cent to 85 per cent the percentage of voting power necessary to change the articles of agreement. The answer with which I have been supplied reads as follows:

● (1440)

> As part of the eighth replenishment of the International Development Association, (IDA 8), the arm of the World Bank which makes loans to the poorest countries, donors agreed to increase the World Bank capital shares of six member countries. In order to facilitate the arrangement, the United States offered to sell some of its shares to the three countries making special contributions to IDA 8: Japan, Italy and Canada. The offer was conditional on members agreeing to increase the special majority required to amend the World Bank's Articles of Agreement from 80 to 85 per cent of total voting power, so as to protect the United States' veto over such changes. Canada, along with other donors, agreed to amend the World Bank's Articles of Agreement accordingly. On June 30, the Bank's Board of Governors approved a resolution containing the amendment. The amendment will take effect three months after it has been accepted by 60 per cent of the members with 80 per cent of the vote.
>
> Had countries not agreed to raise the level of the votes required for the special majority, the U.S. would not have released its shares to Japan, Italy and Canada. It would have retained its veto, and the IDA resources for the poorest countries would have been reduced.
>
> The Bank's operational and financial policies and its lending operations are approved by the Board of Executive Directors. The special majority does not apply to these decisions, and there is thus no American veto over the Bank's day-to-day operations.

Senator Hicks: Honourable senators, I thank Senator Doody for that explanation, which is along the lines that I anticipated, and I shall have something to say about it later on in the relatively brief remarks which I propose to make this afternoon.

First, let me acknowledge that Senator Doody's explanation of Bill C-68 was, in my view, quite adequate, reserving the one point upon which I have commented. It seems to me that he covered the situation quite well indeed. It ought to be borne in mind, as Senator Doody told us, that the Multilateral Investment Guarantee Agency's, MIGA, mandate will be to promote private investment in developing countries and to help create in these countries a climate conducive to foreign investment. I have before me an official release concerning the nature of these amendments. It reads in part:

> The Agency will provide foreign investors with insurance against non-commercial risk in developing countries. Examples of non-commercial risk include currency transfer risk, expropriation, breach of contract, and war and civil disturbance.

[Senator Hicks.]

I might interject here that these risks do not really comprise the major risks that lenders encounter when lending to developing countries. However, be that as it may, I suppose the disruption that might follow war and civil disturbance would be very great indeed, and there is no question that some protection against this kind of hazard is desirable. The release goes on to say:

> The Agency will also carry out other promotional activities.

I think we should watch with interest to see what these are. The release goes on:

> Foreign private investments will enhance the developmental prospects of host countries through the provision of non-debt creating transfers of resources, as well as a transfer of technology and managerial skills.
>
> Canada's Export Development Corporation (EDC) already provides extensive insurance and guarantee cover for non-commercial risks. MIGA will be able to supplement and complement this coverage, to the advantage of prospective Canadian investors. MIGA will, for example, be able to guarantee investments in countries where EDC may not provide coverage.

I hope that this will work, and I hope that the desired result of increasing our assistance to the developing countries in the creation of industries and activities in those countries will indeed be a real thing. I have sometimes wondered why it is necessary in these international financial organizations to have so many agencies. Indeed, when the Standing Senate Committee on Foreign Affairs investigated the problem of the debt of Third World countries, we visited the financial authorities in Washington and New York. The question occurred to my mind several times as to why it was necessary to have so many agencies. I have sometimes thought that the World Bank and its affiliates, the International Development Agency—commonly referred to as IDA—and the International Financial Corporation—commonly referred to as the IFC—should be amalgamated and even combined with the International Monetary Fund. Instead of doing that, we are now creating a new agency with the specific purpose of certain restricted type guarantees to which Senator Doody referred and of which he gave an adequate explanation. I wonder whether we might not have a more effective control over international development and financing if all these agencies were brought under one control. I am glad to see here, however, that the president of the World Bank is the chairman of the board of the newly created MIGA, and I should think that that is a sensible thing.

With respect to Senator Doody's explanation as to the reason for increasing the number of votes required to amend the articles of association, I refer honourable senators to pages 36 to 40 of Bill C-68 as passed by the House of Commons. In those pages honourable senators will see a listing of the shareholders of MIGA. There are 100,000 shares. The largest shareholder is the United States with 20,519. So the 80 per cent requirement puts the United States in the position of having a veto. The second largest shareholder is Japan with

just over 5,000 shares. Germany comes next, then France and the United Kingdom and then Canada with 2,965 shares. The United States has been very jealous of its veto powers in connection with the international monetary institutions. Perhaps, since they pay the most, one can sympathize with their view that they ought to have a veto against the multitude of countries which contribute very little but each of which has a vote, though in this case I am glad to see that the votes are in proportion to the number of shares held and the contributions made.

Therefore, when it was proposed that capital shares should be made available to some additional countries, it is quite evident that, if the 20,000 shares held by the U.S. were diminished or became less than 20 per cent of the total number of shares issued, it would have destroyed the U.S. veto power. This is why the United States insisted that the number of share votes required to amend the articles be increased from 80 to 85 per cent.

While I understand the explanation, I think we ought not to lose the opportunity of questioning the position of the United States in matters like this. I am referring not only to this particular institution now but to the World Bank and to the other institutions, because the United States has, from time to time, refused to go along with a call to increase the capital of the World Bank or the IMF, or whatever it may be, and it has used its veto when other countries were willing to put up the money though the United States was not willing to do so. The United States has taken the position that it will not allow other countries to increase their contributions, because to do so would destroy their own veto power.

● (1450)

I am not sure that in the way the world has developed since the days of the original Bretton Woods Agreement the United States is any longer entitled to that exclusive position which it has maintained. However, I understand that there is nothing that we can do in relation to this bill that is going to change this position. But I wanted to put my views on record and to suggest that Canada might, in as firm a way as seems appropriate in the circumstances that arise in the future, question the propriety of the United States maintaining this kind of veto in respect to the international financial agencies, because it does enable the United States to adopt—as indeed they have done on some occasions in the past—a kind of dog-in-the-manger attitude: "We will not increase our share of the capital of whatever the fund may be, and therefore we will not allow other members to increase their share of the capital either."

Honourable senators, that is all that I have to say about this legislation. Certainly, if this is a decision of the international authorities to create this agency, Canada ought to participate, and I am glad that Canada is participating to the extent of being the number six contributor among all of the countries who will belong to this guarantee agency. I think that honourable senators ought to support this bill.

I do not know whether or not Senator Doody proposes to refer the bill to a committee. So far as I am concerned, it seems to me that little advantage can accrue from a reference to a committee. The essence of the bill is, of course, in the schedule which constitutes the articles of association of MIGA, and we in this legislature cannot change those articles. Indeed, they have been or are being adopted by all of the member countries who belong to this organization.

The other parts of the bill are very straightforward and provide authority to implement Canada's participation and Canada's contribution of the necessary funds. Therefore, I do not ask that the bill be referred to a committee.

Senator Doody: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if Senator Doody speaks now, his speech will have the effect of closing the debate on the motion for second reading.

Senator Doody: Honourable senators, I should like to thank Senator Hicks for his dissertation. It demonstrates the amount of knowledge that he has in this esoteric area of international finance. It is complimentary to the work of the Standing Senate Committee on Foreign Affairs that such expertise has developed here.

I agree with Senator Hicks that there does not appear to be any great merit in referring this bill to a committee. However, there is some predisposition here in the Senate that, except in cases of extreme emergency, we should perhaps make a habit of referring bills to committee. With that in mind, I suggest that it might be appropriate to refer this bill to the Standing Senate Committee on Foreign Affairs.

I would like to attach just one caveat. There is an October 11 deadline which has been conveyed to me through the minister. A telegram received from the President of the World Bank indicates that if the various countries who are participating in this agreement do not make their deposits prior to October 11, then a new meeting of the World Bank must be called. However, I think that still gives us plenty of time to do whatever is necessary. I simply would suggest that the Foreign Affairs Committee apply their usual diligence to and carry out their usual good work on this bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill referred to Standing Senate Committee on Foreign Affairs.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, October 1, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE DONALD CAMERON

NOTICE OF RESIGNATION FROM THE SENATE

The Hon. the Speaker: Honourable senators, Her Excellency the Governor General has advised the Senate that Senator Donald Cameron, who has been a member of this chamber since July 1955, has tendered his resignation as of September 19 last.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I think it would be the desire of many of our colleagues here to pay tribute to Senator Cameron. Having been given this notice today, I suggest that we think in terms of paying tribute on Tuesday next to our colleague who is no longer a member of the Senate.

Hon. Senators: Agreed.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, October 6, 1987, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, once again I offer the apologies of Senator Murray for his absence. He had intended to be here today, but unfortunately he has had flight problems. He is still in Nova Scotia and will be here later this afternoon. However, he will not be here in time for Question Period.

CANADA-UNITED STATES RELATIONS

FREE TRADE NEGOTIATIONS—STATUS—NOTIFICATION OF PROVINCIAL PREMIERS

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I appreciate the information which has been given to us by the Deputy Leader of the Government. The points I will make might be as pertinent on Tuesday as they are today.

Honourable senators may recall that two years ago today letters were exchanged between the Prime Minister of Canada and the President of the United States launching the trade negotiations, and that leads me to ask a number of questions.

My first question is: Have the premiers been summoned to be notified tomorrow that the trade talks have finally been brought to an end and that it is impossible to reach an agreement? It is certainly widely believed at the present time in Ottawa that the game is over and that the government is now preparing explanations as to why the talks have failed.

In light of that, it would be interesting to know why it was found necessary, or thought useful, to send two ministers to Washington this morning, at the last minute, in the face of what appears to be a widely held view that the differences between the two countries are so great at the moment that an agreement is impossible.

However, we will all know by tomorrow, probably, whether, if a miracle has occurred, the talks have resulted in an agreement or will be terminated. Nevertheless, I think these two early questions will still be relevant on Tuesday. I would also like to ask the government whether, if the talks indeed end in failure, it will table for our examination the final position put before the United States by the Government of Canada. On the other hand, of course, if the talks are successful, we would like to have a look at the agreement or the memorandum of understanding between the two countries.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall certainly bring the honourable senator's questions to the attention of the Leader of the Government and ask that an answer be provided, without, of course, accepting any of the premises on which the question was based as being neccessarily correct.

FIJI

CURRENT POLITICAL SITUATION—GOVERNMENT STANCE AT COMMONWEALTH CONFERENCE—CONSULTATIONS WITH FIJIAN COMMUNITY

Hon. Lorna Marsden: Honourable senators, I would like to add a question to the questions that have been asked during

the past two days and earlier this year by some honourable colleagues concerning the situation in Fiji. I also ask the Deputy Leader of the Government in the Senate, when seeking the answers to those earlier questions, to ascertain for the Senate the attitude towards the situation in Fiji which the government intends to take at the Commonwealth Conference, which is to be held in two weeks. I understand that this matter is on the agenda. In addition, I wonder if he would let us know whether the Secretary of State for External Affairs or other senior representatives of the government have met with the Fijian community in this country in preparation for those meetings or for any of the other meetings which are to take place on this question.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall have to take parts of Senator Marsden's question as notice and attempt to get answers. However, clearly relevant is the delayed answer which I have before me in response to a question raised by Senator Perrault and Senator John B. Stewart yesterday. It reads as follows:

> The Government of Canada is clearly on the record condemning the most recent coup in Fiji. In a communiqué dated September 25, 1987, Canada has called upon Colonel Rabuka to release immediately Prime Minister Bavadra and other political prisoners, and to put an end to military control of the press.
>
> Canada continues to recognize the Governor General as the executive authority of government in Fiji.
>
> Events in Fiji are evolving at a rapid pace and the government is monitoring closely the situation. A further statement by the Department of External Affairs on developments in Fiji is expected shortly.

This delayed answer may be helpful, but certainly it does not answer all the questions asked.

DELAYED ANSWER TO ORAL QUESTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one other delayed answer.

AGRICULTURE

WITHDRAWAL OF BRITISH COLUMBIA FROM MARKETING BOARDS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the answer to a question raised yesterday by Senator Hays regarding the withdrawal of British Columbia from marketing boards. It is fairly lengthy, so I would ask that it be printed as part of today's proceedings and considered as having been read.

(*The answer follows:*)

> The withdrawal of British Columbia from national poultry, egg or dairy agencies would have no effect on Canada's position under the GATT. No proportion of total production is specified as a condition to permit import controls under GATT.
>
> Current import controls for Canada are the responsibility of the Department of External Affairs and will be unaffected, should British Columbia proceed with its stated intent to withdraw from the national supply management system. Within Canada, the marketing boards already have the power to control the flow of their commodities between regulated and unregulated areas.
>
> British Columbia has only announced its intention to withdraw from the national supply management system. Actual withdrawal will not occur for some time. B.C.'s commitment to the Dairy Program continues until July 31, 1989. It is too early to speculate what position might be taken on the dairy subsidy almost two years from now.
>
> British Columbia simply advised they would withdraw from most of the national supply managment programs, a process that would not begin to take effect for about a year. In the meantime, it is expected that bargaining will go on within the agencies themselves, with meetings taking place later this month.

THE HONOURABLE DONALD CAMERON

TRIBUTE ON RESIGNATION FROM THE SENATE

Hon. H.A. Olson: Honourable senators, a few minutes ago the Speaker advised the Senate that he had received notice of the resignation of Senator Donald Cameron of Alberta. I also heard what the Deputy Leader of the Government had to say about extending tributes next Tuesday. The fact is that the Standing Senate Committee on Agriculture and Forestry, of which I am a member, is travelling to Washington on Monday of next week and will not return until Wednesday. Therefore, I shall not be here. I would not want the occasion to pass without having said a few words about Donald Cameron's contribution to Canada while he was a member of the Senate and, indeed, for many years prior to that time when he was the driving force behind the establishment of the Banff School of Fine Arts and, subsequently, the Banff School of Advanced Management.

● (1410)

These two institutions have made a great contribution to the education structure and process in Alberta, and, indeed, beyond Alberta, reaching out to the far corners of Canada.

It is fair to say that the Banff School of Fine Arts now has a reputation as a world centre for the teaching and promotion of fine arts and a number of other activities that have grown out of it. I have talked to Senator Cameron for many hours about the difficulties that he had to overcome in raising funds, for example, and, indeed, promoting the idea that there ought to be such a centre in Banff. There were many trials that he had to face, and the courage that he displayed in convincing people to support him in setting up that school is indeed gratifying.

As a preliminary to the Banff School of Advanced Management, Senator Cameron was extremely active in taking Canadian businessmen to many parts of the world. For example, he was one of the pioneers to take a group from Canada to China. He did this on many occasions. As I have said, it was a great contribution to the trading relations that developed as a result of many of those visits.

There is much more that could be said, honourable senators, and I am sure much more will be said on Tuesday. It is a pleasure to be acquainted with Senator Cameron, and to note the enthusiasm and energy that he has.

I understand Senator Cameron has been ill for some time, and I would like to express my best wishes to him and to the members of his family.

CANAGREX DISSOLUTION BILL

THIRD READING

Hon. James Balfour moved the third reading of Bill C-2, to dissolve Canagrex and to amend certain acts in consequence thereof.

Motion agreed to and bill read third time and passed.

[*Translation*]

TOBACCO PRODUCTS CONTROL

MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-51—DEBATE ADJOURNED

Hon. Arthur Tremblay, pursuant to notice of motion of Wednesday, September 30, 1987, moved:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the subject-matter of the Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products, in advance of the said Bill coming before the Senate or any matter relating thereto.

He said: Honourable senators, here are the explanations about this motion. Bill S-4 was adopted on second reading by the Senate and has already been referred to the Standing Committee on Social Affairs, Science and Technology. It seemed to us that to continue the study of Bill S-4, which has to do with one aspect of the question of tobacco and tobacco products, it would be logical to consider at the same time another legislative measure, namely the one referred to in the motion, which also relates to another aspect of the tobacco problem and advertising of tobacco products.

So it seemed logical to us that both bills be simultaneously considered by the committee.

I fully appreciate the fact that logic is not always considered to be a convincing argument, but this is why we propose that Bill C-51 be referred to our Standing Committee on Social Affairs, Science and Technology.

We intend to analyze the bill sponsored by Senator Haidasz—if it can be so called—in the wider perspective offered by Bill C-51.

Those are the only reasons which prompted this motion.

● (1420)

[*English*]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wish to make a few comments about this because it raises many questions in addition to the precise point of pre-studying a particular bill. However, before I make my comments, which I will defer until next week, I will tell the honourable senator that I am not very keen to give support to his proposal to pre-study. I will go into that in greater detail later. In the meantime, I move the adjournment of the debate.

On motion of Senator MacEachen, debate adjourned.

The Senate adjourned until Tuesday, October 6, 1987, at 2 p.m.

THE SENATE

Tuesday, October 6, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

THE HONOURABLE DONALD CAMERON

TRIBUTES ON RESIGNATION FROM THE SENATE

Hon. Jacques Flynn: Honourable senators, Senator Donald Cameron's resignation, which His Honour the Speaker announced last Thursday, provides us with an opportunity to highlight his remarkable career which spans almost half a century in the field of education, combined with over 30 years as a member of the Senate.

Born in Scotland, he came to Canada in 1906 at the age of 5. Upon graduation from the University of Alberta he immediately started his career in that same institution and, in 1936, became director of the Extension Department. Soon after he was given the responsibility for setting up the School of Fine Arts in Banff, which provides summer courses for theatre, music and fine arts amateurs. Under the guidance of its director, it soon became famous throughout the world. Later on, Donald Cameron took over the running of the School of Advanced Administration.

His interests were not limited to education, as demonstrated by his involvement as director of the National Film Society, from 1943 to 1950, and later on as member of the National Film Board.

In 1958, he assumed the Chairmanship of the Royal Commission of Inquiry on education in Alberta, just three years after being called to the Senate in October 1955 in a group of 13 new senators, including Senators Croll, McGrand and Molson, deans of this Chamber.

Never having been active in politics, he insisted on being listed as an Independant Liberal. During his maiden speech in the Senate on January 26, 1956, he mentioned just how pleased he was that Prime Minister Saint Laurent had indicated that he had gone beyond political affiliations when choosing the new senators.

This explains why our colleague never got involved in a contentious or partisan debate, preferring to limit his contributions to areas quite familiar to him, such as of course education, as well as transportation and western economic development.

In his maiden speech which I referred to earlier, he expressed the wish that the federal government would provide additional assistance to post-secondary education, adding that a constitutionally acceptable formula should eventually be developed in view of the fact that education is a provincial responsibility. It can be said that his wish has been granted.

Always a perfect gentleman and most pleasant company, our colleague has friends in the Senate and in every circle he has ever been involved in.

His failing health, which has kept him away from the Senate for several years, has finally compelled him to tender his resignation.

[*English*]

Honourable senators, on behalf of those senators sitting to the right of the Speaker—that is, supporting the government, and, I am sure, also on behalf of all senators—I wish our colleague a return to better health so that he may enjoy peace and happiness in his well-deserved retirement.

We send him and his family our most cordial greetings.

We assure him that the Senate is grateful for his valued contribution to its work.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Flynn said in closing that he was speaking on behalf of those senators who sit to the right of the speaker and support the government. Then, I am glad to say, he added, "And I am sure I speak on behalf of all senators." And he did.

Senator Cameron has had a really remarkable career. Senator Flynn has covered a good deal of the ground, but it is worth while putting on the record other dimensions of this remarkable career.

As Senator Flynn has said, Senator Cameron was an educationist. He was certainly a westerner. He went to Lakeview High School and the University of Alberta and had degrees from other western universities. Senator Flynn has outlined in some detail the accomplishment for which he was most famous, and that was the founding of one of the world's most important educational institutions, the Banff School of Fine Art. He founded it in 1933. It was then called A School in the Arts Related to the Theatre. It held its first classes in August of 1933. Although things were very difficult in the beginning, Senator Cameron managed, and I will quote from a newspaper source, "to keep this school alive with every dollar he could lure, cajole or hustle from oilmen, businessmen, foundations and governments." Over the years his many endeavours kept the school open, and today, thanks to him, hundreds of students from Canada, the United States and various countries around the world will have studied in theatre, arts, musical theatre, ballet, painting, creative writing, journalism, literature, handicraft, modern languages, photography and figure skating.

I may say parenthetically that for two or three summer courses my daughter taught in the field of creative writing and publishing at the Banff School of Fine Arts. I visited her there,

and I know most of us, for one reason or another, have had the very moving and enriching experience of spending some time at that wonderful location in that breathtaking part of Canada.

Senator Cameron's determination and persistance have permitted him to realize his dream of creating a major North American arts institute in Banff.

Senator Cameron was an author. He wrote *The Impossible Dream* in 1977, a book that is a record of the Banff School of Fine Arts from the opening of A School in the Arts Related to the Theatre in August 1933 to Donald Cameron's retirement as director of the centre 36 years later.

There are a couple of more fragmentary things that, until some research was done, I was not aware of his interest in. He was very interested in the subject of gun control. In the mid-seventies he became the sponsor of a tough gun control bill. He received many abusive letters for his efforts, but Senator Cameron was only interested in tightening up the laws, insofar as weapons and firearms are concerned, to help cut down on the rapid growth of crime.

He was also a strong advocate of closer links to China, and led the first and largest delegation from the western world to China. The delegation was made up of senior business executives who were alumni of the Banff School of Advanced Management established by Senator Cameron in 1952. After the trip, he was persuaded to publish a booklet entitled *Tokyo Peking Diary*, which is a short, factual statement of what he and the members of his group had seen.

Years later another journey enabled him to write another book entitled *China Revisited*. It was a unique book that had the actual transcript of the tape Senator Cameron made during his journey. He once said that no one is able to "roll out the red carpet" like the Chinese.

I remember Senator Cameron. He had been here for years when I came here in 1977. He was, as Senator Flynn has mentioned, an independent Liberal—and that was not just a label. I think he was a true liberal, a small "l" liberal—perhaps he would say capital "L" Liberal. He was certainly independent, and he was faithful. He attended the sittings of the Senate faithfully; he attended the committees that he was on faithfully. He worked faithfully and effectively at everything he did.

The image that I will retain of him as a senator is perhaps more homely. It consists of two things: one is his portrait at the Banff School of Fine Arts; and the other is the sharing of many evenings with him at the table in the Parliamentary Restaurant immediately at the right, which is sometimes called the senators' table. It used to be called the Liberal senators' table, but thanks to recent, welcome invasions by Senator Flynn, Senator MacDonald and some others, it is now fast becoming a bipartisan place for dining. I remember—as I guess many of you do—that he took his dinner there regularly. If you wanted to have a chat with Don Cameron, you could usually find him there in the early evening hours.

[Senator Frith.]

He has had a spectacular career. It is easy to apply the description of a great Canadian, but it certainly applies to Senator Cameron, because Canada would not have been the same without him and his school. I share Senator Flynn's wishes for a speedy return to better health, and I join with Senator Flynn in sending best wishes to his family.

Hon. David A. Croll: Honourable senators, I join in the fine tribute that was paid to Senator Cameron by Senator Flynn and by the deputy leader on our side of the house.

It was just 32 years ago that Senator Cameron, Senators Inman, Molson, McGrand, Smith and I were sworn in. Senator Molson is still here; Senator McGrand is not feeling too well, but he will be around a long time, you can depend on that! I knew Senator Cameron fairly well. He contributed in his early days to the extent that he was considered one of the members who carried his share. He was a participant, a contributor and a Liberal. Despite the fact that he liked to be known as an independent Liberal, he was independent on the Liberal side.

I know something of his school. Each one of my three daughters attended his school, and I was at the school with my wife for some time. His contribution to education in this country was unique. He liked it, he liked what he had to do, and he knew the people who were interested. There is not much more one can say about his career. It was a long and useful one.

• (1410)

Now that he has retired, I wish him happiness in whatever he is doing and better health than he has recently enjoyed. To his family I extend my warm regards.

Hon. Senators: Hear, hear!

Hon. Hartland de M. Molson: Honourable senators, everything that has been said about Donald Cameron, his qualities and the work of his life which has been described, is justified.

I have a rather different view of him, because, when we were appointed in 1955 and came to be sworn into the Senate in January 1956, immediately Donald Cameron and I were allotted an office on the fifth floor. What many ladies and gentlemen in this chamber do not realize is that not many years ago, when you were appointed you were not allotted a big office with flowers, secretaries, and so on. In those days most of the offices were occupied by at least two senators. Some offices even contained four senators, and secretaries were just about as scarce as flowers.

Donald Cameron and I settled into a shared office for about three years before we became sufficiently senior to find some little hole of our own. We were then promoted to a room on the sixth floor—a room which had been opened up in the attic. We, along with Jean-François Pouliot and others, were up there for a time until, with seniority, we moved downstairs.

As one would under those circumstances, I got to know Donald Cameron extremely well. I did not know his secrets, because, when he was talking to his constituents or friends on the phone, I would have to leave the room and walk up and down the corridor, since there was no room for us to conduct

our affairs in private. In every other way I got to know him extremely well.

He was a very hard worker. He made an enormous contribution to education in this country, all of which has been said. He made a very significant contribution to the Senate. He is a person of charm, ability and, above all, an extraordinarily hard worker.

Some years later, probably by accident, I was fortunate enough to receive an honorary degree from the University of Calgary at the Banff School of Fine Arts. I can only suspect that maybe those years of proximity in the office on the fifth floor contributed to my being given that honour.

During his years here Donald Cameron not only contributed to the work of the Senate both in committees and in the chamber, he made a friend of every senator who knew him. When his health failed a few years ago, he certainly was very sadly missed.

His wife is deceased, but his daughter is still alive, and I would like to join with all of you who have voiced their regrets, and those who have not yet done so, in expressing to her our sadness at losing him through retirement, the hope that his health will improve and that his remaining years will be happy and far healthier.

Hon. Senators: Hear, hear!

Hon. Earl A. Hastings: Honourable senators, may I simply and briefly associate myself with the remarks that have been made in tribute to the work of my Alberta colleague, Senator Donald Cameron. I need not repeat the history of Donald Cameron in this chamber and his contribution to education. It has been placed on the record.

However, I would like to underline the fact that Donald Cameron, as an Albertan, chose to sit in this chamber as an independent Liberal. It seems to me that there was no party discipline to subjugate the fertile mind of Donald Cameron. From that "independent" posture in this chamber, he made some very profound and worthwhile contributions over the years.

As Senator Frith has said, however, it is the Banff Centre that Donald Cameron leaves us as a legacy upon his retirement. In the 1930s it was Donald Cameron's idea that a centre should be established in the panoramic setting of the Rockies for the benefit of young Canadian artists. It was his tenacity and dedication to that vision which leaves us today the Banff Centre, which serves Canadian artists, as it was meant to originally, but which is now extended to include the Banff School of Business Management, from which many of us have benefited. I do not think I can add much to what was stated by Mr. Bill Gold of the *Calgary Herald*: "Without his vision, this wonderful achievement would never have happened."

Senator Donald Cameron is now a resident of the Bethany Care Centre in Calgary, Alberta. I join all senators in wishing him the fullest measure of serenity and happiness for each day of his retirement.

Hon. Senators: Hear, hear!

Hon. Heath Macquarrie: Honourable senators, it is a long way from Prince Edward Island to Banff. Senator Flynn has spoken meaningfully and movingly about Senator Cameron, and I subscribe with heartfelt appreciation to everything he has said, as I do to all of those tributes which have been paid to a humane and urbane Canadian.

I was privileged to be in Banff just last week, along with Senator Rossiter, Senator Rousseau and Senator Olson, to attend a parliamentary conference held for Europeans and Canadians. One of the highlights of the program for the spouses in attendance was a visit to the Banff School of Fine Arts. The impressive legacy of our great colleague was displayed not only in the physical beauty of the institution but also in the enormous variety and sensitivity of the programs that were being offered.

I happen to have known Senator Cameron better when I was in the other House, but I have admired him as an educator and as one who seemed able to move freely among the agricultural community and also the business community. As Senator Frith has so rightly said, he made a great impression in the international community. Many times abroad, when talking with internationalists, the name of Donald Cameron has come up. I deeply appreciate the opportunity of knowing this man of broad humanitarian principles and deep convictions. Without entering into any of the contemporary ebb and flow of debate upon a system whereby people are appointed to a legislative body such as this, I often wonder who is to say that the appointment process *ipso facto* is somehow deficient? Under such a system, a great Prime Minister like Mr. St. Laurent could reach out and bring to the national legislature a great man like Donald Cameron. Is there not a danger that something might be lost if that process were discarded?

Honourable senators, Senator Cameron has adorned this place. He has exalted his occupation and has advanced the cause of Canada. Like all others who have spoken, I wish him well and extend to him my affection in his well earned retirement.

Hon. Senators: Hear, hear!

● (1420)

CANADA-UNITED STATES FREE TRADE AGREEMENT

DOCUMENT ENTITLED "ELEMENTS OF THE AGREEMENT" TABLED

On the tabling of documents:

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, on behalf of the government I would like to table a document, in both official languages, entitled "Elements of the Agreement". The document refers, of course, to the free trade agreement signed by representatives of the Government of Canada and the Government of the United States on Saturday last.

I may say that the document recommends the fundamentals of the agreement arrived at by the parties. These elements are being translated into a legal document as agreed, and that legal document, as soon as it is available, will be tabled in both houses of Parliament.

[*Translation*]

CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED

Hon. Arthur Tremblay, Chairman of Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, October 6, 1987

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred the Bill S-8, An Act to amend the Citizenship Act (foreign spouses), has, in obedience to the Order of Reference of Tuesday, June 16, 1987, examined the said Bill and now reports the same with the following amendments:

1. *Page 1, clause 1:* Strike out line 21 and substitute the following:

"shall be"

2. *Pages 1 and 2, clause 2:* Strike out lines 25 to 29 on page 1 and lines 1 to 6 on page 2 and substitute the following:

"2. This Act shall come into force on a day to be fixed by proclamation."

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

The Hon. the Speaker: Honourable senators, when will the report be taken into consideration?

Hon. Peter Bosa: Honourable senators, with leave of the Senate, today or tomorrow.

Hon. Eymard G. Corbin: Honourable senators, at the next sitting of the Senate.

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

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

GREY NUNS IN CANADA

250TH ANNIVERSARY—NOTICE OF INQUIRY

Hon. Joseph-Philippe Guay: Honourable senators, I give notice that on Wednesday, October 14, 1987, I will call the attention of the Senate to the two hundred and fiftieth anniversary of the Grey Nuns in Canada.

[*English*]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. George van Roggen: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

That the Standing Senate Committee on Foreign Affairs have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at three thirty o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

PARTIES AND SIGNATORIES

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have had a look at the document containing the free trade agreement, and I would like to ask the Leader of the Government a technical or legal question. Who are the parties to the agreement? Is it the two governments?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes.

Senator Frith: Who initialled the agreement on behalf of Canada?

Senator Murray: Having tabled the document, I do not have it before me but I believe the signatories are: the Minister of Finance; the Minister for International Trade; Mr. Derek Burney, Chief of Staff to the Prime Minister; and Ambassador Simon Reisman.

Senator Frith: Who signed the agreement on behalf of the United States government?

Senator Murray: Treasury Secretary James Baker, Trade Represenative Clayton Yeutter, Assistant Secretary of Treasury, M.P. MacPherson and Ambassador Peter O. Murphy.

IMPACT OF U.S. OMNIBUS TRADE BILL—TREATMENT OF SUBSIDIES

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder if the Leader of the Government could clarify for us what the relationship is between the U.S. elements of the trade agreement and the omnibus trade bill in the United States? Do the provisions of the agreement in any way exempt Canada from the application of the omnibus trade bill which is before the United States Congress?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, no, they do not. There is in the document what is commonly called a "standstill" provision, which is a matter of good faith between the two countries. But the agreement itself does not exempt us in advance from the provisions of the omnibus trade bill, if it should pass. Nevertheless, the United States Congress will have to consider that omnibus trade bill as it relates to Canada in the spirit of the free trade agreement, and Congress will be aware of how important this matter is to us.

Senator MacEachen: So I take it that the "standstill" provision, on page 35 of the elements of the agreement, is intended to exhort, if not obligate, the parties to exercise restraint, pending the passage of the bill in the United States. As the Leader of the Government knows, it is just an exhortation, because a similar provision was contained in the agreement between the President and the Prime Minister at the Quebec Summit in which both parties obligated each other to refrain from protectionist actions. Of course, we know what happened in the interim, and we will see what happens as a result of the similar provision in the present trade agreement.

The next point in my quest for clarification is with respect to the situation which will prevail when and if the omnibus trade bill passes Congress. Does this agreement in any way supersede the provisions of the trade bill as they might affect Canada, or is it the expectation of the Government of Canada that Congress will amend, or that the executive is obligated to seek amendments to, the omnibus trade bill that would bring it into conformity with the provisions of the elements of the trade agreement?

• (1430)

Senator Murray: Honourable senators, first of all, we do not know when, or in what form—or, indeed, whether—the omnibus trade bill will pass the Congress. As a matter of fact, I believe that some indication has been given by President Reagan that he would veto that bill as it stands.

As to whether the Free Trade Agreement between Canada and the United States would supersede the omnibus trade bill, I do not see how that could happen, but of course much would depend on the date of passage in the Congress of any trade legislation. Once the Free Trade Agreement comes into force, any changes in existing legislation would, of course, be subject to the dispute-settlement process that is contained in the Free Trade Agreement.

Senator MacEachen: I did not quite get the last point that was made by the Leader of the Government in the Senate. Is the Leader of the Government saying that if the omnibus trade bill passes—supposing that it does pass—the dispute-settlement mechanism is capable of preventing the application of that trade bill to Canada?

Senator Murray: The dispute-settlement mechanism would, of course, apply to legislation passed by Congress or actions taken in Canada after the coming into force of the Free Trade Agreement. It does not apply, as I see it, to the omnibus trade bill, assuming that that trade bill were to get through Congress prior to the coming into force of the Free Trade Agreement.

Senator MacEachen: I know this is a complicated area, and I am not sure that I fully understand what my own question implies, but I gathered from the answer of the Leader of the Government—and he may wish to reflect upon this—that he is stating that any trade bill that was in existence when this trade agreement comes into effect would not be subject to the dispute-settlement mechanism. In other words, that the dispute-settlement mechanism would be obligated to respect American law even though that law in that form might be quite damaging to Canada.

I am asking for clarification. Perhaps the Leader of the Government will want to clarify that point later today or tomorrow.

There is one other question that I wanted to ask, and that is how subsidies are to be treated in the "Elements of the Agreement." I have not found any direct reference in the "Elements of the Agreement" to a definition of what would be acceptable subsidies, although I must say that I have not examined the document all that closely. Have the negotiators reached conclusions as to what subsidies will be acceptable or unacceptable, or is that subject left untouched?

Senator Murray: Honourable senators, what we have agreed to do over the next five years is for Canada and the United States to work together to arrive at subsidy definitions and at agreement on the use of countervail and anti-dumping law. We have agreed to try to come to a mutual agreement on these matters over the next five years, and then there is a two-year extension after that, as I understand it.

Therefore, in the meantime the status quo is maintained. Subsidies that are brought in in any respect by either country could be subject to countervail action by the other country. In that respect nothing has changed, except that the dispute-settlement mechanism ensures that there will be fairness and impartiality in the exercise of those laws by each country.

With regard to the first part of your question, I regret if my earlier reply was unclear. The point I was trying to make is that once the Free Trade Agreement is in place, trade remedy legislation brought in by either country will not be applicable to the other partner unless it is explicitly stated in that trade remedy legislation. If it is so stated in that legislation, and the legislation is to apply to the partner, then the partner may put in process the dispute-settlement mechanism which requires, among other things, a 90-day consultative period and possibly a declaratory judgment by the bi-national tribunal as to whether the legislation conforms to the GATT rules and whether it conforms to the spirit and objectives of the Free Trade Agreement. If it does not, then recommendations can be made or action can be taken by either party to remedy the situation.

Senator MacEachen: Just on the question of subsidies, from what the minister has said it is clear that no conclusion has been reached; that it is inappropriate to say that regional development programs are forever beyond the reach of future negotiations, because, as the minister has stated, there will be future negotiations between the two parties to determine what subsidies will be acceptable. I think that is what the minister has said.

However, I would like to know who negotiates the definition of the subsidies, that is to say, as to what is acceptable and what is forbidden. Would it be done within the trade commission to be established, or between the governments, or will it be within the dispute-settlement mechanism?

Senator Murray: Honourable senators, my information is that that will be done between the governments. If I am incorrect in that, I shall clarify it tomorrow.

Ideally, we would achieve agreement between the parties as to what subsidies, and so forth, are allowable and therefore immune from countervail action. In the meantime, with the establishment of the bi-national binding dispute-settlement mechanism, the assurance that we have is that the present laws of either country will be applied fairly and impartially. We have that guarantee at the end of the process.

REPERCUSSION ON CANADA OF POSSIBLE U.S. TRADE LEGISLATION

Hon. George van Roggen: Honourable senators, I have a question for the Leader of the Government in the Senate concerning the omnibus trade bill or, for that matter, any other legislation that might be passed by the U.S. Congress relative to trade between now and the time of ratification by the Congress of the Free Trade Agreement. Much of the argument in favour of a free trade agreement between Canada and the United States—from Canada's point of view—is to avoid the situation where, if the United States wishes to find a remedy for a problem that they have with trading partners other than Canada, such as Europe or Japan, they pass legislation to correct that problem aimed at Europe or Japan, and Canada is often sideswiped.

[Senator Murray.]

● (1440)

Then when we go to the United States and say, "Please give Canada an exemption from the application of this particular piece of legislation," they say, "We would give you an exemption. We acknowledge you are not part of this particular problem, but we are forestalled from doing that because of the GATT. We cannot exempt you specifically unless, of course, we have a free trade agreement when, under article 24 of the GATT, such an exemption could be given legally to Canada."

My question is this, and you may well have to take it as notice: Did the negotiators for the Canadian government obtain any undertaking from the administration of the United States to submit legislation to Congress bringing into line with the Free Trade Agreement any amendments to American trade laws between the date of the signing of the agreement last week and the date of its ratification? We accept American trade law as it exists today, but because of their peculiar system in the United States this does not become binding on them until Congress deals with it. That is not the situation in Canada. Therefore, it is not desirable that their Congress should be able to rush through legislation which might impinge on Canada in a manner not acceptable under the Free Trade Agreement and then get under the wire, as it were, before the ratification process. I wonder whether or not the negotiators for the government have secured from the administration an undertaking that if the Congress were to do such a thing it would submit to Congress legislation to correct that, following ratification.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think the answer to that question is in the negative. We would regard that kind of activity as indicating bad faith rather than the good faith to which the parties have committed themselves.

There is a "standstill" agreement which, while I accept the point made by the Leader of the Opposition, cannot bind Congress. However, we regard it as a pretty strong commitment on the part of the Executive branch.

DEFINITION OF NON-TARIFF BARRIERS

Hon. Peter A. Stollery: I would like to ask the Leader of the Government to clarify what I think I heard him say, which is this: It will take five years under the agreement to define what the non-tariff barriers of the countervail are. As I recall, in the MacDonald report it is strongly emphasized that the problem with GATT is that our main problem with the United States is essentially one of non-tariff barriers. As I understand it, it is the non-tariff barriers which inhibit Canadian access to markets in the United States. Am I to understand that although we have the agreement, the definition of these non-tariff

barriers is going to take the next five years? Is that what you have said?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the subject under discussion is the use of the countervail and the anti-dumping laws of either country. I have said—and I think it would be generally agreed—that ideally we would have an agreement between our two countries as to what types of subsidies would be subject to countervail action and what subsidies would be exempt. We have given ourselves five years to try to come to an agreement on these matters, with provision for an additional two years, if necessary.

In order to shield ourselves from the capricious or unfair use of present countervail law, we have set up a binding dispute-settlement mechanism which will, at the end of the day, ensure that the law has been respected and that it has not been used in an unfair or capricious way.

Senator Stollery: I understand the Leader of the Government in the Senate to say that whatever the binding procedure may be, it will not apply to existing law, which would include present countervail law. Not only that, it may not even apply to the omnibus trade bill that is before Congress.

Senator Murray: My friend is wrong about that. Let me clarify it again. It applies to present law on both sides of the border. In the case of a dispute, of course, it is the law of the importing country that is involved.

We have no objection to the present law. Where we have run into difficulties in the past is in what we regard as the unfair or capricious use of that law. Not to put too fine a point on it, the softwood lumber dispute that has been referred to is a case where some arrangements had to be made because of our well-founded suspicion that the case was not going to be decided on its merits or on the facts or on the law but because the process had become somewhat politicized. The binding dispute-settlement mechanism that we have set in place at the end of this process is to shield our country from that problem.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, the Leader of the Government has correctly expressed his dissatisfaction with the American conduct with respect to softwood lumber and his suspicions that everything was not above board. If that is the case, why did the Government of Canada agree, in the "Elements of the Agreement", to consecrate that situation by putting it in this agreement?

Senator Murray: We did not. What we provided for is a binding bi-national dispute-settlement mechanism at the end of the process to ensure that the rule of law will be respected.

Senator MacEachen: I am asking a factual question now. I admit that I have not examined this in detail, but is there not a provision in this document tabled today which accepts the results of the softwood lumber agreement? In other words, it has the sanction of Canadian approval through the agreement reached with the United States. Why did the government do that? I agree with the minister that the circumstances surrounding that arrangement were quite suspicious and properly drew his ironic ire today.

Senator Murray: I do not quite understand the question. We cannot undo the process that we thought was going to lead to a decision that was based on considerations other than the facts and the law and the merits of the case. We cannot undo that process at this stage, and we can continue to believe and to assert that the agreement that we made under the circumstances was in the best interest of this country.

● (1450)

BINDING DISPUTE-SETTLEMENT MECHANISM—RIGHT OF RETALIATORY ACTION BY INJURED PARTY

Hon. Philippe Deane Gigantès: Honourable senators, I would like to ask the Leader of the Government a question about the statement in the summary of the accord by Ambassador Yeutter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): By Ambassador who?

Senator Gigantès: By Ambassador Yeutter—Y-e-u-t-t-e-r—I do not care how you pronounce his name—the trade representative of the United States. That statement says that the bi-national tribunal will examine whether the law of the importing country, as you so correctly say, has been fairly applied, and will produce a judgment. If the importing country has applied the law unfairly, the other country has the right to retaliate. Is this correct, sir? After you answer that question, I have a couple of other questions.

Senator Murray: Well, honourable senators, that is partly correct. Let me state for the record what the scope of the panels will be. The bi-national dispute-settlement panel would rule on U.S. standards of review, which are similar to our own; the panel could determine whether the decision was wrong and not in accordance with the law; the panel could determine the decision was not supported by the facts on the basis of the record; and the panel could conclude a decision was arbitrary or capricious. That is the way that we viewed the softwood lumber process. That is the kind of thing that we are trying to get at in the dispute-settlement mechanism. I simply add to that that the decisions of the panel are binding.

Senator Gigantès: But according to the document released by the U.S. trade representative, the nature of this binding simply boils down to the fact that the country that has been found to have been injured by this tribunal can then retaliate. Is that correct?

Senator Murray: Well, yes, there can be suspension of benefits by the complaining party. That is the remedy that comes into force.

Senator Gigantès: So, if the elephant offends the mouse, the mouse can squeak; if the mouse offends the elephant, the elephant trumpets its anger. This is what we are talking about. It is an unequal relationship. The weapon left to us, which

constitutes this binding, is our puny strength against their gigantic economic power. Is that correct?

I asked you a question, sir.

Senator Murray: I heard the question; it is idiotic.

Senator Gigantès: Well, I asked you the other day whether we were to have a binding dispute-settlement mechanism and you said, "Yes." We are exploring the nature of this. We find that the nature of this is that if the Americans engage in the underhanded conduct—not above board, as you described it, in the lumber issue—what we can do is retaliate, which is what we did with books and Christmas trees. Where is the difference that this agreement has brought?

Senator Murray: Well, let me try to explain the situation for the benefit of the honourable senator. The decisions of the panel are binding on the parties, which means that if one party is found to be in breach of the agreement, corrective measures must be taken.

Senator Gigantès: By whom?

Senator Murray: By the offending party.

Senator Gigantès: By the offending party?

Senator Murray: Who else?

Senator Gigantès: The mouse will squeak, then, in order to repair the damage done by the elephant!

Senator Murray: By the offending party.

Senator Gigantès: And if the offending party does not take those measures, the other party can retaliate. Is that not so?

Senator Murray: The other party can abrogate the agreement.

Senator Gigantès: Wonderful! This is a binding dispute-settlement mechanism? We abrogate the agreement when 80 per cent of our foreign trade is with the U.S., whereas about 6 per cent of their foreign trade is with us. We are not a threat. We do not have a threat according to this agreement; they do. It has left us in the same unprotected, unequal situation as we were in before.

Senator Murray: That is nonsense!

Hon. Peter A. Stollery: Honourable senators, I would like to pursue for a moment this business of the five-year period to define what appears to me to be U.S. legislation on anti-dumping and countervailing. It seems to me that the whole purpose of an agreement is to stop, from the Canadian perspective, the U.S. unfairly applying anti-dumping, countervailing and various other things against Canadian imports.

It will take us five years to do the defining, which is what the honourable leader has said, but the agreement, from our perspective, and any concessions that we have made—and it appears to me that we have made quite a few in terms of investment in particular—become binding on Canada when it is approved by Parliament, which, given the circumstances in Canada, would not take long. But in the U.S. it does not become binding until it is passed by the Congress.

[Senator Gigantès.]

Senator Murray: Pardon?

Senator Stollery: It cannot take effect until the definitions have been decided on the various laws which we say are not fairly applied. Our whole argument is that, as the leader has said, "We do not mind them applying the law; we object when the law is applied unfairly." That seems to be the position that the Leader of the Government has just told us. It seems to me that it will be binding on Canada shortly, but it will not be binding on our competitor, the United States. I wonder if that is a good deal for Canadians.

Senator Murray: I wonder whether the honourable senator has read through the elements of the agreement or knows anything about it.

Senator Stollery: You just said that it will take five years.

Senator Murray: I am sorry, but my friend does not understand what I am trying to tell him. The binding dispute-settlement mechanism applies equally to both parties from day one.

Senator Stollery: But binding on what?

Senator Murray: It is there. Well, I have tried to explain that to the honourable senator. The laws of both countries are in place. The problem has been that the laws are sometimes administered in an unfair or capricious manner as far as we are concerned. Therefore, we want to obtain and have obtained a binding dispute-settlement mechanism at the end of the process to ensure that there has been fairness in the application of the law. I read through that a few minutes ago.

The five-year period to which I referred earlier, and which is the occasion for the honourable senator's question, refers to the period in which we will try to find new arrangements, and we will try to come to a new agreement on what subsidies, for example, are trade distorting and, therefore, would be subject to retaliatory action by the other country, and what subsidies would not be trade distorting and, therefore, subject to countervail action.

● (1500)

Meanwhile we will have the binding, bi-national dispute-settlement mechanism applicable to both countries in place and applicable to current law in both countries.

CULTURAL INDUSTRIES—FILM DISTRIBUTION—STATUS OF LEGISLATION

Hon. Jerahmiel S. Grafstein: Honourable senators, I have several questions for the Leader of the Government dealing with the elements of the agreement.

My first question deals with cultural industries. I refer to a pamphlet I received in my office entitled "Preliminary Transcript—Canada-U.S. Free Trade Agreement—Elements of the Agreement". This pamphlet was contained in a blue wrapper. I assume this pamphlet is the same as the document tabled by the Leader of the Government in the Senate today.

On page 25 the agreement appears to exempt cultural industries. It goes on to suggest a definition as to what those

industries are, and it includes film or video recordings, production, distribution, sale or exhibition of film or video recordings.

The government, through the Minister of Communications, has promised legislation respecting film distribution in this country in order to counteract the unfair practices of the United States. Is it the intention of the government to proceed with that legislation, or is that legislation in some way restricted by this agreement, either in spirit or intention?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): My colleague, Miss MacDonald, has already indicated that she will be able to achieve her major objective, which is to have two markets rather than one, in that area; that she can achieve that within the context of the Free Trade Agreement; and that there is nothing in the Free Trade Agreement that will prevent us from doing so.

Senator Grafstein: I thank the minister for that answer.

DATA BASES AND INFORMATION—MAINTENANCE, PROTECTION AND ENHANCEMENT

Hon. Jerahmiel S. Grafstein: On page 19 of the document I referred to previously there appears to be a commitment by governments on both sides of the border to develop a continental market for, it says, "enhanced telecommunications and computer services." I am referring to the paragraph which deals with services. It goes on to suggest that there will be a non-discriminatory, open market, if you will, for information services.

Does that mean that the government will not be able, without offending the proposed agreement, to maintain, protect or enhance data bases in Canada; or does it mean that we will really have an open border with respect to data bases and with respect to information?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not in a position to answer the question in the kind of detail that is sought by the honourable senator, but I will obtain a reply and bring it in.

SCREENING OF TAKEOVERS

Hon. Philippe Deane Gigantès: Honourable senators, I would like to ask the Leader of the Government about another section in the summary released by the U.S. Trade Representative.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That document does not fall within my area of responsibility. If my friend wants to ask me questions about the document which I tabled today, signed by the representatives of both governments, or about any documents put out by the Government of Canada on this matter, I will answer them or I will try to answer them under my responsibility as a minister of the Crown. However, he cannot expect me to take responsibility for documents put out by the government of another country.

Senator Gigantès: I will let pass the suggestion that there may be a different interpretation of what the accord contains in the United States as opposed to here.

According to the documents released by the Government of Canada, it is agreed that if there is a sudden surge of imports there can be protection, and GATT accepts that. It is a well known fact. If the Americans realize that because our steel products are more efficiently produced they are a better bargain, and they suddenly start buying in large quantities, then the U.S. can ask us to moderate this or take measures itself to moderate it. Have we put in similar provisions, for instance, to prevent a surge of takeovers? Investment is another aspect. Supposing suddenly the Americans started buying up Canada. Can we tell them that they are buying it up too fast, just as they would tell us that we are exporting steel too fast?

Senator Murray: As an academic matter, I would be very interested if my friend would explain to me how such a provision might work.

The agreement incorporates the well-known policy of this government with regard to foreign investment. We have retained the right to screen significant takeovers in this country. We are phasing in an increase in the threshold in terms of direct takeovers, and over time we will eliminate the provisions of the Investment Canada Act respecting indirect takeovers.

Senator Gigantès: In the opinion of the Leader of the Government in the Senate is there no danger of having more and more of our economy owned by the United States? I would point out that in some sectors they are already majority owners. No other country is so owned by a foreign country as is Canada.

Senator Murray: Honourable senators, the policies of this government stand in rather sharp contrast to the discriminatory and confiscatory policies adopted by the previous government. That is why we had to move with the Investment Canada Act and with the action we took on the National Energy Program. The results should be obvious even to the honourable senator. Almost one million new jobs have been created in this country since the present government took office.

Senator Gigantès: I shall accept the accusation that they are discriminatory in favour of Canadians. What this government seems to have done is remove this discrimination in favour of Canadians, replacing it with discrimination in favour of that much more powerful economy of the United States.

As far as the creation of jobs is concerned, more jobs have not been created per capita.

Senator Flynn: Question!

Senator Gigantès: I am learning from the honourable senator's techniques!

As I was saying, there have not been more jobs created per capita than there were during previous recoveries. Why is it wrong to discriminate in favour of Canadians?

Senator Flynn: Argument!

DUTY-FREE IMPORTATION OF U.S. MANUFACTURED PRODUCTS

Hon. Peter A. Stollery: Honourable senators, I would seek clarification of one matter. According to press reports today, as a result of the Free Trade Agreement, on January 1, 1988, a variety of manufactured products will be able to be imported into Canada without duty. If that statement is incorrect, I would accept it, but that is what I read. The assumption, I presume, is that it will have already been approved by the Parliament of Canada. What will happen if the free trade agreement has not been approved by the Congress in the United States by that date? Does that mean that the Canadian part of the agreement will be in place and that certain products will be allowed to be imported into Canada without duty? What will happen in terms of the other side of the agreement?

It seems to many of us that the situation with respect to the agreement in the U.S. is far from clear. It will have to be dealt with by Congress, and that may take a longer time than it will take in Canada. I would like to have an explanation of that process.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sorry but I believe that the premise of my honourable friend's question is erroneous in at least several respects. I ask for the indulgence of the Senate to allow me to examine it more closely in *Hansard* and report tomorrow.

● (1510)

By the way, as the only minister here today, I have been subject to a number of questions about various aspects of this agreement. While I am prepared to do my best, it occurs to me that honourable senators might like to consider whether this agreement should be taken under advisement by one of our standing committees, which would have the right to call and examine witnesses, including ministers of the Crown responsible for this area of public policy and, indeed, Canadian negotiators who were responsible for negotiating the agreement. Alternatively, detailed questions can be submitted either in writing or during the course of oral Question Period, and I will obtain written replies from the Minister of Trade.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT COMPENSATION

Hon. Jerahmiel S. Grafstein: On another related subject, in light of the government's interest and desire to harmonize Canadian laws with American laws, I bring to the attention of the minister that the United States has now passed legislation in the House of Representatives granting Americans of Japanese descent who were incarcerated in the United States during the Second World War a number of things, including $20,000 as partial compensation for their internment and for property that might have been taken unfairly during that period. Would the government now reconsider its position with respect to individual compensation in a partial form for those Canadians of Japanese descent who suffered much greater indignities and deprivation both personally and in relation to their property during and after the Second World War?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will obtain a reply to that question from the appropriate minister.

ENERGY

NEW BRUNSWICK—ADDITION TO LEPREAU NUCLEAR POWER PLANT

Hon. L. Norbert Thériault: Honourable senators, I have a question for the Leader of the Government in the Senate. I am sure that compared to everything he has been talking about today—foreign trade, free trade and Canada's becoming more or less the fifty-first state of the U.S.A.—New Brunswick's problems do not share the same degree of concern in the minds of the government. Nevertheless, my question is based on the pride that we in Atlantic Canada still have in those provinces and that I have in my province of New Brunswick.

A year ago or so a Minister of Transport appeared in Moncton when they were in the process of closing the CNR shops—which had been a vital part of the economy of that area—and told us that we should not complain too hard, that if we compared ourselves to Bangladesh we would feel pretty fortunate. We had to take that, and he went on to close the shops. Two weeks ago the Premier of New Brunswick—who appears to be in a tough fight for re-election—announced an energy policy that included the building of what is known as "Lepreau II", which is a unit additional to the nuclear power plant located in that province. He went on to say that this would come about in the next few years as a result of the serious negotiations undertaken with the federal government. He said this, only to be told by the federal Minister of Energy that his department was in charge not of welfare but energy, and that in fact there were no serious negotiations between the Government of New Brunswick and the federal government on the building of the second unit of the Lepreau nuclear plant. I am sure the minister has read about this matter and heard about it from his colleagues in the Senate, some of whom are down in New Brunswick right now, and rightfully so, to help the premier get re-elected.

Could the Leader of the Government in the Senate, who is the minister responsible for federal-provincial relations, tell the people of New Brunswick where this matter stands and what will be its effect on the province?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can assure Senator Thériault that in all discussions of the Free Trade Agreement with the United States the interests of the Atlantic provinces—indeed, the interests of all regions—have been uppermost in our minds. As far as the Atlantic provinces are concerned, let me remind him that the Atlantic Provinces Economic Council has done a study, which was published within the last while, indicating that in those provinces the fishery, food processing and resource-based

industries stand to gain very considerably from a free trade agreement between Canada and the United States. I hope that Senator Thériault is as encouraged and positive about a free trade agreement as I am for that reason.

With regard to Lepreau II, I can tell the honourable senator that some weeks ago, in my capacity as minister responsible for the Atlantic Canada Opportunities Agency, I had discussions with the president of the New Brunswick Electric Power Commission and one of his officers about this matter. I am aware that they have had serious discussions with Atomic Energy of Canada Limited and other agencies of the federal government. The point that my colleague, Mr. Masse, was trying to make—perhaps more dramatically than he wanted to—was that the federal government was not prepared to pay 100 per cent of the cost of an electricity generating unit in New Brunswick or anywhere else. That, however, still leaves plenty of room for negotiations.

The honourable senator will be aware that because the smaller unit is regarded somewhat as a prototype, it is the understandable view of the Government of New Brunswick and of the power commission in that province that they should not be required to bear too much of the financial burden of such an installation. That is the subject matter of negotiations which are in process between federal and provincial agencies.

Senator Thériault: Honourable senators, I take it from the answer of the minister that it is not the policy of the present government to regard as a matter of welfare any assistance that may be given in the future to building nuclear plants or any other form of industry?

Senator Murray: Honourable senators, I think our record in that respect speaks for itself. Over the past month, again in my capacity as minister responsible for the Atlantic Canada Opportunities Agency, I have approved offers by that agency amounting to some $43 million in federal assistance to various firms which are ready to go into business, which will create upwards of 1,000 jobs in the Atlantic region and which will maintain some 400 existing jobs.

Senator Thériault: Honourable senators, even one job is good news for New Brunswick. Promises of jobs have been coming fast over the last few weeks and, although I doubt that the people of New Brunswick take them very seriously, we will know next week whether they do or not. However, I want to ask the minister another question. Can we take it as a fact that all the promises of all the projects that were being announced by Mr. Valcourt over the last two weeks will be brought forward and financed as announced, regardless of the outcome of the election on October 13?

Senator Murray: Honourable senators, this government always deals in good faith.

Senator Thériault: We shall see.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, October 7, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE SENATE

PRODUCTION DELAY AT PRINTING BUREAU

The Hon. the Speaker: Honourable senators, I would like to advise the house that there has been a production breakdown at the Printing Bureau. As a result, both the House of Commons and the Senate publications, including yesterday's *Debates of the Senate*, have been delayed. However, they should be available shortly.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. George van Roggen: Honourable senators, I have the honour to present the Tenth Report of the Standing Senate Committee on Foreign Affairs concerning Bill C-68, an act to amend the Bretton Woods and Related Agreements Act.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 1910.*)

Senator van Roggen: Honourable senators, with leave of the Senate, I would ask permission to say a few words at this time relative to the committee's report.

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

Hon. Senators: Agreed.

Senator van Roggen: Honourable senators will have heard the explanation of this bill from Senator Doody when it was introduced. Also, at that time Senator Hicks made a thoughtful speech on the matter. Therefore, I will not endeavour to repeat the things that they said at that time.

The purpose of the bill is to provide the legislative authority for Canada to participate in the new facility, the Multilateral Insurance Guarantee Agency (MIGA) of the World Bank. The bill also provides for an amendment to the Articles of Agreement of the International Bank for Reconstruction and Development that raises the percentage of voting power required to amend the institution's Articles of Agreement. That has a direct bearing on the question of the U.S. veto in these institutions, and I will have something to say about that in a few moments.

The committee heard testimony from Mr. Yves Fortin, the Assistant Director of the International Finance and Development Division of the Department of Finance. I might just say that only last week Mr. Fortin was elected Executive Secretary of the Development Committee of the World Bank and the IMF and will be posted to Washington. This is an honour for Canada and certainly a compliment to him.

From its earlier hearings on Third World debt in the developing countries the committee had concluded that one of the main elements needed to help growth in indebted developing countries was new investment capital for development purposes. One of the impediments to this is the natural reluctance of some foreign investors to invest in nations where they feel there is too high a risk of instability, revolution or government confiscation, or whatever it might be.

This new agency will be able to provide additional insurance over and above that provided by EDC for such investment in new enterprises in the Third World. Senator Hicks developed this at some length, and I will not go further other than to say that that is very much in keeping with the report of my committee issued in May of this year. In that report we said:

> The Committee is of the opinion that the establishment of the World Bank's Multilateral Investment Guarantee Agency could be a positive factor in encouraging needed private investment capital into Third World enterprises.

The committee reaffirms its support for the establishment of MIGA and endorses Canada's participation in this new agency under the terms of this bill.

Some members of the committee wished me to bring to the attention of the Canadian government—and we do so through this report—the recommendations in the report of the Special Joint Committee on Canada's International Relations, entitled "Independence and Internationalism", as well as the government's response, "Canada's International Relations", of December 1986 respecting the adherence to international human rights and democratic development in Canada's foreign policy. These members wish the government to look at what, if any, non-binding parallel steps might be taken to reflect these concerns in this multilateral agency.

Coming back to the veto question, clause 6 of the bill amends the percentage shares of the total voting power needed to amend the bank's basic charter from 80 to 85 per cent. This has the effect of preserving the U.S. veto on decision making within the bank.

In its previous report the committee was critical of the U.S. attitude at recent IDA negotiations, which had the effect of constraining extra funding from industrialized countries, because such funds would have increased their percentage of shares in the institution and thereby reduce the U.S. percentage below 20 per cent, which would have the effect of removing their veto.

Clause 6 corrects that for this particular bill, and we support that as a temporary solution. Nevertheless, the committee wishes to note that it remains critical of U.S. policy in this regard. The United States should recognize that it is no longer in the paramount position it was in after World War II when the IBRD was established. At that time the U.S. economy by far exceeded the economies of all other industrialized countries and was in a position to make very large contributions that the other countries were not. The situation has now changed. The attempt of the United States to perpetuate its special status discourages other states from assuming increased responsibilities in these world financial organizations. Basically, in the replenishment of IDA, for instance, all of the nations of the western world were agreeing that a $15 billion replenishment would be suitable. They compromised at $12 billion. The United States would not go beyond $9 billion and, wanting to retain its veto, would not allow the others, in effect, to put in the additional money. Therefore, very large sums of money are denied Third World development because of this veto power of the United States, which I think was perfectly justified and understandable 40 years ago but is not really suitable in the 1980s. Again we make this comment without suggesting that we should amend the bill in any way.

The committee notes with approval, however, the recent announcement by U.S. Treasury Secretary James Baker that the U.S. Administration now supports a general capital increase in World Bank funding in order to increase lending to Third World countries. The committee welcomes the dropping of opposition by the U.S. Administration to a general capital increase, and is hopeful that it is indicative of a now more forthcoming attitude by that government with respect to the World Bank. However, that does not speak for the Congress, which is very reticent in this whole respect.

Subject to those comments, our committee has reviewed Bill C-68 in accordance with the order of reference and recommends that the bill be passed without amendment.

Hon. Heath Macquarrie: Honourable senators, as one who has been concerned for a long time about such institutions of an international economic character as this bill deals with, and one who has cared about this aspect of Canada's international outreach, if I may use that term, in the economic sector, I would like to say that I subscribe completely to the remarks of the chairman of our committee, who is even more knowledgeable than I am on all of these matters. I think he has spoken out both well and wisely. I, too, strongly support the recommendation of the committee.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

QUESTION PERIOD

[*English*]

YOUTH

BEAT-THE-STREET PROGRAM—LENGTH OF TERM

Hon. Lorna Marsden: Honourable senators, I would like to ask the Leader of the Government in the Senate if he can tell us more about the announcement made by the Honourable Jean Charest, Minister of State for Youth, on September 29 concerning the funding of $1.2 million in support of the Beat-the-Street Program—that is the Youth Literacy Program—for the four western provinces.

The spirit of this announcement is a welcome one, as I am sure my colleague, Senator Fairbairn, would agree if she were here today. However, the amount is spread over the four western provinces, so, at the maximum, it can only be $300,000 per province. I understand that this amount is also spread over a five-year period, which, if that is accurate, amounts to no more than $60,000 a year per province for a program to help street kids—of whom there are a great many in the western provinces—get off the streets and help them with literacy.

Can the Leader of the Government in the Senate tell us the length of time to which this program applies? Is it, as I have heard, a five-year program?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot be helpful on that matter. I will have to obtain that information and all other relevant information on the minister's announcement from Mr. Charest.

[*Translation*]

BANKING, TRADE AND COMMERCE

REPORT OF COMMITTEE ON BILL C-22—ANTICIPATED DATE OF PRESENTATION

Hon. Martial Asselin: Honourable senators, I should like to direct a question to the Chairman of the Senate Standing Committee on Banking, Trade and Commerce. Canadians seem to be quite concerned over the fate of Bill C-22. They ask many questions about the progress of debates on this bill in the Senate. For instance, at what stage of committee proceedings is the bill now? When will the bill be called for third reading in the Senate?

Senators who do not sit on the committee are unable to respond to these questions. Since the bill was referred to committee some time ago, could the committee chairman tell us how far has the debate on this bill progressed in committee?

[*English*]

Can he tell us when he expects the report will be made to the Senate regarding Bill C-22?

● (1410)

Hon. Ian Sinclair: Honourable senators, on Friday last, at about 4 o'clock, we completed hearing the witnesses that the committee felt it necessary to hear. We heard the minister on Friday. Yesterday the unrevised transcript of that evidence was available a little after noon. Later in the day we received some additional information from the PMAC, and earlier in the day I, as did other members of the committee, received a letter from the minister.

Also yesterday, in the late afternoon, the committee met *in camera* to consider points that might be dealt with in our report, and what I would call the heads of the report were discussed. The view of the staff was that, working to that kind of program, they would have some texts for us late next Tuesday. From there on I am in the hands of the committee.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think the Senate will understand the government's concern about this bill. I have tried to convey to honourable senators something of that concern on several previous occasions.

If I understood the chairman correctly, he has told us that the staff attended yesterday's meeting and have undertaken to provide some texts to the committee by next Tuesday. Has the committee arrived at a consensus on the basis of which the staff is drafting its report?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I do not think that question is in order.

Senator Flynn: Ho, ho!

Senator Frith: Senator Flynn is very easily amused.

Questions that I believe are in order to the chairman of the committee should be about the committee proceedings and activities, not about the decisions of the committee. My honourable friend is asking about a decision of the committee, and that is not a proper question.

Senator Flynn: Sure it is.

Senator Murray: I would like to know whether in the course of its work the committee achieved a consensus on the basis of which the staff is drafting a report. That does not seem to me to be out of order, because it bears very directly upon the expectations that we may have in the Senate as to this committee and when and whether it is ever going to discharge the mandate that the Senate entrusted to it more than one month ago.

I ask the chairman of the committee whether the committee achieved a consensus on the basis of which the staff is drafting a report, or whether instructions were given to the staff in that respect. What is the expectation of the chairman and the committee as to what the staff is supposed to produce within the next week?

[Senator Asselin.]

Senator Sinclair: Honourable senators, I think it is quite clear what they are producing. It will deal with the evidence: first, the suggestions made by the fine chemical industry; second, the suggestions made by the generic companies; third, the reaction of the patent drug industry; and, finally, matters of a fundamental nature as dealt with by the minister. Having done that, I would think that the committee would have to decide whether, in the light of that, it would be able to say that a compromise was attempted but, on fundamentals, not secured.

Senator Murray: I am sorry, I missed the last sentence. A compromise was—

Senator Sinclair: —attempted and not secured on fundamental matters. On non-fundamental matters that would alleviate some of the concerns expressed by various groups having to do with different parts of the bill, including R&D, pricing and some drafting matters, the committee will delineate the evidence and some conclusion might very well be reached with regard to it. But that decision has not been made.

Senator Murray: Just for clarification so that I might understand this, I take it that the staff is preparing a simple narrative of the evidence that has been heard by the committee.

Senator Sinclair: I wouldn't say "narrative," I would say "analysis."

Senator Murray: Well, whether it is an analysis or a narrative, the staff are doing this in the absence of any consensus on the part of the committee or any instruction from the committee as to any conclusions on the part of committee members on what they wish to have in their final report. Is that the case?

Senator Sinclair: No, I wouldn't say that. I indicated to you where we were heading on fundamental matters and where we were heading on non-fundamental matters. I do not think I can help you any more than that until the committee reaches a decision and the report is brought to the Senate.

Senator Murray: The honourable senator has stated that the staff is expected, as he put it, to deal with the evidence—

Senator Sinclair: I said "analyze" it.

Senator Murray: The senator's first statement was that the report the staff is preparing would deal with the evidence from the fine chemicals industry and from the generics, the reaction of the anti-drug-bill people, the matters dealt with by the minister, and so forth. Whether the staff deal with it, analyze it or provide a narrative, it is very difficult to see where the committee is headed, as a matter of fact. I take it from what the honourable senator has said—

Senator Frith: What is the question?

Senator Murray: —that the conclusions of the committee are yet to be reached.

Senator Frith: I thought Senator Flynn would enjoy that. I am quoting him: "Where is the question?" He often says that.

The Hon. the Speaker: Order, please!

Senator Frith: Yes, could we have the question?

Senator Murray: I simply want to reiterate the concern of the government about this matter. It has been six months since the Senate first took this bill under study.

Senator Frith: Order! We are still in Question Period. What is the question?

Senator Murray: I am coming to that. Preambles are normally tolerated in this place.

Senator Frith: Not by Senator Flynn they aren't.

Senator Murray: God knows I've heard enough of them myself from the other side. It has been a good six months since the Senate first took this matter under advisement, under pre-study. The special committee under Senator Bonnell's chairmanship toured the country, held 52 meetings for more than 150 hours, and heard from more than 200 witnesses representing 130 organizations.

Senator Frith: Are we having a debate?

Senator Doody: We are having a question.

Senator Frith: Is the honourable senator asking leave for a debate?

Senator Murray: No, I am not asking leave. I hope the honourable senator will grant me the indulgence of reiterating the concern of the government about this matter.

Senator Guay: He is repeating himself.

Senator Murray: It is six months since this bill came to the Senate for pre-study. It is more than one month since, on motion of the Honourable Leader of the Opposition, the matter was referred to the Standing Senate Committee on Banking, Trade and Commerce.

Senator Frith: Order!

Senator Murray: In the course of that discussion, I believe it was on September 2, there were undertakings given by the chairman of that committee—

• (1420)

Senator Frith: Honourable senators, on a point of order, indulgence is one thing, but, after all, this is still Question Period. There was a good, long preamble; there was a question; there was a long answer; there was a subsequent question which contained a good deal of explanation as to why the government is concerned; and now the Leader of the Government is making another long statement as to why the government is concerned. Perhaps we could have a little debate on this. The problem, of course, is that if we grant the so-called "indulgence"—and we have already granted a good deal of indulgence—then, of course, the Leader of the Government can sit down and, following his reply, which he has given in debate fashion under Question Period, there is no room for anyone else to get into the debate. It is a one-sided debate. The "indulgence" for which the Leader of the Government is asking is an indulgence to make a government statement during Question Period under the guise of a question put to the chairman of the committee; and I think it is out of order.

Senator Murray: Honourable senators, I will conclude very quickly. It has been more than a month since this matter was referred to the Standing Senate Committee on Banking, Trade and Commerce, with undertakings from honourable senators opposite that the matter would be dealt with expeditiously. I referred to these matters in the course of the debate on September 15. I will not repeat myself now. We still know no more about the intentions of that committee as to when, whether and how it is going to report on this matter. I cannot understand this. Honourable senators opposite have a majority and are free to deal with the bill as they see fit. I think the matter should be brought to a head soon. I am aware of the fact that the Honourable Senator Sinclair is due to retire in December 1988, and I would like to have some—

Senator Argue: That's below the belt.

Senator Sinclair: Honourable senators, I should like to—

An Hon. Senator: Have you a good replacement?

Senator Sinclair: If the witnesses whom the committee decided it had to hear had been made available earlier, we would have been further advanced; but we only completed our hearings with the appearance of the minister at approximately 4 p.m. on Friday last.

Senator Murray: I offered the minister to you on September 15.

Senator Sinclair: But you are not going to tell the committee how to run its business, surely. I know that you are a very powerful and able person, but the committee is going to run its business in the way it sees fit.

Some Hon. Senators: Order, order!

Senator Frith: On the point of order, the leader ended his question, so-called, by saying that he felt that he still did not know what were the intentions of the committee. It seems to me that is precisely why our rules provide that a question may be addressed to the chairman of a committee about the activities of that committee. But it is not in order to ask a committee to tell the Senate, while a matter is still under consideration and while the committee is working on something referred to it by the Senate, what its intentions are. I think it is out of order to expect the chairman of the committee to say in the middle of its deliberations what the committee's intentions are.

CANADA-UNITED STATES FREE TRADE AGREEMENT

REASON FOR GOVERNMENT CONCERN ABOUT PASSAGE OF BILL C-22

Hon. Stanley Haidasz: Honourable senators, I would like to ask the Leader of the Government whether the government's haste and concern about the Banking, Trade and Commerce Committee's forthcoming report on Bill C-22 is based in any way on the commitments that Mr. Wilson and Ms. Carney have made in Washington to expand the period of exclusivity

on patents held by American pharmaceutical companies, as revealed in the trade pact documents.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the government's concern is with the millions of dollars worth of investment and thousands of jobs that are going to be created in research and development—

Senator Frith: Ours is for countless thousands of Canadian consumers.

Senator Murray: —that will not be created in the absence of this legislation.

Senator Haidasz: Honourable senators, as a supplementary question, I would like to ask the Leader of the Government this: Why is the government not concerned about the high prices of drugs charged disadvantaged Canadians who do not have any drug plans and who cannot afford high prices for drugs?

Senator Murray: Honourable senators, I think the Minister of Consumer and Corporate Affairs put the honourable senator in his place the other day at the committee meeting when he tried to ask the same kind of demagogic questions there.

Senator Frith: Put him in his place?

Senator Flynn: Indeed.

Senator Murray: My concern—

An Hon. Senator: Shame!

Some Hon. Senators: Oh, oh!

Senator Murray: If you will let me state it, my concern in this matter is also for the reputation of the Senate. What kind of reputation is the Senate giving itself in a situation—

Senator Frith: Crocodile tears!

Senator Murray: —where it drags out legislation for six months at a time—

Senator Doody: Right on!

Senator Murray: —when there is no rational explanation for doing so? The bill arrived here six months ago for pre-study. It has been through a lengthy process, which I have described, of hearings, witnesses, debate, and so forth. Surely honourable senators have enough information now to make up their minds and to vote one way or the other on the bill.

Some Hon. Senators: Oh, oh!

Senator Haidasz: Honourable senators, I have a supplementary question. Why is the government not worried about its reputation and why is the minister not worried about his reputation in imposing on the consumers of Canada legislation which will keep drug prices high and not do very much to regulate them?

Some Hon. Senators: Hear, hear!

An Hon. Senator: Order!

[Senator Haidasz.]

Senator Flynn: Then summon up your courage and vote against the bill!

Senator Frith: Why aren't you courageous enough to go against your minister?

Some Hon. Senators: Oh, oh!

Senator Flynn: I am in favour of the bill—

Senator Frith: You know the bill is wrong! You know that very well.

Senator Flynn: —and I am not hiding. Senator Haidasz came into the picture at a late hour. He did not know anything, and he wanted to start from scratch.

Senator Frith: Was he to ask you?

Some Hon. Senators: Oh, oh!

Senator Flynn: And he is wasting the time of the Senate. For God's sake! You should be ashamed.

Senator Frith: Leave Him out of this.

Some Hon. Senators: Oh, oh!

GOVERNMENT'S COMMITMENT TO U.S. GOVERNMENT— POSSIBILITY OF FURTHER LEGISLATIVE ACTION

Hon. John B. Stewart: I would like to ask the Leader of the Government in the Senate whether the commitment with regard to the Patent Act made by Canada to the Government of the United States, as set forth in the Washington accord, will have been discharged if Bill C-22 becomes law, or are we to anticipate further legislative initiatives by this government to give additional protection to the multinational pharmaceutical industry?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would have to ask for a prepared reply to that question, because I do not have the reference in front of me at the moment.

Senator Guay: What did you tell the premiers?

Senator Murray: I can tell the honourable senator that the government has no plans for further legislation in this field.

Senator Stewart: The Honourable the Leader of the Government in the Senate is familiar with the text of the Washington accord with regard to pharmaceuticals.

Senator Guay: He should be!

Senator Stewart: My question is a simple one. Does Bill C-22 discharge the obligation assumed by the Government of Canada with regard to the pharmaceutical industry, or is there additional legislation to come—although, perhaps, not yet planned—in order to discharge the obligation?

Senator Murray: Honourable senators, I think I have answered the question fully. The government does not plan any further legislative initiatives in this field.

PATENT ACT

BILL TO AMEND—MULTINATIONALS' COMMITMENT TO R&D—PROVISION OF PUNITIVE MEASURES FOR NON-COMPLIANCE

Hon. Philippe Deane Gigantès: Honourable senators—

Hon. Jacques Flynn: Honourable senators—

Senator Muir: Oh, no!

Senator Flynn: Go ahead. I would rather follow you.

Senator Gigantès: Thank you, sir. I hope you will heckle me, because it gives me great pleasure as I talk.

I would like to ask the Honourable Leader of the Government in the Senate whether, in view of the report of the Auditor General about the research tax credit through which companies collected some $3 billion allegedly to do research but which they did not do—in view of that allegation, why does Bill C-22—

Senator Haidasz: Twenty-two.

Senator Gigantès: Bill C-22.

Senator Haidasz: Twenty-two.

Senator Gigantès: Bill C-22 is what I am saying. So long as we agree. Forgive my foreign accent, sir.

In view of our experience in the past, why does Bill C-22 not contain some provisions which will provide some punishment for pharmaceutical companies if they do not keep their promise to invest, in the way that companies did not keep their promises to invest while pocketing money from the federal government in the research tax credit scam?

• (1430)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that was quite an over-simplification of what happened with what the honourable senator has so accurately described as the research tax credit scam. I thought that one of the most devastating parts of that story was the fact that it became obvious to ministers at a very early stage that the tax credit was not achieving the purposes for which it was designed; indeed, that it was being blatantly abused, but for political reasons, including the advent of an election, ministers did not wish to take corrective action. So the abuse mounted until it cost the Canadian taxpayers $3 billion.

Senator Gigantès: Why, then, do we not learn from these errors and have at least a sunset clause in the bill so that it will die automatically unless renewed on the basis of good evidence that there indeed has been the promised investment? Why do you trust the pharmaceutical companies when it is a fact that private companies, if they can get away with it, will try to renege on their promises? Will you please answer that question?

Senator Murray: I think honourable senators have been around that question dozens of times in the course of all the hearings.

Senator Flynn: He did answer.

Senator Murray: In fact, I think the transcript will indicate that the Minister of Consumer and Corporate Affairs and various other people have answered that question more than adequately. Is the honourable senator casting any doubt at all on the research plans that have been announced by companies over the past year or more? These people are ready to proceed, and in some cases have proceeded already, and are now becoming concerned about the intentions not of the government but of Parliament and, in particular, of the Senate.

In this case it is not the good faith of the pharmaceutical companies that is in question. It is the good faith of the public authorities in Canada, namely, the Parliament and in particular the Senate of Canada that is being questioned.

Senator Gigantès: McDonnell Douglas promised to contract for the CF-18. In fact, it delivered about 25 per cent of its promises. Bell Helicopter promised to create 3,000 jobs; I believe 600 were created.

Senator Flynn: Which government?

Senator Gigantès: It does not matter. It was the Government of Canada.

Senator Flynn: Oh!

Senator Gigantès: Whichever party forms the government. You say that you have come into power to do things better and more cunningly than we did. However, you do not seem to have learned from the fact that we were taken for a ride. Why do you not make some provisions to ensure that the Canadian taxpayer is not again taken for a ride? Is that such a terrible thing to do?

BANKING, TRADE AND COMMERCE

REPORT OF COMMITTEE ON BILL C-22—INTENTIONS OF COMMITTEE

Hon. Jacques Flynn: Honourable senators, I have a question for the chairman of the Standing Senate Committee on Banking, Trade and Commerce. In view of the fact that the committee has asked the research officers to draft a report for consideration, but without indicating to those officers what kind of conclusion they would like to study, is it the intention of the committee to meet and attempt to find out what are the concerns of, at least, the Liberal majority of that committee, because earlier in the meeting yesterday they voted against—

Hon. Ian Sinclair: Order, order! The proceedings of that committee were *in camera* and were not to be published.

Senator Flynn: Not at all. The decisions are not secret. I have here the minutes, and they are public. These minutes show just what you said. You confirmed that instructions had been given. That is a decision. What cannot be discussed is the nature of the discussion. However, the decisions that were made by the committee are not *in camera*; they are public, and you should know that. Of course, you have not long been chairman of that committee—

Senator Frith: Come on!

Senator Flynn: —and your tenure has not been too successful up until now.

However, coming back to this question, in view of the fact that no instructions have been given to the research officers with respect to the conclusion of the majority, since, as I said, yesterday the majority decided to vote down the recommendation that the Senate do not insist on its amendment and that it vote in favour of the motion, in those circumstances, is it the intention of the committee to meet before the draft report is presented in an attempt to, at least, reach a consensus, under the able chairmanship of Senator Sinclair, as he would put it himself, because he did put it in that fashion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, on a point of order—

Senator Flynn: I am still speaking—

Senator Frith: No, I am rising on a point of order, honourable senators. The question has been phrased twice by Senator Flynn: "Is it the intention of the committee . . ."

I say again that a question to a committee about its intentions is not in order. A question about the activities is in order—in other words, what the committee is doing; at what stage are their proceedings—and that has been answered by Senator Sinclair. He has said exactly what the committee is doing. However, a question as to the intention of the committee is out of order, because it introduces a very disorderly procedure for the Senate to say to a committee: "We refer the following matter to you," and then to keep badgering it about what its intentions are. It is, however, in order for the Senate to ask a committee about its activity, or to ask it whether or not it had a meeting.

Therefore, I ask for a ruling as to whether or not it is in order to ask a committee chairman about the intentions of his or her committee.

The Hon. the Speaker: Honourable senators—

Senator Flynn: On the point of order—

Senator MacEachen: You wave His Honour the Speaker down. Mr. Diefenbaker waved Speakers down; it is the same photograph!

Senator Flynn: Yes, indeed. I am not going to let Senator Frith get away with that. If he had waited for my question, he would not have needed to rise on this point of order.

Senator Frith: You said it twice; you said, "Is it the intention . . ." The record will show it.

Senator Flynn: I intended to ask if it is the intention of the committee to sit before next Tuesday.

Senator Frith: Well, that is easy—

Senator Flynn: That was my question. Then you agree?

Senator Frith: The committee made a decision to meet next Tuesday. That decision has been made.

Senator Flynn: Don't give him the answer; let him answer.

Senator Frith: Why not?

[Senator Frith.]

Senator Sinclair: Perhaps I could help. Honourable senators, yesterday, when the committee met, it was agreed that the committee would meet again at 5 p.m. on Tuesday next, and I cannot recall anyone objecting.

Senator Flynn: You speak of recalling what some people say; that is completely out of order, according to Senator Frith. You should not go that distance at all.

Senator Frith: He has answered your question.

Senator Flynn: However, it invites a question: Do you remember that it was suggested that the majority should meet and make up its mind?

CANADA-UNITED STATES FREE TRADE AGREEMENT

IMPACT OF U.S. OMNIBUS TRADE BILL

Hon. Philippe Deane Gigantès: Honourable senators, in view of the statement made by the Leader of the Government yesterday, I would like to ask him a question. Yesterday he said, as reported in *Hansard* at page 1891, the left-hand column:

> But the agreement itself does not exempt us in advance from the provisions of the omnibus trade bill, if it should pass.

One of the provisions in this omnibus trade bill characterizes as an unfair advantage, and therefore subject to countervail, any advantage that would not exist except through government action. Potentially, that seems to strike at all kinds of Canadian programs. For instance, the fishing industry in the United States might say that our UI program is such an advantage.

● (1440)

An Hon. Senator: It does.

Senator Gigantès: It does and will again. We have seen what they did with stumpage. They might use the same thing with medical insurance and countervail. You say: "We have given ourselves five years to try to come to an agreement on these matters." Does this mean that we can be harrassed and deprived of our livelihood, in effect, by the Yankee traders to the south? Do we have to wait five years to find out that we have no weapons left, because we have given them our energy, we have given them our service sector, we have allowed them to take over our finance companies? By then it is too late to do anything or to withdraw, because they will own us.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend obtained a copy of the "Elements of the Agreement" just a few moments before Question Period began. I am sorry about that; he should have had a copy yesterday. He has not had much time to study it, but I would have hoped that he would have put the time he did have to better use.

What I said yesterday is correct. We are not exempt in advance from the provisions of the omnibus trade bill. There is, however, an understanding between our two countries that

the executive branch of the United States government, in exercising their rights with regard to legislation passed by the Congress, will take into account the spirit and the objectives of this Free Trade Agreement. Quite apart from that, the President of the United States has already, if I am not mistaken, indicated his intention to veto the bill as it stands.

The questions concerning the omnibus trade bill and its provisions are quite hypothetical at the moment.

During the five-year period our two governments will try to come to a complete agreement on countervail and anti-dumping legislation and on what constitutes an acceptable subsidy. This will be done, Senator MacEachen, through working parties appointed by governments. I make that point in answer to a question that you posed yesterday. In the meantime, under this agreement we will be putting in place a bi-national, binding dispute-settlement mechanism to ensure that present laws, whether in Canada or the United States, are applied fairly and impartially. It is, in effect, a court of appeal respecting the administration of existing trade remedy law—countervail and anti-dumping legislation—in our respective countries.

Senator Gigantès: Honourable senators, yesterday the Leader of the Government did not admit this, but what this binding dispute-settlement mechanism can do is slap the elephant on the wrist. The punishment then is left to the mouse. The elephant applies its laws unfairly, unreasonably, or, to use the words of the Leader of the Government, "capricious or unfair" use of countervail law. Then this tribunal, to which we go, says, "Yes, indeed, it was capricious and unfair." If the United States Congress refuses to bend to this statement by the tribunal, the only remedy is that we then have the right to retaliate. The mouse will slap the elephant on the wrist.

Senator Murray: Honourable senators, my friend has it quite wrong. Let me try to explain it again.

If, for example, the United States, in accordance with its law, institutes some countervail action against us, and we believe that it is not being done in accordance with the law or it is unfair or capricious—I indicated yesterday some of the grounds, and they are considerable, under which we can appeal—and the matter arrives before the bi-national binding dispute-settlement tribunal, a number of outcomes are possible. The bi-national tribunal could decide that, indeed, the subsidy is countervailable and that we have no case. The bi-national tribunal could decide that the subsidy is not countervailable, that the Americans had acted wrongly, and they will be instructed to withdraw the countervail and pay back, with interest, the money collected. Is that clear?

Senator Gigantès: And if they do not?

Senator Murray: Let me go on. The bi-national tribunal could instruct the Americans that the countervail was wrongly applied and that they must cease the countervail action and pay back, with interest, what they had collected. Is that clear?

Senator Gigantès: I heard you.

Senator Murray: Fine. You have heard me.

Senator Gigantès: And supposing they do not?

Senator Murray: The third possibility, of course, is to say that the countervail action was well-founded but, let us say, that the rate was too high, and they could instruct the Americans, for example, to decrease the duty.

Finally, they could look at it and say, "We find that the process has been completely wrong; it has been unfair or capricious. Go back and do it again, and do it right."

Those are four possible outcomes. As I have stated, the findings of that tribunal on appeals with regard to existing law are binding on both parties.

Senator Gigantès: We do not seem to be communicating, sir.

Let us take a case in which the Americans apply countervail unfairly. The bi-national tribunal finds that, indeed, it was an unfair action and not at all justified, and says, "Cease and desist."

Senator Murray: Cease and desist, and pay back what you have collected.

Senator Gigantès: And pay back, with interest. Supposing, because of an impending congressional election and the usual log-rolling that goes on in the U.S. Congress, the Congress does not want the U.S. to back down on this action and the President, whoever he is, does not feel he wants to fight the Congress on the issue, where are we then?

Senator Murray: The scenario that the honourable senator is putting forward is one in which the United States would submit itself to the rule of law and then defy the decisions that the tribunal had brought in. If he is suggesting that we cannot put the entire executive branch or the entire legislative branch of the United States in jail, if he is suggesting that it will be unrealistic to declare war under those circumstances, then I agree with him.

Senator Gigantès: I am suggesting, sir, that you should have obtained in that deal a declaration that the executive and legislative branches of the United States bind themselves in advance to accept the finding of a tribunal and to apply what it is saying—no ifs, buts or anything.

Senator Murray: That is the agreement.

Senator Gigantès: It is not, sir.

Senator Murray: I beg your pardon, it is the agreement. The executive and legislative branches of the United States will be so bound when this treaty is ratified.

•(1450)

EFFECT OF PASSAGE OF BILL C-22 ON REACHING AGREEMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask a question of the Leader of the Government with respect to Bill C-22, which was part of an earlier interesting exchange?

I want to know whether Canada, in arriving at the overall agreement reached in Washington last weekend, made any

undertakings to have the amendments contained in Bill C-22 passed as part of the agreement.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think the agreement in that respect speaks for itself. I cannot refer my friend to the specific page right now, but there is a reference to our policy in this field contained in the agreement.

Senator MacEachen: I have seen a reference, but it does not specifically refer to the amendments contained in Bill C-22.

Senator Flynn: What amendments?

Senator MacEachen: The amendments to the patent law contained in Bill C-22.

Senator Frith: The amendments to the Patent Act.

Senator MacEachen: What I am asking is: Did Canada, as part of the negotiation last Saturday, undertake to have these amendments passed as part of the overall agreement reached with the United States? I have not found it in the blue document, and I am asking whether Canada did undertake that, even though it is not in the printed document.

Senator Murray: Honourable senators, we would not be so presumptuous as to attempt to bind the Senate or anticipate its actions.

Senator MacEachen: I know the nature of the answer—

Senator Frith: You misunderstood the question. He is not talking about the Senate's amendments to Bill C-22 but about the amendments to the Patent Act contained in Bill C-22.

Senator MacEachen: —but it is not quite the answer to my question. The question is: Did Canada undertake to have the amendments to the Patent Act passed as part of the agreement?

Senator Murray: How could we?

Senator MacEachen: Well, I am asking, "Did you?" I think that you should find out before you are categorical.

Senator Guay: If anyone knows, the leader should know.

Senator Murray: Honourable senators, our undertakings are in this document. That is my answer.

Senator MacEachen: Are there any other undertakings that were reached—

Senator Murray: No.

Senator MacEachen: —that are not in the document?

Senator Murray: Honourable senators, the elements of the agreement are here.

Senator Frith: That is not what he has asked you.

Senator MacEachen: The Honourable Leader of the Government is not answering my question.

An Hon. Senator: Answer it!

Senator MacEachen: I want to know if there was an undertaking made in Washington, as part of the overall agreement,

that Canada would pass the amendments to the Patent Act, as found in Bill C-22. That is a factual question.

Senator Guay: Why do you not answer the question—or do you not know?

Senator Murray: Honourable senators, while the Leader of the Opposition was talking I was searching for, and still have not found, the section on intellectual property where I think the reference is contained. In any case, the undertakings that we have given are here.

The United States negotiators and the United States government are well aware, I am sure—certainly those who are interested in this subject are—of the status of this bill at present, and are well aware of the fact that the government does not command a majority in this house and is in the hands of Liberal senators on the matter.

Senator Guay: I can see what the premiers' problems are.

Senator Murray: Therefore, in answer to the question of the honourable senator, "Did we undertake to pass the bill," the answer must be, "No, because we could not give such an undertaking."

Senator MacEachen: You say that it must be no. Was it no? Is it a fact or not that the United States government pressed the Canadian negotiators as recently as last Saturday to undertake to have the amendments to the Patent Act as part of the overall agreement, and if they were not passed they would take a dim view of the whole agreement? That is what I am asking.

I do not know if the minister knows the answer, and I do not complain about that—I do not want to press him to the point where he may commit himself incorrectly—but there is some circumstantial evidence here. The circumstantial evidence is contained in the document released by the U.S. government, which refers specifically to these particular amendments. I want to know this: Is that just a misunderstanding by the United States—something that they added on after they left the negotiating room—or was it part of the discussion? Did Canada undertake to do its best or commit itself to pass these amendments? We all know the political circumstances, and the President of the United States—

Senator Guay: He would not know.

Senator MacEachen: —knows his limitations, but the executive made certain undertakings subject to what will happen in Congress. That happens in Canada as well—we all understand that.

Senator Murray: Honourable senators, I will ask whether there is some further information that can be brought in on this matter, but I have no hesitation in saying that if our negotiators and two ministers of the Crown who were present in the room at the time had been asked whether the Government of Canada is still committed to Bill C-22 and to its passage, the answer would have been an unequivocal "yes."

Senator Guay: Someone should know.

Senator MacEachen: But was there a commitment made within the context of the agreement to the effect that the passage of this bill, from the point of view of the United States, is an integral part of the agreement, and if the bill were not passed they would take quite a different view of the agreement? That is what I want to know. That is within the knowledge of the Canadian negotiators—it is not within my knowledge—but I want to know, because we were told, up until last Saturday, that there was absolutely no connection in the mind of the government between the trade negotiations and Bill C-22.

Senator Frith: That is correct.

Senator MacEachen: Lo and behold, on Monday we have the disclosure from the United States government that, indeed, it is part of the agreement. Contained in the documents which they released is the statement that Canada undertook amendments to compulsory licensing as part of the agreement. I just want to get the facts.

The government may be committed to passing Bill C-22—and that is fine—but is it committed to the extent that it regards its passage as an integral element of this agreement? That is the point.

Senator Frith: We were told that it was not.

Senator Murray: Honourable senators, the matter would have come up in connection with intellectual property, which is the subject matter discussed, negotiated and included in this agreement. It has happened more than once in the course of the discussions and in the course of the agreement that reference is made to outstanding issues that are of interest to both countries. That is the case in energy; I believe it is the case in agriculture and some others.

I am not, therefore, as scandalized as the Leader of the Opposition seems to be that there would be a reference in all of this to one of the outstanding matters of mutual interest, which is the pharmaceutical legislation, as part of the overall subject of intellectual property. That is what it is. I will see if further information can be brought forward.

An Hon. Senator: It is part of the giveaway!

Senator MacEachen: The important thing is to know whether it is a matter now of Canada's being at total liberty to pass the bill or not; whether it is solely within the Canadian domain, and, if the bill were defeated, would the U.S. come back to the Government of Canada and say, "That is a foul! It was part of the agreement, and we have to take another look at it." That is the question, really.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I must interrupt at this point.

On September 29 there was a motion by Senator Frith, that was adopted, which stated:

> That commencing on Wednesday, 7th October, 1987 and on each subsequent Wednesday, the Speaker shall, unless otherwise ordered, interrupt the proceedings at 3.00 o'clock p.m., at which time the Senate shall adjourn during pleasure to form a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

It is now 3 o'clock p.m., and I must abide by the wishes of honourable senators as to whether or not we should waive this provision today.

● (1500)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I apologize for not having said earlier that Senator Molgat is not here and it is not the intention to ask to have those hearings continue today. Therefore, we would have been asking for the Chair to order, in the terms of the motion which says, "unless otherwise ordered," that we do not so proceed today.

I discussed this with Senator Doody and we both should have told our colleagues about it before three o'clock, but there were matters which seemed to carry us away.

However, we ask now that the order for this week be that we do not proceed with the Committee of the Whole on the Meech Lake Accord.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

BRIEFING OF PREMIERS—ABSENCE OF REPRESENTATIVES FROM YUKON AND NORTHWEST TERRITORIES

Hon. Paul Lucier: Honourable senators, my question for the Leader of the Government in the Senate deals with the free trade agreement. It seems that, again, the Prime Minister has signed a significant document which will, or could, have a great effect on northern Canada. I am not talking about a negative effect or a positive one; I am talking about a significant effect on northern Canada in the area of energy and resources. As everyone knows, we are quite a storehouse of energy and resources.

Senator Frith: Human resources, too!

Senator Lucier: Yes, human resources as well.

My question to the leader is: Did we, last night, once again witness the Prime Minister meeting with the First Ministers, the elected representatives of everyone in Canada except the northern Canadians, to discuss the Free Trade Agreement? If that is the case, why are we doing this again? Why do we

continue to have this Prime Minister deal with such significant issues without the presence of the elected representatives of the two territories?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that was the ninth meeting that First Ministers have had concerning the free trade negotiations with the United States. These meetings were held pursuant to an agreement which First Ministers reached in 1985 at their meeting in Halifax. It will be obvious to the honourable senator that one of the strong reasons for convening those meetings was the possibility that the jurisdictions of the provinces might, in some way, be engaged by any trade treaty signed between Canada and the United States.

Senator Lucier: That sounds like a pretty thin answer to my question. The honourable gentleman has told me that it was done not only yesterday but that it has been done nine times. Is the justification for the elected members of the two territories not being consulted yesterday the fact that it has never been done before? The point I am trying to make is that it has never been done. I do not have to be told that.

My question is: When is this government going to start paying attention to the elected representatives of the two northern territories?

Senator Murray is the Minister of State for Federal-Provincial Relations. Does his mandate not extend to the two territories? Does it end at the 60th parallel?

Senator Murray: I do remind my friend that the territories are not provinces.

Senator Lucier: You do not have to remind me.

Senator Murray: There is not at the moment a disposition to change their status.

What I was trying to explain was the jurisdictional aspect of this. The provincial governments, through their First Ministers, have been involved in discussions concerning the free trade negotiations over the past 15 or 16 months, largely because of the possibility that their jurisdictions would, in some way, be engaged by a treaty that was signed between Canada and the United States in the field of trade. That is not the case with regard to the territorial governments.

Senator Lucier: Honourable senators, it just seems that the minister is confirming what has been put in the Meech Lake Accord, and that is that we are now entrenched as second-class citizens.

When are we going to start paying attention to the fact that the North has elected representatives? We have an elected person in the Yukon and we have one in the Northwest Territories who represent the people of the Yukon. When are they going to start being invited to these meetings?

Senator Flynn: That is not necessary.

Senator Lucier: I can understand Senator Flynn sitting there and saying that it is not necessary. The premier of his province has been invited to participate in all of those decisions, and when something happens concerning Quebec he is in attendance at the meetings.

When is this government finally going to recognize that Canada does not end at the 60th parallel? When is the government going to start paying attention to the elected representatives of the territories?

Senator Murray: The honourable senator is surely not unaware of the fact that this government has been transferring to the territorial governments many programs and responsibilities that had heretofore been administered directly by the federal government. That is being done. We are transferring programs and we are transferring financial resources to carry out those programs. We have been doing so for some considerable time, and we will continue to do so.

This government has nothing to apologize for in its relations with the governments and the peoples of those territories; nothing.

Senator Lucier: Honourable senators, this very government that my friend is speaking of is, right now, defending a court case on its own behalf in the Yukon Territory and is taking the legal position that there is no government in the Yukon Territory. That is the basis on which this government is fighting a court action against the Meech Lake Accord.

Senator Murray: That, of course, is not so.

Senator Lucier: I have absolutely no problem believing that the minister has nothing to apologize for. I do not think he understands what he is doing.

Could I perhaps even suggest to the minister that he take some opportunity to visit north of 60 to speak to the people and perhaps he will find out that Canada, as I said before, does not end at the 60th parallel. There are some people up there and they actually think they are Canadians.

Senator Murray: Honourable senators, I have been in the Northwest Territories and the Yukon as long as 20 years ago. It is not a question of my making a visit there, much though I would like and hope to do so.

My point is that the federal government does recognize the governments of those territories. We are not, by the way, arguing that they do not exist; we are arguing that they are not provincial governments. We are transferring programs and financial resources to those governments, recognizing the important relationship that those governments have with the people of those territories. This is a federal government that is moving, I think quite effectively, in terms of giving more autonomy and responsibility to the people and governments of the territories.

Senator Lucier: Honourable senators, I want to end by saying that as a resident of one of the "colonies," we are forever grateful for the crumbs that have been tossed to us. I could perhaps one more time suggest to the minister that it might be a good idea, when we have these types of agreements that have such a significant effect on all of Canada, but on the North especially, to invite the two elected leaders to the meetings. They are not going to disrupt the meetings; they are

quite responsible, and they always have been. Invite them and let them take part in the discussions.

BINDING DISPUTE-SETTLEMENT MECHANISM—RIGHT OF RETALIATORY ACTION BY INJURED PARTY

Hon. Philippe Deane Gigantès: Honourable senators, I should like to revert to a question which I posed earlier to the Honourable Leader of the Government, who has so courteously given me a copy of the document entitled, "Preliminary Transcript—Canada-U.S. Free Trade Agreement—Elements of the Agreement", to which I would now like to refer.

At page 32 of the English version, paragraph 7 of the section dealing with dispute settlement states:

> If the Commission—

that is, the bi-national tribunal—

> has not reached agreement on a mutually satisfactory resolution . . . and a Party considers that its fundamental rights under the Agreement are or would be impaired by the implementation or maintenance of the measure or measures of the other Party, the first Party shall be free to suspend the application to the other Party of benefits of equivalent effect . . .

In other words, if the commission does not arrive at a mutually acceptable solution, and the Americans and we are still not in agreement over the nature of the offence, that is, as to whether it is fair or unfair, all we can do is retaliate. Is that not what this text says?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am afraid my friend has not read the whole document. He is reading from a section entitled, "Institutional Provisions". What he and I were discussing yesterday and again today appears on page 5 in a section entitled, "Binational Panel Dispute Settlement in Antidumping and Countervailing Duty Cases". May I suggest that we come back to this another time?

• (1510)

Senator Gigantès: I would be glad to do that—every day, sir.

Senator Frith: Aren't you glad you asked that question?

CITIZENSHIP ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF COMMITTEE—ORDER STANDS

On the Order:

> Consideration of the Eighth Report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-8, An Act to amend the Citizenship Act (foreign spouses)) presented in the Senate on 6th October, 1987.—(*Honourable Senator Bosa*).

Hon. Peter Bosa: Honourable senators, Senator Tremblay, chairman of the committee, reported Bill S-8 with amendments. According to rule 80 of the rules of the Senate of Canada, the chairman should give an explanation of the amendments that have been put forward. If senators wish, I can give that explanation myself.

Hon. C. William Doody (Deputy Leader of the Government): It would appear, honourable senators, that, despite rule 80, that is not going to happen. Senator Tremblay does not appear to be in the chamber. Perhaps we could stand the matter until the next sitting of the Senate, when I am sure he will be delighted to enlighten us on this momentous bill.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1898*)

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND — REPORT OF STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

WEDNESDAY, October 7, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

TENTH REPORT

Your Committee, to which was referred the Bill C-68, An Act to amend the Bretton Woods and Related Agreements Act, has, in obedience to the Order of Reference of Wednesday, September 30, 1987, examined the said Bill and now reports as follows:

The purpose of this Bill is to provide legislative authority for Canada to participate in the new facility, the Multilateral Insurance Guarantee Agency (MIGA), being created as part of the World Bank Group and to provide funds for the purchase by Canada of Shares in this agency. The Bill also provides for an amendment to the Articles of Agreement of the International Bank for Reconstruction and Development (generally referred to as the World Bank) that raises the percentage of voting power required to amend that institution's Articles of Agreement.

The Committee heard testimony concerning this proposed legislation from an official from the Department of Finance, Mr. Yves Fortin, Assistant Director, International Finance and Development Division.

From its earlier hearings on the debt problem in developing countries, the Committee had concluded that one of the main elements needed to help growth in indebted developing countries was new investment capital for development purposes. The flow of private foreign investment into developing countries has declined in recent years. An increased flow of such investment, constituting as it would a non-debt-creating flow of resources to these countries, could facilitate the transfer of needed technology and stimulate economic growth which in turn would help these countries surmount their debt problem. Yet, in many cases, potential investors have been wary of putting funds in countries they considered to be risky investment locations for reasons that were non-commercial, whether it was the fear of civil disturbances, confiscation, breach of contract, or expropriation. Some impetus was needed to overcome the reluctance of the private foreign investor.

To assuage their fears and to encourage increased foreign investment in these countries, MIGA will provide foreign investors with insurance against such risks, complementing or coordinating with national insurance programs such as those offered by Canada's Export Development Corporation. In addition to its guarantee operations, the new agency will work to promote such foreign direct investment by doing research into potentially good investment opportunities, by dissemination of information and through advice to governments.

In its report on *Canada, the International Financial Institutions and the Debt Problem of Developing Countries*, the Committee had already endorsed the creation of the Multilateral Insurance Guarantee Agency (MIGA), which is the main subject of this proposed legislation. The report, issued in May of this year, stated:

> "The Committee is of the opinion that the establishment of the World Bank's Multilateral Investment Guarantee Agency could be a positive factor in encouraging needed private investment capital into Third World enterprises".

The Committee reaffirms its support for the establishment of MIGA and endorses Canada's participation in this new agency under the terms set out in Bill C-68.

Some members of the Committee wish to bring to the attention of the Canadian Government the recommendations of the Report of the Special Joint Committee on Canada's International Relations entitled "Independence and Internationalism" as well as the Government's response "Canada's International Relations" of December 1986, respecting the adherence to international human rights and democratic development in Canada's foreign policy. These members wish the Government to look at what,

if any, non-binding parallel steps might be taken to reflect these concerns in this new multilateral agency.

Clause 6 of Bill C-68 amends the Articles of Agreement of the International Bank for Reconstruction and Development. The amendment raises the percentage share of the total voting power needed to amend the Bank's basic charter from 80 to 85 percent. This has the effect of preserving the U.S. veto on decision-making within the Bank.

In its recent report on debt, referred to above, the Committee drew attention to the problem that Clause 6 is intended to resolve. The amendment implements the arrangement agreed to by Canada and other industrialized countries at the 1987 negotiations for the funding of the International Development Association (IDA), the concessional arm of the World Bank.

In its report, the Committee was critical of the U.S. attitude at recent IDA negotiations which had the effect of constraining extra funding from industrialized countries because such funds would have increased their percentage of shares in the institution and thereby reduce the U.S. percentage below 20 percent. With a share below 20 percent, the United States would have lost its power of veto over decisions. For this reason, the United States tried to block additional contributions by other countries.

Clause 6 confirms the informal arrangement worked out at the last IDA negotiations that raised the percentage required for amendment from 80 to 85 percent thereby retaining the U.S. power of veto on the basis of a lower share percentage while at the same time facilitating the infusion of needed additional funding by other countries.

The Committee concurs with Clause 6 of Bill C-68 that raises, by five percentage points, the number of votes required for amendment of IDA's Articles of Agreement. This modification resolves the problem that had threatened to block needed additional funding to IDA for concessional lending purposes.

Nonetheless, the Committee wishes to note that it remains critical of U.S. policy in this regard. The United States should recognize that it is no longer in the same paramount position it was after World War II when the IBRD was established. At that time, the U.S. economy exceeded by far the economies of all other industrialized countries which were not in a position to make large contributions. The situation has now changed. The attempt of the United States to perpetuate its special status discourages other states from assuming increased responsibilities in World Bank funding. If the United States is not prepared to increase its funding of IDA in order to help bridge the evident gap in its concessional lending funds, it should be prepared to permit other strong industrialized countries to increase their contributions, even if this would mean surrendering the U.S. veto. It is highly regrettable that the United States finds it expedient, in order that it retain control over the institution's decision-making, to block additional funding to the World Bank by the technicality of refusal to relinquish shares.

The Committee notes with approval, however, the recent announcement by U.S. Treasury Secretary James Baker, that the U.S. Administration now supports a general capital increase (GCI) in World Bank funding in order to increase lending to Third World countries. The Committee welcomes the dropping of opposition by the U.S. Administration to a GCI and is hopeful that it is indicative of a new more forthcoming attitude by that government in respect to World Bank funding in general.

Your Committee has reviewed Bill C-68 in accordance with the Order of Reference and recommends the said Bill be passed without amendment.

Respectfully submitted,

GEORGE C. VAN ROGGEN
Chairman

THE SENATE

Thursday, October 8, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

BUSINESS OF THE SENATE

On Notices of Motions:

Hon. Nathan Nurgitz: Honourable senators, later, perhaps in an hour from now, I will be in a position to give notice of the adjournment motion. In the meantime, perhaps I may just explain.

Hon. Royce Frith (Deputy Leader of the Opposition): I see we have a new Acting Deputy Leader of the Government. Mazel tov!

Senator Nurgitz: Believe me, this is not my idea of having fun!

Discussions are ongoing in the other place with respect to many legislative matters. It is hoped that sometime before 3:30 p.m. a decision will be reached between the parties that will determine the question of when we ought to return.

Senator Frith: Honourable senators, I take it the question will be whether they will agree to abridge time, that is, whether they will give leave to go through all stages. That will, of course, affect whether or not we will sit tomorrow.

Senator Nurgitz: Yes.

Senator Frith: That is obviously reasonable.

QUESTION PERIOD

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Nathan Nurgitz: Honourable senators, I have three delayed answers to questions. I will indicate who asked the question and its subject matter and unless anyone in particular would like it read I shall ask that the answers be inserted in *Hansard* of today.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DATA BASES AND INFORMATION—MAINTENANCE, PROTECTION AND ENHANCEMENT

Hon. Nathan Nurgitz: Honourable senators, the first delayed answer I have is in response to a question asked by the Honourable Senator Grafstein on October 6 regarding the Canada-United States Free Trade Agreement—Data Bases and Information—Maintenance, Protection and Enhancement.

(*The answer follows:*)

> At the present time, the Government of Canada does not limit or restrict the provision of computer services by any Canadian to any other Canadian. Moreover, with some exclusions for specific reasons, such as the protection of privacy, consumer protection, prudential controls under the Bank Act, public health and safety, or national security, the government does not impose limitations on access to computer data bases, nor would it wish to do so.
>
> This government intends to retain the current open borders for the flow of information between Canada and the U.S. and, in addition, provide for non-discriminatory access to open markets in the enhanced telecommunications and computer services sectors.
>
> The agreement provides Canadians with secure access to the largest computer services market in the world. It will allow Canadians to participate to the fullest in this advanced technology sector which represents one of the most important areas of future economic growth.

DUTY-FREE IMPORTATION OF U.S. MANUFACTURED PRODUCTS

Hon. Nathan Nurgitz: Honourable senators, the second delayed answer is in response to a question asked by Senator Stollery on October 6 regarding the Duty-Free Importation of U.S. Manufactured Products.

(*The answer follows:*)

> The agreement is scheduled to come into force January 1, 1989. Tariffs and other trade barriers will be removed according to the schedule laid down in the elements of the agreement.

YOUTH

BEAT-THE-STREET PROGRAM—LENGTH OF TERM

Hon. Nathan Nurgitz: Honourable senators, the third delayed answer I have is in response to a question asked by Senator Marsden on October 7, 1987. Since that response is brief, I will read it into the record.

The program referred to by Senator Marsden is funded over a period of three years.

REQUEST FOR ANSWERS TO ORAL QUESTIONS

Hon. Lorna Marsden: Honourable senators, I wonder when we can expect replies to other questions which have been

asked, such as my question concerning the witnesses on the Meech Lake Accord.

Hon. Nathan Nurgitz: I will make an inquiry and bring that information back as quickly as I can.

FIJI

CURRENT POLITICAL SITUATION—GOVERNMENT STANCE AT COMMONWEALTH CONFERENCE—CONSULTATIONS WITH FIJIAN COMMUNITY

Hon. John B. Stewart: Honourable senators, is there any possibility that we will be receiving an answer to the question raised by Senator Marsden and myself concerning Canada's attitude toward the situation in Fiji? I think there is some urgency in that matter because of the forthcoming Commonwealth Conference.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know what further information the honourable senator is seeking. I may tell him that the Government of Canada recognizes the Governor General of Fiji as the legitimate authority.

Hon. Royce Frith (Deputy Leader of the Opposition): Who does?

Senator Murray: The Government of Canada recognizes the Governor General of Fiji as the legitimate authority in that country. We do not accept the right of the leader of the coup to declare Fiji a republic. As far as we are concerned, the Governor General or his designated representative would be welcome at the Commonwealth heads of government meeting in Vancouver next week.

Senator Frith: And he is unlikely to delegate that responsibility to the colonel.

Senator Stewart: Are we to conclude that Fiji has been *de facto* expelled from the Commonwealth?

Senator Murray: No, honourable senators, the government recognizes the Governor General of Fiji as the legitimate authority of that country, and has stated that he or his designated representative would be welcome at the Commonwealth meeting.

Hon. Lorna Marsden: Honourable senators, we have received a package of material on the forthcoming Commonwealth conference, along with a whole series of loose press releases. While there were government attitudes expressed on a great many issues, there was silence on the subject of Fiji. Does that mean we can expect a further news release on the *de facto* situation Senator Stewart has just described, or is that all we will receive?

Senator Murray: Honourable senators, I have described the situation. I have stated the position of the Government of Canada as it is. I do not know that any further press releases or announcements are necessary on that matter. I have answered the questions that I understood to have been asked on the matter so far as the Government of Canada is concerned.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—THIRD READING

Hon. Nathan Nurgitz moved the third reading of Bill C-68, to amend the Bretton Woods and Related Agreements Act.

Motion agreed to and bill read third time and passed.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA

8 October 1987

Sir,

I have the honour to inform you that the Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 8th day of October, 1987, at 4:45 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

LÉOPOLD H. AMYOT
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the Eighth Report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-8, An Act to amend the Citizenship Act (foreign spouses)) presented on October 6, 1987.

Hon. Nathan Nurgitz: Honourable senators, I see that this order is adjourned in the name of Senator Bosa. If Senator Bosa does not wish to speak right now, I will move, in the name of Senator Tremblay, that the report be adopted.

Hon. Peter Bosa: I agree, honourable senators. I suppose that I can then move third reading of the bill.

Senator Nurgitz: Honourable senators, in the name of Senator Tremblay I move the adoption of the report.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Peter Bosa: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

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

• (1410)

Hon. Eymard G. Corbin: Honourable senators, I wish to say a few words about this legislation.

[*Translation*]

Honourable senators, this bill which amends the Citizenship Act—I apologize for not having the texts of the bill and the report which amends the bill we had on first reading—is in a way a legislative measure which favours a category of people seeking Canadian citizenship.

This legislation does not offer the same benefits to other people who are in an identical situation. Specifically, the bill is aimed at shortening the qualification time for Canadian citizenship in the case of spouses of people serving Canada abroad, in External Affairs, in the Armed Forces, or for a provincial government. This bill applies only to the people I have just mentioned. Well, as I said in committee—I must say I do not sit on that committee, but I was personally interested in attending proceedings—it seems to me it does not go far enough. It should be extended to cover other spouses, men or women, whose situation is identical or similar to that of spouses of members of the Canadian Armed Forces, and federal or provincial public employees serving abroad.

What springs to mind of course is the situation of spouses of CBC employees or journalists who, while serving abroad, decide to marry a person who is not a Canadian citizen. Now then, pursuant to this legislative amendment, such an individual would not be covered under Bill S-8.

Other people can find themselves in identical situations: employees of Canadian multinational companies who might be sent for an extended tour of duty of a few years in Europe, in South America, in Africa or elsewhere. There have been such cases. Canadians have been known to sign contracts with Canadian government agencies, but that does not automatically make them employees of the Canadian government or of the Secretary of State for External Affairs, people who sign

[Senator Bosa.]

contracts, as I said, and who spend at least a few months if not a few years in Africa, for example. That is the case in trade relations, in exchanges between governments or between companies and government which we have with French-speaking Africa. I should think the same situation could occur in the case of the Commonwealth countries.

But the bill totally ignores these people. I can imagine as well that, in addition to the two categories I have just mentioned, airline employees might be involved. For instance, is it not a fact that Air Canada has offices in London, Paris or elsewhere? A CBC employee may very well fall in love with somebody in the country where he or she works, this person eventually becomes the spouse of the Canadian but will not benefit from the provisions of Bill S-8.

The following objection could be raised: Well, in that case, these people should have filed a complaint and told us about their particular problem. How can you expect the average citizen to be as aware of possible amendments to the legislation as spouses of federal or provincial Government employees, who are often the first to know about any developments or impending improvements to the legislation and the relevant regulations?

Far be it from me to want to delay the passage of this bill in this chamber. Honourable senators, I simply want to point out that the bill has a narrow application. In my view, we should or could have, although it is, of course, far too late to do so now, changed the terms and scope of this bill to include foreign spouses of any Canadian citizens who must serve a certain number of years or months abroad, and thus avoid granting to a selected few privileges that are not granted to all Canadian citizens or their spouses.

Honourable senators, that is more or less what I had to say. In future, when bills of this nature are introduced, I hope they will be worded in such a way that their application is not narrow but is broadly based. A bill with a narrow application, unless it arises from entirely exceptional circumstances, should not be ratified by the Houses of Parliament because of the provisions of the Canadian Charter of Rights and Freedoms. The legislation should apply fairly and squarely to all Canadian citizens and their spouses, as appropriate.

Hon. Philippe Deane Gigantès: Honourable senators, I do not entirely agree with my colleague, Senator Corbin. Spouses of Canadian diplomats are sometimes sent abroad against their will. Often these persons, who are foreign citizens, live in Canada, want to stay here for three years to get their Canadian citizenship, and then they are sent abroad.

It is a fact that these spouses appear more often in an official capacity then for example the spouses of journalists. And this is true especially in the case of the head of a post. In some cases, the spouse of an ambassador works very hard, without any remuneration, at managing the residence and organizing the various social activities that are part of diplomatic life.

These people are, in fact, unpaid employees of the Government of Canada. That is why I feel they are entitled to a

higher degree of consideration than we would grant the spouse of a Canadian citizen who goes abroad to work for a private company, as opposed to the Canadian Government.

[*English*]

Hon. Peter Bosa: Honourable senators, I sympathize with the theory that has been put forward by Senator Corbin. I think it would be an ideal situation if we included in the bill some sense of equality for all Canadians who are serving outside of Canada. However, what he has raised is a hypothetical question, and that is that there may be some spouses of newspaper people or Canadians serving outside of Canada in the employ of multinationals.

The purpose of the bill is very direct and very specific, and is directed towards solving some of the problems being experienced by some 200 persons who are the foreign spouses of Canadian citizens presently serving outside of Canada. This bill is directed toward remedying that situation.

I would like to offer a suggestion to Senator Corbin. The minister responsible for the Citizenship Act will be bringing forward a comprehensive set of amendments in the near future. That, perhaps, is the time to deal with the whole philosophy of citizenship and what criteria to apply both for landed immigrants in Canada and for foreign spouses of Canadian citizens serving outside of Canada. Perhaps Senator Corbin might wish to make some representations to the minister in connection with the matter that he has raised. In fact, I will volunteer to send Senator Corbin's remarks to the minister so that the minister may be aware of Senator Corbin's views.

However, for the present time, I urge honourable senators to adopt this bill, because it is of immediate necessity to alleviate the problems that are being experienced now by some 200 persons of foreign citizenship who have married Canadian citizens serving outside of Canada.

Senator Corbin: Honourable senators, I wonder if I may be allowed to make a brief comment following the remarks of Senator Gigantès and of Senator Bosa, the sponsor of the bill.

As I said, I am not opposed to the legislation that is before us. It partially corrects a real problem for a chosen few. I recognize that there is a real problem, and I am not insensitive to human problems. I do not think it necessarily involves misery in this case, but the present situation does create real difficulties for these people, and I recognize that. I also recognize that not being Canadian citizens, some of these spouses nevertheless perform useful services for this country.

I am simply saying that I do not think it is good to legislate for a few. I believe in legislation that is applicable right across the board to everyone. Senator Bosa has suggested that I be patient as there will be a comprehensive omnibus bill to amend the act. It seems to me that Senator Bosa could have waited for the presentation of that legislation in order to have a full and equitable solution for all persons in the same circumstances.

Senator Bosa: Honourable senators, in answer to that question, it is not within my domain to present an omnibus bill before this chamber. I know that the minister is considering presenting a wholesale set of amendments to the Citizenship Act, which, by coincidence, has now been in force, with some modifications, for the past 40 years. When Senator Corbin advises me to do that, I think he knows that this is *ultra vires*. However, I am pleased to see that there is a general disposition in this chamber to adopt Bill S-8 as it has been amended.

• (1420)

Hon. Jacques Flynn: I am sure that the members in the other place will take note of Senator Corbin's objection, and, in turn, they may bring amendments to a bill passed by the Senate.

Senator Frith: And send us a message.

Motion agreed to and bill, as amended, read third time and passed.

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

> That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with with provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;
>
> That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;
>
> That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and
>
> That the committee present its final report to the Senate no later than twelve months following its establishment. (*Honourable Senator Frith*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this order has stood in my name for quite some time. I am not preparing a speech on the subject. I only wanted to have an opportunity to consult with Senator Argue and he, in turn, wanted to consult with his colleagues on it. However, I do know that Senator David is interested in speaking on it at some point. Would it be more useful to put it in Senator David's name at this stage? He might wish to speak on it sometime within the next week or so. With his consent we will have it adjourned, but it will be in Senator David's name.

Hon. Paul David: Yes, I do accept your suggestion with pleasure.

Order stands in name of Senator David.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion, as modified, of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am going to speak for a few minutes on this, and then I am going to ask leave to adjourn the debate in my name, because I would like to give senators an opportunity to consider what I have to say and to ask questions about it.

I would like honourable senators to consider this as an interim report on this motion. I say "report" because my recollection is that we were to investigate the matter further in order to understand how some of the problems that were raised in our earlier discussion could be solved.

Today Senator MacEachen, Senator Finlay MacDonald and I met with some of the representatives of the Press Gallery and CTV. We met with Mr. Don Newman, the president of the Press Gallery, and two of his technicians. We had previously met with Senator Molgat on the same subject.

There are two changes to be taken into account that might make this motion more acceptable. The first change is that we agreed, by motion, that we would fix the time for the hearing. That was originally for the sake of witnesses. We passed a motion to say that we will have the Meech Lake Committee of the Whole hearings on Wednesday afternoon at approximately 3 o'clock, unless otherwise ordered. That meant that Senator Molgat and the steering committee could arrange for witnesses to attend, with some certainty as to when they would be called on to appear here.

The other was about where the table should be. We have had the table where it stands now in front of the English Debates reporters for both the meetings on the Canada-France Fisheries and Boundaries Agreement and also for Senator Forsey, who, so far, is our only witness on the Meech Lake Accord. I think everyone feels that that has not worked out well, because no matter where the witnesses sit they have their backs to a significant number of senators. So we considered moving the table for the witnesses somewhere in front of Black Rod.

With those two things in mind—one a decision, namely, for a fixed time of hearing; one a suggestion—Senator MacDonald of Halifax, Senator MacEachen and I met this morning. Senator Molgat had wanted to attend, but he is away in Europe this week on Senate business.

What it comes down to is this, honourable senators. First, we should understand that what we are offering here is not an electronic *Hansard*. It involves recordings on VCRs right here in the chamber. Technically, what will happen is this: Two chairs will have to be moved. Which chairs are moved will depend on where we decide to put the cameras and where the desk is. The chair will be removed in order to establish a tripod and a camera, and to obtain sound feed from that desk. There will be a VCR with a camera—we are talking about two cameras, one on each side of the chamber. I will come to the question of where it will be.

There will be a VCR, which operates for about 20 minutes—as each cassette lasts about 20 minutes. The proceedings will be recorded on the VCR, and then the VCRs will be taken out and they will be available to the press. It will not be a matter of recording it in the way that they record the proceedings in the House of Commons. The tape recordings from here and excerpts from them will compete with all other news, but it will mean that, obviously, occasionally the Senate will be seen in action on the Meech Lake Accord. However, it will consist of clips which will be picked by the news people. What we are doing is giving access to the news media; we are not establishing an electronic *Hansard*.

In terms of operation, that will mean that when we go into Committee of the Whole it will be necessary for us to break for a moment—which we usually do anyway while we are waiting for the witnesses to come in. The operators will come in and set up the cameras—one on each side—with the ability to focus on the chairman, the witness and any senator who is asking a question. They will then proceed with the recording. There will also be the sound of a click every 20 minutes when they put a new cassette in. There could have been another interruption when batteries ran out, causing a beeping sound, but we believe that problem can be avoided by a direct AC "feed".

To picture the situation, the witnesses would be sitting there, the chairman and two cameras would be there, and two senators would have to sacrifice their seats for that period. When we were finished the committee hearings, they would leave if the sitting of the Senate continued on afterwards. If not, that would be it. They would take the cameras out and there would be no sign of them again until the following Wednesday.

I think I can say that Senator MacDonald and I agree that even if we pass this motion—which we will have to do in order to give the authority—we are still only trying it on an experimental basis. We cannot dot all of the "i's" and cross all of the "t's" on something of this kind in advance. It seems to us that the only way to deal with it is to give it a try to see how it works and how it can be improved.

● (1430)

According to the steering committee and Senator Molgat, the next witness is to be, I believe, Senator Murray. He had

agreed to give evidence next Wednesday, October 14, but that may be changed. It will depend on him, of course, and on the exigencies of political life and leadership in the Senate.

Honourable senators, that is a report about where the matter stands. You may want to consider these points and ask questions. I believe that we should give it a try.

The understanding between Senator MacDonald, Senator MacEachen and myself is that that is what we want to do. We realize that we require passage of the motion in order to have the authority to do so, but I hope it is understood that we will work our way through the details on the basis of our experience.

Hon. Roméo LeBlanc: Honourable senators, I have no difficulty with the mechanisms as described by Senator Frith. However, my potential difficulty is with who has access to the tapes. Will it be the networks who are so equipped, and will they be able to remove whatever clips they want? That is one limited use of the tapes.

I should also like to know, for example, if cable companies will have access. Have arrangments been made so that junkies of political debate can have coverage in live colour not only of the other place but also of this place?

I think there will be a limit to whatever impact we think these sessions may have. We will have to compete with the film coverage of every fire truck and ambulance that comes into a newsroom. I suspect that what will be shown will be the most outrageous ten seconds, and that will be it.

If we are interested in portraying this assembly as doing significant work I am afraid that competing with the rest of the news at 10 o'clock is not the best way of doing so. We should certainly look for outlets such as the cable system which would use the material *in extenso*.

Senator Frith: Honourable senators, I think that is an excellent suggestion, and I will pursue it.

Hon. Finlay MacDonald: Honourable senators, it was Senator Doody who suggested that I might attend the informal meeting which we had this morning. I do not think I was there in any particular representative capacity. What transpired is that which Senator Frith has just described.

Honourable senators will know that on a couple of occasions I have expressed my total lack of enthusiasm for media coverage of this chamber similar to the coverage in the other place. However, I do have enthusiasm for the coverage of committees on the understanding that we follow certain rules and guidelines. I have also made reference to that on a couple of occasions.

Honourable senators, this will be an experiment, and it can be stopped at any time. There is no chink in our armour. There is no elephant putting its trunk into the tent.

Senator Frith: I think it was a camel!

Senator MacDonald: If I had had more time I could have picked a better metaphor.

There is always the risk to which Senator LeBlanc referred. I consider the experiment a worthwhile one. By our indicating that we are going to give the media access under the circumstances Senator Frith described, it does not necessarily follow that they are going to take advantage of it. There will be times when they will be totally uninterested.

There will be on their part an obligation to act in accordance with the good faith they demonstrated in securing this access. We can stop the experiment at any time. We will be the judges of how it works. As Senator Frith described, there will be some slight discombobulation, which will require some patience on the part of some senators. While it is not an electronic *Hansard*, it is a beginning.

If I were to make any recommendations to my colleagues I would be inclined to say that we should give it a try. If we do not like it, we can always stop it. I feel that if we do not make some effort in this regard, such as a Committee of the Whole of this place not being prepared to give some exposure to its deliberations, then we are being quite negative. In this particular instance I would be inclined to recommend that we give it a go.

Hon. Senators: Hear, hear!

Hon. Eymard G. Corbin: Honourable senators, I should like to ask Senator Frith a question. He did not respond to one of the comments—perhaps I should not call it an objection—I made when this matter was last debated in this chamber.

I still find it somewhat, shall I say, not aesthetical to have cameras in the middle of this room. I suggested at that time that perhaps we ought to explore the use of, if not the gallery, certainly the darker corners of the chamber. Corners must have a reason to exist. They are not just support for columns. Normally they do not create any obstruction to anyone.

Has the possibility been explored of situating the cameras in unobstructed, unobtrusive places in the chamber, rather than having to pull out an honourable senator's seat and relocate him or her elsewhere in the house?

Will the presence of that camera hamper the normal flow and circulation of senators in and around the chamber? Senator Frith knows that we like to move left and right, and we usually do that from the back row. How will that be affected?

Honourable senators, I agree that these are minor details, but no one consults me in private, so this is where I must raise these issues.

With the possibility of using powerful zoom lenses, I must say that it seems to me that a better location for the cameras ought to be explored, if that has not already been done. Perhaps some objections have already been raised in respect to that suggestion.

Senator Frith: At the outset I would not characterize the questions my honourable friend has asked as involving minor details. The whole point of this intervention, as Senator Corbin has implied, is to report on our explorations about just those kinds of questions.

I do not think it would work if the cameras were located in the corners. With the placement of the pillars, I do not think there could be adequate coverage if the witness were located at

one end of the chamber with the chairman at the other and senators in the middle. The cameras would not have the range for adequate coverage. There would be too many obstacles.

Similarly, if a camera were placed in the gallery, there would not be adequate coverage of the chamber. I suppose that four cameras could be used, but that might require a switcher, and the coverage would be closer to an electronic *Hansard* if that number of cameras were used.

The proposed placement of the cameras was decided upon as the most efficient location. I do not think placement in the corners or galleries would meet our needs.

On the question of obstruction, there would probably be an area the width of two desks that senators would have to go around. If the cameras were placed in the middle, then the corridors would be completely open both ways, but for the time that the Committee of the Whole would be sitting you would not be able to walk those passages the full length of the chamber.

• (1440)

Zoom lenses would, of course, be used. There was some discussion that we might have the cameras closer to the south end, which would require zooms, but we will still require them if the cameras are to be placed in the middle.

Honourable senators, that is all the information I have on those questions. If there are no further questions, I ask to take the adjournment. I suggest that in the meantime senators might read today's *Hansard* and other questions might occur to them.

On motion of Senator Frith, debate adjourned.

CHILD CARE

NATIONAL POLICY—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Spivak calling the attention of the Senate to the question of a national policy on child care.—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, with leave, I am prepared to yield my place in this debate to any senator who might care to speak in response to what the Honourable Senator Spivak has said. The reason I cannot speak now is that I will be speaking on this same issue after the tabling in the Senate of the report of the Social Affairs, Science and Technology Committee's Subcommittee on Training and Employment. Some aspects of that report touch upon child care. If I speak on this matter now, I understand that I would somehow be in breach of Senate protocol by saying things which I should not say until senators have received the report. With leave, then, I am prepared to yield to anyone who wishes to take this over.

The Hon. the Speaker: If no other honourable senator wishes to speak, this matter is considered debated.

[Senator Frith.]

Hon. Royce Frith (Deputy Leader of the Opposition): Perhaps, honourable senators, just in case someone else who is not present might wish to speak to the matter, we could ask that this order stand until the next sitting of the Senate. Some other senator who is not present today might take note of what Senator Gigantès has said and accept his invitation. And Senator Spivak might be aware of someone who might want to do so within the next few days. I suggest we wait a few more days before we treat this matter as debated.

Hon. Mira Spivak: Honourable senators, I do not know of any honourable senator who wishes to debate this matter, although certain people indicated their intentions at the time this was first debated. I would consider it a brief treatment of the subject, however, if only one senator in the Senate spoke to it. Of course, that is up to honourable senators.

Order stands in name of Senator Frith.

ROYAL ASSENT

ALTERNATIVE PROCEDURE—MOTION STANDS

On Motion No. 1:

By the Honourable Senator Frith:

That the present formal procedure of Royal Assent be retained and that it be used (a) at the request of the Governor General or of either House of Parliament and (b) at least once a session, for example at the prorogation of a session;

That, in addition to the present practice, a simpler procedure be established based on the following principles: (a) that the procedure involve representation from both the Senate and the House of Commons, (b) that it be public, and (c) that the declaration of Royal Assent be subsequently reported to both Houses of Parliament; and

That representatives of the Senate meet with representatives of the House of Commons to draft a resolution for a joint Address of both Houses to be presented to Her Excellency the Governor General praying that she approve such changes to the Royal Assent ceremony as described in this motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am going to ask that this motion also stand in my name. Since we are having Royal Assent today, however, and since that is what this motion is about, there are one or two things I would like to say.

This motion is similar to an inquiry that I proposed in May of 1983, that I would call the attention of the Senate to the advisability of establishing alternative procedures for the pronouncement of Royal Assent to bills. I expect that we are about to adjourn to the call of the bell for Royal Assent, so I will not speak to the subject as fully as I did then.

I would like to point out two things. First, this is no longer in the form of an inquiry. It is now a motion. An intervening event has had something important to do with the motion. The entire subject was referred to the Committee on Standing Rules and Orders, which made detailed recommendations as to

alternative methods by which to grant Royal Assent. Therefore, I invite those honourable senators who are interested in the subject one way or the other to have a look at the *Debates* of May 10, 1983, at page 5608. That is the date on which I presented the result of some research on the subject of Royal Assent, including comparisons with systems used at Westminster and in Australia. I presented at that time alternatives which were then considered by the Committee on Standing Rules and Orders, and which, in turn, form the subject matter of its report.

Honourable senators, I will speak to this motion in due course, but perhaps not quite as boringly as I did then in terms of all of the detail. Honourable senators might prefer to read at their leisure in their offices the detail of the somewhat arcane history of this practice. Then, in due course, I will again refer to this subject in a somewhat more abbreviated form than I did in 1983, after which I will await interventions by other senators.

The Hon. the Speaker: Therefore, the honourable senator wants this motion to stand?

Senator Frith: Yes.

Motion stands.

BUSINESS OF THE SENATE

Hon. Nathan Nurgitz: Honourable senators, as yet we do not have word of the progress that has been made in the other place. I would therefore advise honourable senators that when the Senate resumes—and I now propose to move the adjournment to the call of the bell—notice will be given as to the future proceedings of the house.

• (1450)

I move that the Senate do now adjourn during pleasure to re-assemble at the call of the bell at approximately 4.40 p.m.

The Senate adjourned during pleasure.

• (1700)

At 5 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to dissolve Canagrex and to amend certain Acts in consequence thereof (*Bill C-2, Chapter 38, 1987*)

An Act to amend the Bretton Woods and Related Agreements Act (*Bill C-68, Chapter 39, 1987*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1710)

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

Hon. Finlay MacDonald: Honourable senators, as you will recall, earlier this afternoon Senator Nurgitz indicated some uncertainty with respect to matters which might affect our sittings. We have been informed, as the Deputy Leader of the Opposition knows, that Bill C-86, to provide for the resumption and continuance of postal services, has been introduced in the other place. It is our understanding that negotiations are under way that might cause this bill to go through all stages tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before we adjourn, the motion for adjournment, of course, will automatically be for 2 o'clock tomorrow. When Bill C-86 comes to us, will the government be in a position to provide the minister for the Committee of the Whole?

Senator MacDonald: I shall undertake to determine that.

Senator Frith: Honourable senators, before we depart, I think the record should also show that we have been treated to rather dazzling evidence of the bench strength available on the other side when, in the space of one day's sitting, the government has been led by two acting leaders. We are impressed with that bench strength.

Senator MacDonald: Thank you so much.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Friday, October 9, 1987

The Senate met at 2 p.m., the Honourable Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-FIRST REPORT OF COMMITTEE TABLED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have the honour to present and table the Thirty First report of the Standing Committee on Internal Economy, Budgets and Administration.

Honourable senators, this report approves certain salary scales for senators' secretaries. It is based on a report relating to these salaries and classifications from a subcommittee to the main committee. Because I voted against the report, I think I should make the same comment that I made at that time.

I believe that the secretaries in the Senate require and deserve an increase. However, I felt that the report from the subcommittee was insufficient to enable me to support the figures that were presented, just though they may be. I say that for the following reasons: First, there was nothing in the report that related the recommendation to the overall categories set up some time ago, after a long study, and based on the Hay report. Second, there was no information in the report as to what effect these changes would have on our negotiations with represented employees. The secretaries are unrepresented employees.

For those reasons I did not support the report, although I do support an increase. It may very well be that these figures would be fully justified if the information I had hoped to have had been provided, but it was not.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I understand it, we will have occasion at a later date to discuss the matter and approve the report. For the moment, however, the report is tabled with the Senate.

Senator Frith: That is correct.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FIFTEENTH ANNUAL MEETING HELD IN BANFF, ALBERTA—NOTICE OF INQUIRY

Hon. Heath Macquarrie: Honourable senators, I give notice that on Friday next, October 16, I shall call the attention of the Senate to the Fifteenth Annual Meeting of the Canada-Europe Parliamentary Association held in Banff, Alberta, from September 21 to 25, 1987.

ADJOURNMENT

Hon. Finlay MacDonald, with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, October 13, 1987, at 2 o'clock in the afternoon.

Motion agreed to.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

"ELEMENTS OF THE AGREEMENT"—REQUEST FOR TABLING OF INITIALLED COPY OF DOCUMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I want to ask the Leader of the Government a question with respect to the document, which was tabled earlier this week, entitled "Canada-U.S. Free Trade Agreement—Elements of the Agreement".

I notice that in the House of Commons today the Deputy Prime Minister referred to documents tabled in that House containing initials of the parties to the agreement, if I understood him correctly.

I notice that there are no initials on this document—at least as far as I can determine—and that when one looks at it, it really is a drawing together of the elements of the agreement. Certainly, on its face, it is not a reproduction of the initialled agreement.

Could the Leader of the Government find out, or attempt to see, whether the initialled agreements, which formed the basis of this document, could be tabled in the Senate? As I say, I have not been able to find any initialled documents here, but maybe there is a document which I missed. But if I have not missed it, could I ask whether the Leader of the Government might find it possible to table the documents which were initialled by the two parties?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the document that my friend has in his hands—a copy of which I have in my hand—is entitled "Preliminary Transcript—Canada-U.S. Free Trade Agreement—Elements of the Agreement". That document has been distributed.

The document which I tabled the other day does carry the signatures of the people whose names I mentioned—Secretary Baker, Ambassador Murphy and one or two others from the United States side; Ms. Carney, Mr. Burney, Mr. Wilson and Ambassador Reisman for the Canadian side. But I do believe—and I have sent for the document that I have tabled—that the document that I tabled with those signatures and the document that my friend and I have in our hands are identical.

REQUEST FOR TABLING OF INITIALLED COPY OF DOCUMENT CONTAINING REFERENCE TO CANADA'S UNDERTAKING RE PASSAGE OF BILL C-22

Hon. Allan J. MacEachen (Leader of the Opposition): Well, I will not press that point, but I want now to ask whether the minister could undertake to table the document, which was initialled by both parties, containing the sentence which was quoted in the *Globe and Mail* today to the effect that Canada undertakes to ensure the passage of the amendments contained in Bill C-22. Could we have the document—which was initialled, as I understand it, by the two parties—containing that commitment and which was not included in the documents which were finally released to the public?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The reference that the Leader of the Opposition made in his first question was to documents tabled in the House of Commons bearing, as he said, the initials of the negotiators. I will undertake to table in this house anything that has been tabled in the other House in this regard.

Senator MacEachen: I thank the Leader of the Government for that assurance. I simply want to ask the Leader of the Government if he will table the document, which was not subsequently released but which was initialled by Canada and the United States, which contains this sentence:

> Canada has agreed to pass the pending amendments contained in Bill C-22 in respect of compulsory licensing of pharmaceuticals.

Senator Murray: The Leader of the Opposition is referring to a document referred to in an article in the *Globe and Mail.* I do not know what the status of that document is.

What I have done in this house is table the agreement, the document that has been signed by the representatives of Canada and the United States, which represents the commitments and undertakings that Canada and the United States have made—the only commitments and undertakings that we have made.

If the document referred to in the *Globe and Mail* is a previous draft of an agreement or some document that emerged from a working party and was rejected, then that is not our document. That does not contain commitments of Canada and the United States and we do not take responsibility for that; that would be an earlier draft.

However, I shall have to inquire and make certain that all the relevant documents that have been tabled in the other place are tabled here and that the Senate has the documents that contain all the commitments and undertakings that Canada and the United States have made.

Senator MacEachen: I thank the Leader of the Government for his assurance that he will make further inquiries, but I want to make clear that what I have in mind is whether, in fact, there was a document initialled by both Canada and the United States which contained this commitment and which was approved and in play all day of October 3. That is a factual question. Did we initial a document which contained that sentence I have quoted? If so, can we see it? If so, why was that portion of the document subsequently deleted and at whose request? Further, is it a fact, as alleged in the *Globe and Mail*, that that deletion was made because it would prove embarrassing politically to the Government of Canada? Is it a fact that subsequently Canada undertook to provide to the government of the United States, in the words of the *Globe and Mail*, "a further communication, written or verbal," that would constitute the commitment that is contained in that deleted portion of the agreement?

Senator Murray: Honourable senators, I thought I had indicated very clearly the other day that the Government of Canada was quite willing to confirm orally, or in any other way, our intention to proceed with Bill C-22. We have made that clear, Lord knows, on enough occasions publicly, and we have told not only the Americans but the British, the Japanese, the French and anybody else who is interested. There is no mystery, no surprise, about that.

If the question was, "Are we committed to this legislation?", the answer is an unequivocal yes. If the question was, "Do you commit to its passage?", we could not give such an undertaking for the reasons I outlined the other day.

● (1410)

I will make inquiries about documents, but I am not clear as to the relevance of the question of the Leader of the Opposition. I am sure there are, as he must know, scores of draft documents that make their way from working parties to the ministers and chief negotiators in the course of one of these negotiations. But the only documents that are relevant for our purposes are the documents that contain the commitments made by the two governments. I do believe that the Senate now has those documents in hand, but I shall inquire to see whether there is anything else that needs to be tabled.

Senator MacEachen: I think there is a factual question here which goes beyond any of the comments which the Leader of the Government has made, and that is whether, at a certain point in the course of the negotiations, Canada had initialled a document, which was part of the free trade agreement, containing this sentence: "Canada has agreed to pass the pending amendments contained in Bill C-22 in respect of compulsory licensing of pharmaceuticals." One can make all sorts of interpretations, but it is a question of fact whether, at a certain point, Canada did initial a document—namely, the free trade agreement—in which this sentence appeared. That is a question of fact and we can interpret it as we wish.

The second question of fact is whether that section was then deleted. If so, it would be interesting to inquire at whose request and why. Those are questions of fact. If we knew the facts, then we would make our own interpretations. I have no difficulty with the Leader of the Government's saying, "Yes, we wanted that bill through." But it is a different thing to want it through, because it is an essential part of the Free Trade Agreement in the minds of the Americans, and they regard it as a commitment that is integral to the overall deal. That is the point. I think the Leader of the Government is right in saying that the government is committed to the passage of the bill. But it becomes somewhat different if that commitment is an integral part of the Free Trade Agreement, as the American documentation says. The document says that both parties have agreed. At any rate, those are the questions. One can then make one's interpretations if one knows the answers to them.

Senator Murray: Honourable senators, on several occasions the Leader of the Opposition has used the phrase "Did Canada sign?" or "Did Canada initial?". The documents that contained the commitment of Canada would have been signed or intialled by our Chief Negotiator, Ambassador Reisman or Ambassador Ritchie, the two ministers of the Crown who were present and Mr. Burney. I know, and I am sure the honourable Leader of the Opposition knows, that literally scores of documents come up to ministers from working parties. Perhaps they are initialled—sure, initialled—by the Americans and Canadians who participated in and led those working parties, documents which were later rejected or amended in one way or another by the chief negotiators for our side or the chief negotiators for the other side in the course of the negotiations. That is what happens.

The important thing is that a document emerged at the end of the process which contains the official commitments of both countries. My friend asks whether our intentions about Bill C-22—which are, as everybody knows, to do everything we can to see it pass through the Senate—form an integral part of the free trade agreement. They do not. But, as I think I indicated the day before yesterday, nobody should be surprised or scandalized that the matter would have come up when we began to discuss the overall question of intellectual property. I am sure that it does not scandalize or surprise the Leader of the Opposition that the Americans would have asked, "What are you doing about Bill C-22?" It is a matter on which our allies and economic partners in the world have been making representations since 1969. So that is not surprising.

We could not avoid discussing various current issues as we went along. There is a reference somewhere in here, under "financial services", to the Glass-Steagall Act and to amendments that are now before the Congress in respect of that act covering financial services, and, in the course of this agreement, we obtained an undertaking from the Americans that if a certain amendment now before the Congress were to go through Canadian banks would be included. That is in the agreement.

[Senator MacEachen.]

So, it is not surprising that current issues would come up in the course of the negotiations. I do not know what more I can say except to reiterate the point I made earlier that I will see that any documents that were tabled in the other place, and certainly any documents that contain any undertakings or commitments by Canada in respect of the free trade agreement, are tabled in this place.

Senator MacEachen: Would the Leader of the Government undertake to tell me whether, at a certain stage, a document was initialled by Canada and the United States which contained the sentence that I read twice?

Senator Murray: Honourable senators, I will ascertain whether there was a draft that emerged from a working party on that subject; but even if there was, it is irrelevant if the commitment is not contained in the document that has been approved by both countries and contains the undertakings and commitments that emerged from the process.

Senator MacEachen: If the Leader of the Government has confirmed that there was no initialling, but has implied that such a document might have been initialled by a working party and was rejected by the leaders of the negotiations, I want to find out whether that actually happened or whether, indeed, the sentence in question did appear and was approved by the leader of the negotiations—in this case, Minister Carney or Mr. Reisman—and was subsequently removed at the request of Canada, on second thought. In other words, at a late stage Canada said, "This will prove embarrassing and we want it out." I want to know if that is true. I do not know whether it is true, but I want to find out.

Senator Murray: What would be the relevance of it?

Senator MacEachen: The Leader of the Government has asked me what would be the relevance—of the request?

Senator Murray: Of that kind of scenario?

Senator MacEachen: I am terribly simple in my approach to these matters. I just want to know the facts. If Canada did make the request and the United States acquiesced, did that country say, "Well, yes, we will let you take it out, but you have to give us an assurance on the side." Did that happen?

Senator Murray: Honourable senators, let me repeat that surely the Americans know, surely we told them, that it is our intention to proceed with Bill C-22 and do everything we can to see it passed, but that we are in the hands of the Liberal majority in the Senate who have been delaying the bill; and there is no way that the government could undertake to have that bill passed—there is no way we could do that—because we could not carry out such an undertaking; the government does not have the required number of Conservative senators in this chamber.

Senator MacEachen: I understand all of that, and it is not germane to the point. Of course, the only way that we will ever know whether there is a link is for the Senate to refuse to pass this bill and then to see what happens to the Free Trade Agreement. It would be the final proof in the absence of information from the government. I assert that if this bill were

not passed by the Senate, the free trade agreement would be seriously jeopardized, damaged and in danger, because the United States regards the passage of this bill as an essential part of the deal, and that Canada has committed itself to that end. That is my assertion, and I have established quite a bit of circumstantial evidence to support it. The best way for the Leader of the Government to prove that I am wrong is to provide precise answers to the questions I have asked. That is all.

• (1420)

Senator Murray: Honourable senators, I have read and re-read the questions that were put to me and the answers that I gave on this subject the day before yesterday, and I shall do the same with the questions and answers we have had today. I think the Honourable Leader of the Opposition will find that my answers are quite precise.

Let me say that I agree with the honourable senator's assertion to this extent: If the Senate were to defeat Bill C-22, I believe that many congressmen and senators in the United States would think twice about their support for the Free Trade Agreement, because, surely, they would take such action as meaning that one of the houses of the Canadian Parliament was thumbing its nose at the spirit of this free trade agreement. Yes, I think that if honourable senators defeated Bill C-22 it would have that effect on the political climate in the United States. In fact, I had thought all along that my honourable friend—internationalist, free-trader and true Liberal that he is—was looking for a rationale for voting in favour of Bill C-22, and that the exchange the day before yesterday and the exchange today were providing him with that rationale.

Senator MacEachen: Honourable senators, what the honourable senator has said is food for thought. He has pretty well proved my case. The Leader of the Government has said that the defeat of Bill C-22 by the Senate would be a damaging blow to the spirit of the Free Trade Agreement and that the U.S. Congress would take it in the same light. What more do we need to prove that there is a deep and integral linkage between the two?

[*Translation*]

ECONOMIC DEVELOPMENT

ATLANTIC CANADA OPPORTUNITIES AGENCY—EXCLUSION OF LARGE ENTERPRISES FROM INFRASTRUCTURE PROJECTS

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government. I have a press release from the Atlantic Canada Opportunities Agency entitled: Senator Lowell Murray gives a summary of the ACDA's activities. In one of the paragraphs, Senator Murray is quoted as Leader of the Government. It might be better if I read the said paragraph on page 3 of the release:

> While speaking about the Agency's evolution, Senator Murray insisted on the fact that the Agency would grant no assistance for infrastructure projects except when directly related to small and medium businesses.

First, we should agree on a definition of an infrastructure project. Secondly, how will the relationship between infrastructure projects and small and medium businesses be determined? Thirdly, why should such assistance be refused to "big" business?

Such statements puzzle me. I really don't know where all this will lead us. What is meant by infrastructure projects? Is it water supply systems, sewers, water treatment or highway systems? How will they be directly linked? I repeat, why has "big" business been excluded?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there must be a distinction between the various programs which are now under my ministerial responsibility. Most projects mentioned by the honourable senator such as sewers and highways are covered by regional economic development sub-agreements. There would be no change.

When I spoke about infrastructure projects in my speech in Sydney, I was talking about the billion dollars allocated to the Agency over the next five years for new long term economic development programs.

The government does not exclude ERDA agreements. Sewer, highway and other projects which have been known for a long time are not excluded.

Senator Corbin: You did not react to the exclusion of "big" business?

Senator Murray: Honourable senators, there again some programs, such as IRDP, the regional development program, come under my departmental responsibility. In that case as well, loans and grants to major businesses are being considered.

NEW BRUNSWICK—PROSPECTS FOR INTRODUCTION OF NEW PROJECTS BEFORE AND AFTER PROVINCIAL ELECTION

Hon. Eymard G. Corbin: Honourable senators, in a somewhat different context, I would like to ask the following to the Leader of the Government. Since the beginning of the provincial election campaign in New Brunswick, we have been overwhelmed by scores of advertisements from the federal government.

Senator Murray: Overwhelmed!

Senator Corbin: Yes, overwhelmed and shocked by the—

Senator Murray: Shocked!

Senator Corbin: —shocked by the attempts of the federal government to save Premier Hatfield. That is my interpretation of that intervention in a provincial democratic exercise. We have never seen so many federal initiatives introduced during an election that only affects the people of New Brunswick.

Of course, many of those announced projects are not always very well defined. Some projects may have been ready for some months but the government decided to wait for the provincial election before making the announcement. Here is

my question: Can the people of New Brunswick expect other federal projects to be introduced within the few remaining days before the election campaign ends in New Brunswick?

Senator Murray: The answer is yes.

Senator Frith: What is the answer?

Senator Murray: Yes.

Senator Corbin: Does the Leader of the Government really believe that those additional projects to be announced will really save Premier Hatfield?

Senator Murray: Honourable senators, some plans have matured, to use my honourable friend's word. We will communicate the good news to the people of New Brunswick.

The federal government made a clear, unequivocal and solid commitment about economic development of the whole area including New Brunswick, regardless of the political stripe of its provincial government.

Senator Frith: Honourable senators, the answer to this question is yes.

Senator Corbin: Does the Leader of the Government believe that there will be any federal program left after October 13?

Senator Murray: Honourable senators, it all depends on the ability of the provincial government to negotiate good agreements with the federal government. I must confess that the present Premier of New Brunswick is very well known for his skill as a negotiator.

Senator Frith: And for the stripe of his party!

● (1430)

[*English*]

DELAYED ANSWER TO ORAL QUESTION

Hon. Finlay MacDonald: Honourable senators, I have one delayed answer.

DIEFENBAKER CENTRE, UNIVERSITY OF SASKATCHEWAN

FINANCIAL CRISIS—FURTHER REQUEST FOR GOVERNMENT ASSISTANCE

Hon. Finlay MacDonald: Honourable senators, I have the answer to a question raised by Senator Buckwold on September 30, 1987, regarding the financial crisis in the Diefenbaker Centre and the request for further government assistance.

(*The answer follows:*)

> The government is aware of the financial situation facing the University of Saskatchewan and the provincial government with regard to the Diefenbaker Centre.
>
> Talks are currently under way between the interested parties and a solution is being actively pursued on this matter.

[Senator Corbin.]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion, as modified, of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:
>
> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am obliged to my colleagues in the Senate for allowing me to adjourn the debate yesterday in my name in order to obtain further information on the subjects raised during that debate.

Yesterday there was a question raised with regard to access to the video tape and whether various networks would be able to remove whatever clips they want from the total VCR package. The answer is that they would be able to do so, because all networks who are members of the Press Gallery would have access to the material.

There was a question asked by Senator Romeo LeBlanc as to whether cable companies would have access to the unedited or the full tapes in order to provide programming, if they wished, on cable stations or on cable networks. I discussed that with Mr. Don Newman, president of the Press Gallery, this morning. He said he did not know the answer, but that he would give us an answer in due course.

We are talking about access, of course, rather than an electronic *Hansard*. We should realize that it is quite possible that on certain days when the Committee of the Whole is sitting cameras may not show up at all because of the fact that it is access we are giving rather than an automatic feed. What might show up on the newscasts will not represent every aspect of the three-hour committee hearing. However, as Senator Romeo LeBlanc pointed out, it might very well be that some cable stations or cable networks, if given access to the tapes, would develop programming based on those tapes.

There was another question about the threat to privacy caused by zoom lenses. If there were cameras in the gallery, there might be a sufficient angle to have that happen. However, at the angles we are talking about here I do not think it would be possible. In any event, I think we can be assured that there would be no interest on the part of the cameramen to record anything except what is relevant to the proceedings. They would realize that any breach of confidence would certainly put an end to the privilege accorded to them of being here.

Honourable senators, I hope Senator Finlay MacDonald and I made it clear yesterday that we are looking at this purely as a matter of access and as an experiment, with the senators being in complete control. If at any point we decide it is not working or if we want anything changed, we can insist on it being done.

• (1440)

I ask that the motion pass, unless someone wishes to adjourn the debate. One reason for asking that the motion pass today is that if Senator Murray appears before us next week, and if we do proceed to allow this access, we should be able to start Tuesday with two aspects of the technical side. There should be some work done in the chamber on Tuesday to make sure that the feed from the desk is clear. Also, an AC plug-in should be obtained to avoid using batteries, which might have to be changed during the proceedings. Those are the two reasons for having this motion passed today. I would not want that work to be carried out if we did not have the authority of the Senate to have these cameras placed in the chamber.

[*Translation*]

Hon. Paul David: I would imagine, Senator Frith, that all the sittings which will be taped will be available on request over the parliamentary network.

Senator Frith: This question of the availability of tapes for cable and network just mentioned by Senator David was raised by Senator LeBlanc of New Brunswick. I have not had an answer to that question yet. There may be problems of copyright. I hope not, but the issue has not been settled up to now.

Senator David: Honourable senators, I am not sure that I made my point very clearly. I can well understand that the whole programs will not be available for private networks or even for public networks like the CBC. But we have a parliamentary network here which has many channels we can watch in our office. It would be unfortunate if it is impossible for us to watch from our office sittings we have not been able to attend because we were away or for some other reason. I would like to know if we will be able to watch the proceedings on television in our own office.

Senator Frith: I think that arrangements can be made to have tapes on request. It would not be automatically available, but only on request. You can be sure that I will raise this question with Mr. Newman. We do not foresee the same kind of problem, that is copyright and similar problems, concerning the question Senator David has raised. I do not think there would be any problem to make the tapes available on request.

Senator David: I also imagine, Senator Frith, that during the recording of these sessions cameras will be essentially focused on the main witness, but that any senator asking a question will have the opportunity to be seen at the same time he or she is heard.

Am I right in thinking that if you intervene—because questions are sometimes very long, as they are often preceded by comments longer than the question itself—your comments will also be available?

Senator Frith: Yes, we asked that the camera be focused on the senator, the witness or the chairman of the Committee of the Whole. That is the reason why we tried to change the position of the witnesses. We wanted the two cameras to be able to focus on any person who might intervene during a sitting.

Senator David: Then the whole chamber will be covered?

Senator Frith: This is correct, Senator David.

Hon. Eymard G. Corbin: Honourable senators, I would like to ask Senator Frith to elaborate on the meaning of the words underlined in the third paragraph of his motion. I might as well quote the whole paragraph.

> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.

I would like Senator Frith to tell us the meaning of this underlined expression and, conversely, to what extent these principles and practices would not be applicable to the Senate? What is meant, precisely, by that?

Senator Frith: I believe that these words were underlined because they were added as an amendment to the motion. My original motion ended with the words "House of Commons".

If I remember correctly, the following question had been raised: How would it be possible to apply fully the rules of the other place, when the idea is only to give access here to television cameras, while in the other place, it is rather a sort of electronic *Hansard*.

Moreover, I believe that we had added these words to indicate that it was to the extent that it could apply to the Senate. There are rules of the House of Commons which cannot be applied here because they concern some elements of the electronic *Hansard*.

Senator Corbin: It seems to me that you have indeed addressed one of the aspects of the question. But in terms of broadcasting our proceedings, I think it goes beyond that.

For instance, it is understood that the camera will show, not the whole chamber or one complete side of the chamber, but the person whom the Speaker has recognized. That is the way they do it in the House of Commons.

When nobody has the floor, the camera will be directed at the Chair. There is a sort of wide shot showing the table of the clerks and the Chair in the distance. There is a reason for that.

I do not see that there is here any absolute, guaranteed protection against what is called a "panning" camera shot. The camera operator could for instance pan from the witness sitting behind the Gentleman Usher of the Black Rod, or in front of him, and back to Senator Frith. In so doing, he would show all those empty seats as we have today.

What an impression that would create in the eyes of the public! What an opinion of the Senate that would give the public!

Are we therefore going to provide camera operators with guidelines to prevent them from doing that kind of panning across the chamber so that they simply aim their cameras at

the person who has been seen by the Chairman of the Committe of the Whole or, in the case of the Senate, who has risen?

If not, I think this house's good reputation is doomed. That is not done in the House of Commons, that kind of panning, in order to avoid exactly the kind of problem I have just described, that of disappointing the public. The public could see an almost empty House of Commons. Such is generally the case in most debates in the House of Commons. So much so that when the House of Commons' Speaker recognizes a member that is sitting, say in the fourth seat at the end of the second row, and there is nobody behind him, generally the whip of the party involved invites other members to sit behind him to leave the public under the impression that the House is full, that he is being listened to, and so on.

Therefore, I want to know to what extent that procedure will be respected for the television broadcasting of the Senate's debate? Otherwise, I am telling honourable senators that in the absence of that kind of guarantee, I could very well oppose the motion. I might be the only one to do so, or there might be a small group. I never supported the entry of television cameras in the House of Commons. God knows it is impossible to get them out now!

I have seen the quality of debates in the House of Commons gradually deteriorate. Rather than concentrating on the matter before the House, Members of Parliament have become actors, performers for a wide public, instead of discussing among reasonable people, debating among themselves to find genuine solutions to the problems at hand.

If that criticism can be raised regarding the use of television in the other place, in my view, the same holds even more true for the Senate, the so-called "second-thought chamber". Besides, when I agreed to come to the Senate, I thought I would be free once and for all from those spotlights that are required, of course, for the electronic recording of proceedings.

I never thought I would again act for the public, nor did the judges of the Supreme Court, I guess. I think that the present members of that court might be opposed to the idea that one day their proceedings would be televised or recorded. The same holds for any court in this country.

Our role is basically a legislative one but we also act as a court. We are not here—especially since we are not elected—to show off so as to get public opinion on our side. Canadians have other ways to react if they do not agree with what is being said or done. At this time, one only needs to read the papers, where editorials for and against are to be found, to realize that the public is well informed about what is taking place in the Senate. Whether debating Bill C-22, the borrowing power of the government, the Meech Lake Accord or the fisheries issue, we deal with it in a general way.

Does Senator Frith really believe that televising the proceedings of the Senate will improve the quality of our work and the degree of participation of senators?

I am not sure that it will be the case. I humbly say to you that I do not want to speak before television cameras. It really puts me off. I did not come here to be an actor or a player. If some of my colleagues have a propensity for that career, this is not the right place. They should have gone to Toronto, Hollywood, Montreal or elsewhere to pursue that career. I also know some of our colleagues do not want to or dare not speak, but are nonetheless opposed for reasons I have just described.

Therefore, I add this comment to the one on the camera panning to let you know there is considerable reluctance, although I must admit there is within our own political party a willingness to introduce cameras here, in the Senate, as an experiment. Indeed, how far will the experiment go? Whenever something is introduced on a trial basis in Parliament, we soon realize we get stuck with it for a very long time without any way of getting rid of it.

I am sorry if I repeat what I said earlier this year, but I think strong opinions bear repeating. I have yet to be sold on the idea that it would be useful and essential for the public to televise Senate debates and for senators to appear on television screens in the hope they will perform better.

I do not see any relation between the two and believe the Senate should remain as it is and has always been.

Senator Frith: Honourable senators, starting with the end, I will say that I am not sure that cameras in this chamber will improve the quality of debates. I have listened to a lot of debates over the last 10 years and their quality makes me confident that their broadcasting will actually improve the image of the Senate. I cannot, off hand, remember a single occasion where I would have been ashamed should the public have witnessed our debates through the media.

To answer the question, I am certain that television cameras will in no way bring disrepute to the Senate. I am sure of that. Even if the quality of debates remains as it has always been, they will contribute to raising the reputation of the Senate among the public.

What I regret most is that, as a rule, Canadians are not aware of the quality of debates in the Senate.

As to the guarantee concerning panning, we talked about it. We made sure that cameramen would be fully aware of and pay attention to this problem. They will make every effort to avoid the difficulty mentioned by Senator Corbin. That is why we should try the system and see for ourselves. We are the ones in charge. If it does not work, we can change our minds. As of now, I do not think that panning would be a problem for access to the network, because we would use cassettes.

As to the possibility mentioned by Senator David and Senator LeBlanc (Beauséjour) of New Brunswick, we should avoid that kind of panning for this reason. The problem mentioned by technicians is precisely that: cameras that move very rapidly would produce a kind of blurring. If they can, they will shut off the camera for panning and then put it on again not only for the reasons explained by Senator Corbin but also for their own reasons, that is to avoid the blurring that occurs when the camera moves too rapidly. Could I add that—

[Senator Corbin.]

• (1450)

[*English*]

Hon. Daniel A. Lang: Honourable senators, on a point of order, I am afraid I will now have to leave the chamber. I would like the Speaker to be apprised of the fact that if I do so I believe a quorum will be lacking.

[*Translation*]

Senator Frith: Honourable senators, I can only guarantee then that we are aware of the problem.

[*English*]

Hon. William M. Kelly: Is it still appropriate to ask a question of Senator Frith?

Senator Frith: Yes.

Senator Kelly: Honourable senators, to be sure I understand this matter I would like Senator Frith to clarify for me the meaning of the following:

> . . . Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to;

Does that mean that this motion does not relate specifically to the hearings on the Meech Lake Constitutional Accord but that it establishes coverage which could only be terminated with a future resolution to that effect?

My personal wish is that this motion refer specifically and exclusively to hearings on the Meech Lake Constitutional Accord, beginning and end. Then, after senators have had an opportunity to examine the effect and the results, the only way televising could take place would be if a new motion were agreed to.

Senator Frith: Honourable senators, the reason that reference is made in the motion to "the Meech Lake Constitutional Accord and texts subsequently agreed to" is because at that time the motion that referred that matter to the Committee of the Whole was so worded. In other words, it was simply an attempt to match the motion for televising the proceedings with the one that is, in fact, before the committee. All that is before the committee at the present time is the following:

> . . . the Meech Lake Constitutional Accord and texts subsequently agreed to;

The reason we inserted the words "and texts subsequently agreed to;" is because at the time the motion was made for a reference to the Committee of the Whole there was no Langevin accord. There was only the Meech Lake Constitutional Accord. At that time, in order to be certain that we would deal with everything relating to the Meech Lake Constitutional Accord, we inserted the words "and texts subsequently agreed to;".

Indeed, what happened was that the Langevin accord was a text subsequently agreed to. When Senator Murray moves his motion, which deals with the Langevin text, then I assume that would go too.

We are not purporting to deal with anything except the Meech Lake Constitutional Accord as such, and as the term is understood.

I believe that when someone speaks these days about Meech Lake they are not, usually, talking about the lake, they are talking about the accord. They would be talking about the Meech Lake Constitutional Accord, the Langevin accord and the text that was the subject of a resolution in the other place under the Constitution, and the text which will be the basis of the resolution put forward here by Senator Murray.

I believe that when Senator Murray actually moves his motion we will have caught up on all the versions and we will have before us the exact matter we want to have before us—and which I think Senator Kelly would want us to have—namely, the text of Senator Murray's motion, which is on the order paper but which he has not yet moved.

• (1500)

Senator Kelly: Honourable senators, I think I understand the answer as to how the wording got the way it is. However, I would like to ask Senator Frith, as simply as I possibly can, this question: When the television process pertaining to the Meech Lake Constitutional Accord and all things relevant to it is complete, will a further motion be required in order to have any more television in the chamber?

Senator Frith: Oh, I'm sorry, yes. All we are authorizing here is television access to the proceedings of the Committee of the Whole on the subject of the Meech Lake accord. Once that committee reports, then, if senators want to have television coverage of any proceeding of the Senate, a new motion would have to be put. I apologize for giving such a long answer to the other question. The answer is yes, permission is being given to televise the proceedings of the Committee of the Whole on the Meech Lake package.

Hon. Jean Le Moyne: Honourable senators, I do not think we can proceed any longer. We do not have a quorum.

Senator Frith: I believe that is up to the Speaker, honourable senators.

The Hon. the Acting Speaker: Honourable senators, no one has asked that we adjourn. I understood a while ago what Senator Lang said, and I understand what Senator Le Moyne has said, but so far no one has asked that the Senate adjourn. Based on that, I think I have the authority to continue, unless an honourable senator makes a motion.

Rule 8 states:

> When it appears, on notice being taken at the commencement of or during a sitting of the Senate, that fifteen senators, including the Speaker, are not present, the senators who may be in the adjoining rooms having been previously summoned, the Speaker shall adjourn the Senate until the next sitting day, without question put.

Senator Frith: Honourable senators, I think it is simply a question of the verb used by Senator Le Moyne. It is not that we "cannot" proceed, but if we go through the process of insisting to the Speaker that we should not proceed, then we will ring the bells to try to bring in a quorum. At that point we could use the verb "cannot" continue. At the moment, however, there is no problem in terms of being able to continue.

Senator Le Moyne: Honourable senators, I would like something clarified.

The Hon. the Acting Speaker: We now have 15 senators.

Senator Le Moyne: I am putting a question. The motion that we are dealing with is quite important. It is the mores of the Senate that are involved. I wonder if we can continue the discussion without a quorum and then vote without a quorum. Certainly not.

I am ashamed to see this house in this state!

The Hon. the Acting Speaker: Honourable senators, there are now 15 senators in the chamber and we have a quorum.

Senator Le Moyne: Very well.

Senator Frith: On the point that was implied in Senator Le Moyne's question, if there is a feeling that there are not enough senators in the chamber to deal with the motion—and there are now 15, making a quorum—then, of course, I will not insist. I am not trying to railroad this through. The other day questions were put and I thought I had adequately answered most of them. I asked that it be dealt with so we can do some technical work on Tuesday.

I repeat that if any senator feels that it would be unseemly to proceed with this number of senators present—and I accept it is barely a quorum—I will certainly not insist on a vote.

Senator Le Moyne: Honourable senators, if it is only a question of feeling, my feeling is that we should not proceed. If it is another question, well, I will follow the opinions of my colleagues, who are much more learned than I am in these matters. But the state of the house as it is right now is, for me, unacceptable. I am ashamed of it!

Senator Frith: I think the correct procedure, then, would be for some senator to move the adjournment of the debate.

Senator Kelly: Honourable senators, I move the adjournment of the debate.

On motion of Senator Kelly, debate adjourned.

BUSINESS OF THE SENATE

On the motion to adjourn:

Hon. Finlay MacDonald: Honourable senators, I move that the Senate do now adjourn.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator MacDonald, seconded by the Honourable Senator Bielish, that the Senate do now adjourn.

Hon. Jean Le Moyne: In the absence of a quorum!

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

Hon. Eymard G. Corbin: Honourable senators, might I be permitted a question? A motion has been put and I believe it is debatable. Where do we go from here? Until what time is the Senate adjourned?

[Senator Frith.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The Senate is adjourned until Tuesday next at 2 p.m.

Senator Corbin: The Senate is adjourned until Tuesday at 2 p.m. Why were we called here today?

Senator Murray: We were called against the possibility that Bill C-86 would have been approved by the House of Commons and sent to this chamber.

Senator Corbin: Honourable senators, I should like to put on the record—and this has to do with the adjournment motion—that I feel rather frustrated by the fact that there is barely a quorum in the house. Nobody will fault me for not attending; I am here most days, and on days I am not here I am on *bona fide* committee work elsewhere in Ottawa or outside Ottawa, because I consider it my duty to be here. I postponed a trip to New Brunswick that was supposed to have taken place today, which is the best day for me to travel to that province. I travel by car, because I do not have air service to Grand-Falls, New Brunswick. I have to drive back from New Brunswick as well, and I hate doing it on weekends when the daredevils, the Sunday drivers and what-have-you are out on the road.

If I, as a "new boy"—as some senators around here have sometimes called me—am able to perform my duties as a senator, the first of which is to be here when the Senate is called, then I cannot for the life of me understand why we can only muster 15 senators in total. Like Senator Le Moyne, I find it unacceptable. It imposes a burden on me—not a burden to do my duty but a great sacrifice, inasmuch as the time I could use to travel back to New Brunswick is taken away from me simply because I consider it my duty to be here today.

● (1510)

Other senators—perhaps some of the new boys—are able to fly back home first class, business class, "Connaisseur", or what-have-you; they can come in on Tuesday morning and depart Thursday evening; but when the Senate is asked to sit on Friday, it is a "no show" for them.

Yesterday at the time that we had Royal Assent I do not believe we had a quorum. Today we were called here in the expectation that the other place would deal with legislation to force the postal employees back to work, but that so far has not materialized. I suppose that some senators were wise and thought that the House of Commons would not dispose of the bill today and therefore they would be wasting their time sitting in Ottawa waiting for the Senate to have a sober second look at the legislation.

So here I find myself, at 3.30 p.m., with perhaps four hours of daylight left, and I am not going to go out there and drive in my car to New Brunswick because I would have to drive for two-thirds of that route in darkness, and I am unable to drive when it is dark.

Therefore, I come back to my original comment: Why in the world is there not better planning of the work of this house, and why don't the members of this house work together and perform their duties? We are told by polls that the public is crying for reform of the Senate. Some say, "Let us abolish it,"

and others say, "Let us elect it;" and there are as many formulas as there are groups or individuals with respect to the election of the Senate. It is on occasions such as this that those people are given darn good reasons to do something about the Senate.

This matter has been on my mind for some time. I have been here for only three years. I am a new boy; but I am really depressed at the way this place operates, and barely operates a lot of the time, with just about the essentials of a quorum, and sometimes not even that.

Honourable senators may forgive me for saying that at this time, but we had darned well better do something about it, because some day we will find someone out there with a padlock on the door.

Senator Murray: Honourable senators, permit me to say a few words. I appreciate the points made by Senator Corbin, particularly the way in which the events of the past day or so have affected his personal plans.

However, I believe the record should show that the government and the country have been faced for some days with the possibility of a mail strike. Every effort was made to encourage the parties to arrive at a settlement without intervention by Parliament, and it was not until very late yesterday morning that the decision was taken by the cabinet that the public interest demanded that we bring in a bill to send the strikers back to work and to provide for mediation and arbitration of the dispute.

It is well known that the Senate usually adjourns on Thursday afternoon. By the time I was in a position to speak with the Leader of the Opposition on this matter, most honourable senators had made their plans to leave Ottawa for the weekend. Those plans are difficult to change, because weekend reservations are very difficult to obtain. So, given the amount of notice which it was possible to give at the time, I do not really reproach those colleagues who were not able to change their plans to be here today.

I knew at noon yesterday that the legislation was coming forward; but whether it would clear the House of Commons yesterday or today was a matter that was in the hands not of the government but of the opposition parties in that chamber. Discussions went forward yesterday, but circumstances changed suddenly when what formerly had been rotating strikes turned into virtually a nationwide strike. We had thought that that might have persuaded the opposition parties in the House of Commons to expedite passage of the bill, but we were not sure until today that that could not happen.

I regret that the legislation was not before us today. I do not reproach those senators who did not find it possible to change their plans yesterday in order to be with us today. On behalf of the government I thank those honourable senators who did so, and I would simply say that all of us are victims of the circumstances in which the country finds itself.

Hon. Heath Macquarrie: Honourable senators, I have rarely risen under such auspices in a little debate; but, because I have a very important appointment, you may be sure that it will be very much a "speechette".

I share the anguish of Senator Corbin. I am one of those who could not see one iota of a likelihood that there would be a settlement, considering what people had said yesterday; but, nevertheless, had something happened in the lower house, had they processed the legislation in three readings, the Canadian public, who do not really love us all that much, would have been told, "The other fellows have gone home until Tuesday at 2 o'clock." That, it seems to me, would have merited an even greater degree of opprobrium directed against our honourable house than what Senator Corbin has mentioned.

I also had the feeling, as an old Presbyterian, that I so often used to have when I got a little upset when the minister would give hell to those people who did not go to church—and the ones he was talking to were the ones who were there.

Senator Le Moyne: Honourable senators, all this is very nice, but I think that when we do not have a quorum we should not proceed. It is a question of honour. Even if the rule is not very clear, the honour of the Senate and of honourable senators says that we should not proceed to deal with anything when we do not have a quorum. In a way, we do not exist without a quorum!

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator MacDonald, seconded by the Honourable Senator Bielish, that the Senate do now adjourn. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 13, 1987, at 2 p.m.

THE SENATE

Tuesday, October 13, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair, with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at three o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

BUSINESS OF THE SENATE

On Notices of Motions:

Hon. Nathan Nurgitz: Honourable senators, I ask permission of the Senate to revert, if necessary, to Notices of Motions.

I was consulted by the clerk of the Legal and Constitutional Affairs Committee with respect to permission to meet while the Senate is sitting, but I must confess that it was on the basis that I thought that the Banking, Trade and Commerce Committee would be meeting at 5 o'clock. If both committees meet at the same time, there might be a conflict for some members. If I may have time to consult, I shall revert later.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

BENEFITS TO CANADA—SUGGESTED SENATE COMMITTEE HEARINGS

Hon. H.A. Olson: Honourable senators, I would like to ask the Leader of the Government if he could tell us whether or not the government will be initiating public hearings respecting the recent trade pact with the United States, because the explanations that we have had from the ministers directly involved and, indeed, the chief negotiator, Simon Reisman, have been general. They constantly say that it is good for Canada. In fact, the Prime Minister has said on many occasions that it will be a good deal for Canada or there will be no deal at all. We now have something signed and, I guess, if you take that statement literally, it must be a good deal for Canada. But the problem is that the generality of the response that you get from the people who are involved in the negotiations offers no evidence for anyone to see specifically what it is that is so good for Canada.

The other part of the problem is that we are told repeatedly that there might be some short-term pain for long-term gain. That is a story that we have heard once before by another group of ministers. Of course, when the Canadian people got a chance to deal with that, they promptly dismissed that government. I would not want that to happen to this government so rapidly, so we would need an opportunity for them to explain just what it is in this agreement that is so good for Canada.

I would suggest that some hearings be sponsored by the Senate, because we do those things rather well. We have held such hearings on a number of occasions, particularly with regard to Bill C-22 and other matters where explanations were needed. Then people will understand what it is in this trade agreement that is so good for Canada.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it does take two parties to reach an agreement. I think the honourable senator should agree, even on the basis of his present reading of the agreement, that it is a very well balanced agreement and one that confers undoubted benefits on Canada.

He need look no further than his own province and his own region. He need do no more than ask Canadian livestock producers, who will benefit from the opening of the United States market to Canadian exports of red meat. He need do no more than talk to farmers generally, who will find that, as a result of this agreement, their products will have more competitive access to the United States. Certainly, he need do no more than talk to anyone in the energy business, where this agreement will encourage the development of Canadian energy resources and, that being the case, it will add to our energy security and contribute to regional development. I have in mind such obvious matters as the development of frontier and offshore energy resources. He need look no further than his own province and his own region to see the obvious benefits that will come to Canada from this agreement.

If he wants to broaden his horizon just a bit, as I am sure he does, he can look to other provinces, other regions and to the nation as a whole to see that there is an obvious benefit to Canada. He need only ask consumers, wherever they are located, what they think of an agreement that is going to bring lower prices for consumer products, to put it very simply.

So far as the process is concerned, what they do in the House of Commons with regard to committee hearings is a matter for discussion among the House leaders in that chamber. I have already suggested to honourable senators that we should consider referring this agreement to, for example, the Standing Senate Committee on Foreign Affairs so that honourable senators will have an opportunity to examine the responsible ministers and consider the agreement in detail. That is a matter that can be taken up between our own house leaders here.

I want to assure honourable senators that we would cooperate in any such study by one of our standing committees.

Senator Olson: I thank the honourable minister for what, I think, was something of a commitment that there will be some further explanation of what is involved.

However, I have to tell him that his explanation of all those things that are so good for us, prior to the undertaking that he gave, are worth about as much as the stuff we have heard up until now. They are some opinions—based on what?

I have seen a copy of the document that has been circulated to members of Parliament in both chambers. By the way, I spent most of last week in Washington, which some people are now calling "the new capital of Canada"! While there, I talked to many people who are fairly knowledgeable about what the negotiations led up to. That is why I am curious about what it says in the deal that is new and important and that was not previously part of Canada-U.S. trade relations.

The Leader of the Government has chosen to pick out energy, which he says will show such an important improvement over what was there before. Honourable senators, we were committed to share with the United States before. We have been committed to sharing our energy resources, particularly oil, with the United States since 1974, if there was a shortage. There is nothing new in that. I also know very well, as does the Leader of the Government, that if we got into a very serious situation where there was a shortage that required us to share our natural gas flow with consumers in the United States we would do that in any event. There is no question about that, so what is so great about that?

I have read the agreement and there is nothing in it that advances us from where we were—

Senator Doody: Question!

Senator Olson: —with respect to sharing our energy resources with the United States. If anyone is making any great pipe dream about that, he had better go back and look at the agreement again. That is why I think there must be some explanation of the meaning of those terms. Where is the advancement? Where is the guarantee that the Americans are going to buy it? That is the problem we have had in the past, and the Leader of the Government knows that very well. That is what he is trying to base these expectations on now.

The agreement says that we will share energy resources in the event there is a shortage of supply. As to his other opinions about the farm trade, I would like the Leader of the Government to lay before us the restrictions that are to be removed with respect to the movement of cattle and beef back and forth over the border. There were no serious impediments before, so what is so great about that?

Honourable senators, these are the kinds of questions that good, honest, sincere Canadians are asking. We know that our sovereignty has been diluted in some ways, but it really is unreasonable to put forward these kinds of opinions when there is no substantive evidence contained in the trade pact to support them. The Leader of the Government should give an undertaking that these things will be explained and that a proper forum will be provided for those explanations. That is what he should do instead of giving us these two-bit opinions that don't mean anything.

Senator Doody: Good question!

Senator Murray: Honourable senators, I do hope that my friend's comments will be drawn to the attention of the Right Honourable John Turner, who has taken quite a different perspective on the energy component of the free trade agreement between Canada and the United States. I think the honourable senator's comments point out the necessity for a committee study at which senators could ask detailed questions of responsible ministers—

Senator MacEachen: Are there any?

Senator Murray: —and, perhaps, of our negotiators.

Let me say that with regard to energy the honourable senator has focused on one aspect of it; that is, the sharing in times of shortage. As he correctly points out, we have been committed to sharing shortages in the international energy agreement since some time in the 1970s—1974, I understand—with regard to oil. Natural gas is now included in the arrangement with the United States. But with regard to energy generally, I put it to him that Canadian exports of uranium, natural gas and electricity have been threatened by initiatives taken politically in the United States. These threats will be removed under the free trade agreement.

I tell him that, as I mentioned before, Alberta, potentially the Atlantic provinces and northern Canada stand to gain from the provisions with regard to oil and gas exports, and that Quebec, Ontario, British Columbia, Manitoba and New Brunswick stand to gain from increased electricity exports. I point out to him the obvious benefits from provisions in the free trade agreement to the Saskatchewan uranium industry.

Honourable senators, the benefits are there for those who want to see them. I suggest that my friend should consult with the leadership on his side and we will move to refer this agreement to one of our standing committees, where he will have the opportunity to examine ministers and negotiators and to obtain all of the detailed assurances that I know he is looking forward to as to the benefits of this arrangement for

Canada and for the United States. It is an arrangement that will be of enormous economic benefit to both our countries.

● (1410)

Senator Olson: Honourable senators, the Leader of the Government has again expressed an opinion. I have read the agreement reasonably carefully. It is true that all of these other energy sources, such as hydro electricity, natural gas and uranium, are included in the arrangement we will have for freer trade. It also says that we are going to supply them in cases of shortage. But there are some terms and conditions respecting that shortage which are not very much different from what existed before. I know too that there have been many occasions—I said, "many"; I should say not more than a dozen, but certainly more than one occasion—when they were short of natural gas and because of severely cold weather they required some temporary supplies in excess of the permits that were issued, and Canada supplied it. So what is new about that? In the case of an emergency, Canada, as a good neighbour, would always do that.

However, the other side of the coin, honourable senators, is that there should be embodied in the agreement something that stipulates that they buy it when the investment in the deliverability capability has been put into place. We know what happened to many producers and others who invested in pipelines, and so on, to effect the delivery of gas from Canadian fields. When a bubble or sausage, or whatever you want to call it, of gas occurred down there, the pipelines were used to a degree way below capacity and were used way below the level that was needed to meet the amortization commitments. Where is that in the agreement? It is not there.

Senator Murray: It is a question of supply and demand.

Senator Olson: We can have an agreement that the government holds up as being a great thing for Canadians, but where is the assurance that the people who invest in the gas fields, and the gathering and delivery systems of that gas, will have a reasonable level of sales so that they can make the payments? We have had some pretty sad experiences while this government has been in office with respect to that matter. Let the minister explain that and explain what is good for those Canadians in the energy industry, or else let us refer the matter to a committee so that we can find out what some of those terms mean. I have seen terminology like that before. If they do not want to buy our gas, we will bloody well keep it and service the debt on those facilities under much lower sales. That is what we are looking for.

Senator Murray: Is this a lament for the National Energy Policy? The fact of the matter is that what we have entrenched in the Canada-United States Free Trade Agreement is the energy policy of the present government, and not the discredited energy policy of our predecessors.

Senator Olson: Wrong, wrong, wrong!

Senator Murray: So far as the Canadian oil and gas producers are concerned, what they have always wanted is not government intervention in prices but markets; and this agreement gives them the assurance of those markets.

[Senator Murray.]

Some Hon. Senators: Hear, hear!

Senator Olson: Let us hear a commitment so that we can refer it to some place and draw this out, because for me that is not the way it reads.

BINDING DISPUTE-SETTLEMENT MECHANISM—FINDINGS OF BI-NATIONAL PANEL AND TRADE COMMISSION—RIGHT OF RETALIATORY ACTION BY INJURED PARTY

Hon. Philippe Deane Gigantès: Honourable senators, I should like to ask the Leader of the Government the questions on the free trade deal which last week I promised I would keep asking him.

I note that on April 2 Prime Minister Mulroney told the *New York Times* that in a free trade agreement "the trade remedy laws cannot apply to Canada." In this document, which the Leader of the Government himself gave me—this was his own copy; I am sure he has another, and I am very grateful to him for being so very generous—we have had quoted the last paragraph of "C" on page 7, which says:

> The decision of a panel shall be binding on the Parties and their investigating authorities. The panel may uphold or remand the decision to the relevant investigating authority for action not inconsistent with such decision.

Is the decision of such a panel unanimous? Is it a consensus?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I presume that the majority decision will suffice, since the provision, as I recall, is to have a panel nominated equally by Canada and the United States. Both Canada and the United States would nominate an equal number to the panel, and both countries would have to agree on a fifth member to be nominated to the panel. I assume that the purpose of that provision is to give the panel the authority to carry such decisions, and they would be effective on the majority vote. I take it that answers the honourable senator's question.

Senator Gigantès: Honourable senators, that is the question. However, if that provision is binding, why do we have, on page 30 of the agreement, provision for a commission to which one of the parties can appeal? Provision No. 6 reads, in part:

> . . . the Commission may refer any dispute under any . . . chapter to binding arbitration . . . with such procedures as the Commission may adopt.

On page 29, provision No. 1, under the heading "Consultation," reads:

> Either Party may request consultations regarding any actual or proposed measure or any other matter which it considers affects the operation of this Agreement, whether or not the measure or matter has been notified in accordance with the notification Article.

I go back to provision No. 6, on page 30, which reads, in part:

> If a Party or its subdivisions fails to implement in a timely fashion the findings of a binding arbitration panel regard-

> ing its measure or measures and the Parties are unable to agree on appropriate compensation, then the other Party shall have the right to suspend the application of equivalent benefits of the Agreement to the non-complying Party.

So, there is provision for appeal to this commission beyond the bi-national panel.

Provision No. 1, on page 28 of the agreement, reads, in part:

> The Parties hereby establish the Canada-United States Trade Commission . . . to supervise the proper implementation of the Agreement, to resolve disputes that may arise over the interpretation and application of the Agreement—

So, it has been foreseen that even after something has gone to the bi-national panel and a decision has been taken there may still be disagreement, which would then go before a commission. Is that correct, sir?

Senator Murray: Honourable senators, again, this points up the necessity for having the matter discussed in a committee. The honourable senator is reading back and forth between various provisions of the agreement. Let me say simply that there are three matters involved here: first, disputes that arise between the parties concerning the general provisions of the agreement; second, disputes that arise between the parties concerning the application of domestic, countervail and anti-dumping law; and, third, disputes that arise between the parties concerning proposed changes in domestic, countervail and anti-dumping law. The provisions, of necessity, vary from one category to another. I really do not think that the oral Question Period is the time to go into detail on these matters. I would suggest to the honourable senator that he take the matters up in committee when we form one, or put a written question on the order paper that can be answered with the kind of precision I presume he is looking for.

Senator Doody: Hear, hear!

Senator Gigantès: Honourable senators, I shall try to help the Honourable Leader of the Government. Let him look at page 27 of his document, where it says in bold letters, "Institutional Provisions," and underneath that the subtitle "Application." Provision No. 1 reads, in part:

> . . . the provisions of this part shall apply to avoidance or settlement of all disputes respecting the interpretation or application of this Agreement, . . .

It says here, in English, that this covers everything. If the language does not mean what it says, could someone please tell me that—in which case we have a terrible agreement?

● (1420)

We turn the page, then, to page 28, paragraph 1, and, as on page 27, as a means of settling all disputes respecting the interpretation or application of this agreement:

> The Parties hereby establish the Canada-United States Trade Commission (the Commission) to supervise the proper implementation of the Agreement, to resolve disputes that may arise over the interpretation . . .

Then, if I may, I would like to turn to page 30, paragraph 6. In my scenario we have gone to the commission; the Americans have imposed upon us the countervail action. Let us say that they are saying that medicare is an unfair subsidy with respect to a particular export. We have said, "No, it is not." Perhaps the bilateral commission has found that we are right, but the American government does not apply the findings of the commission as provided—and this is a conjecture that is justified by the language in this agreement.

We then go to the commission and we are told, as appears at page 30, paragraph 6:

> If a Party or its subdivisions fails to implement in a timely fashion the findings of a binding arbitration panel regarding its measure or measures and the Parties are unable to agree on appropriate compensation, then the other Party shall have the right to suspend the application of equivalent benefits of the Agreement to the non-complying Party.

In other words, at the end of the day, when all is said and done—according to what this paper says—retaliation is what we are left with. Is that right or is it not?

Senator Steuart: Yes or no?

Senator Doody: Both!

Senator Murray: Honourable senators, the dispute-settlement mechanisms in this agreement are as binding as are any dispute-settlement mechanisms in international law. That is my information, and that is the assurance that I am authorized to give to the honourable senator. However, I have no doubt that at the end of the day, when all is said and done, the honourable senator will still be asking questions.

The Hon. the Speaker *pro tempore:* Senator Lucier!

Senator Gigantès: Honourable senators, I have one more question. Let us then turn to page 32, paragraph 7. This reinforces my case:

> If the Commission has not reached agreement on a mutually satisfactory resolution within one month of receiving the final report of the panel (or such other date as the Commission may decide), and a Party considers that its fundamental rights under the Agreement are or would be impaired by the implementation or maintenance of the measure or measures of the other Party, the first Party shall be free to suspend the application to the other Party of benefits of equivalent effect until such time as the Parties have reached agreement on a resolution of the dispute.

In other words, if the American elephant persists in injuring us, we, the Canadian mouse, can kick it, and vice versa. Is that not what this language says?

Senator Murray: Honourable senators, once more, this matter came up the other day. When this agreement is ratified by the United States Congress, the United States will have bound itself by this international treaty, which becomes part of their law.

The scenario that my honourable friend is developing here is that the United States, once having submitted itself to the rule of law by signing an international treaty and having bound itself by that international treaty, will then not abide by that treaty. That is the scenario that the honourable senator is conjuring up, and we simply do not accept that scenario as being valid or likely.

The Hon. the Speaker *pro tempore:* Senator Lucier?

Senator Gigantès: I would like to ask a supplementary question. Why is there language in this document which takes care of the eventuality that one of the two parties will not comply? This is what it says, on page 32:

> If the Commission has not reached agreement on a mutually satisfactory resolution within one month of receiving the final report of the panel (or such other as the Commission may decide), and a Party considers that its fundamental rights under the Agreement are or would be impaired by the implementation or maintenance of . . .

In other words, if one of the two parties does not do what arbitration says it should do. If you did not believe that such an eventuality could ever occur, why did you put such language in the agreement?

Senator Murray: The sanction is there to cover the case that is outlined in the agreement. I cannot understand what the honourable senator is trying to get at. This treaty and the dispute-settlement mechanisms are as binding as international law can make them. If the alternative is, as I said the other day, that we try to put the entire United States Congress in prison, or that we declare war, then, I agree with him—we have a problem.

Hon. David Walker: Excuse me, honourable senator.

Senator Gigantès: We are still left with the exact situation—

Senator Walker: Will you sit down?

The Hon. the Speaker *pro tempore:* Order! Honourable senator, do you want to raise a point of order?

Senator Walker: My friend has been talking on and on. He has been interrupted by the Speaker and warned that he has said enough. What he has been saying this afternoon is pure nonsense. It is almost completely irrelevant. If the Angel Gabriel were here answering questions it would not satisfy my friend.

The honourable senator was put in his place the first few years he was here. Now he is getting confident and thinks that he can interrupt the proceedings of the house at any time. My advice—which I submit to him with all the grace I can muster—is to keep his mouth shut.

Senator Gigantès: Honourable senators, I have always found Senator Walker's grace absolutely endearing. I have learned a great deal from him. Whatever debating skills I have developed have been developed by listening to people like him and some of his colleagues.

[Senator Murray.]

However, this issue is too vital for the future well-being of Canada for us to resolve by telling one another to shut up.

On page 5 of the same document it says:

> The free trade agreement shall provide that each Party reserves fully its right to change its domestic antidumping and countervailing duty laws . . .

provided, of course, that the other party is notified. The bi-national panel and the commission decide that the U.S. has unjustly applied one law. Congress can then pass another law which would be just in its provisions.

Senator Roblin: You should not be debating this issue now.

Senator Gigantès: I fail to understand why—

Senator Walker: Mr. Speaker, I have a question for the honourable senator.

Senator Gigantès: I would like to finish my sentence. Why are we being told that there is binding arbitration when it is in no way binding?

Hon. Jacques Flynn: Order! The honourable senator has been debating for half an hour.

Senator Walker: I think honourable senators on both sides are conscious of the trouble the honourable senator is causing. He is often out of order and has always been a negligible factor in this place. Honourable senator, you have been less than modest for a long while, but you have been getting away with being out of order for years. We are going to call an end to your nonsense.

Mr. Speaker, the honourable senator, in going over and over these arguments, has been completely out of order.

Senator Gigantès: Honourable senators, I believe that is for the Senate to decide.

Senator Flynn: It is also for the Speaker to decide.

Senator Gigantès: Senator Walker said that he would like to ask a question. It was not really a question; it was a commentary on my lack of modesty and my relative youth. I grant that, compared to him, I am relatively young.

I would like to ask a question of the Leader of the Government. Why are we being told that arbitration is binding, when every page of this document dealing with the procedures of arbitration says that it is not?

• (1430)

Senator Murray: Honourable senators, I do not think my friend will take my word for it. Again, I suggest that he would be well advised to take the matter to committee and there to examine the lawyers and others who are expert in international law, who I think will be in a position to reassure him on some of the points that he has raised.

Meanwhile, I would like to draw his attention to a statement made by a United States senator, Senator Byrd. It is a statement in which the United States senator expressed considerable concern for the sovereignty of the United States, and of the United States Congress, as a result of the Free Trade Agreement, and in particular of the dispute-settlement mech-

anism that we have agreed upon. I will find this in a few minutes and I will read it into the record for the benefit of my friend.

Senator Gigantès: I thank the Honourable Leader of the Government. I remember clearly the other day that, when I was reading from the document of Ambassador Yeutter—however you pronounce his name—you said that you did not want to deal with American documents, you wanted to deal with Canadian documents. Now you are shifting away from the document that your government produced and you are quoting Senator Byrd of West Virginia—

Senator Murray: Well, if you do not want to hear it—

Senator Gigantès: —who has particular views on these issues. Among other things, he wants to continue to produce the acid rain in his state which destroys our lakes and forests.

Senator Flynn: Order!

IMPLEMENTATION—GOVERNMENT POSITION ON AGREEMENT OF PROVINCES—EFFECT ON TERRITORIES' ASPIRATIONS FOR PROVINCIAL STATUS

Hon. Paul Lucier: Honourable senators, I have a question for the Leader of the Government in the Senate.

Last week both the Minister for International Trade and the Prime Minister said on several occasions, in response to the Provinces of Ontario, New Brunswick and Manitoba not agreeing with the new deal, that it was 95 per cent a federal deal and that they really did not need the approval of the provinces.

My question to the government leader is: Is there any possibility that this free trade agreement could be passed without the unanimous consent of the provinces? Is there any chance that even if one province disagrees with the agreement it could still be proceeded with or might be proceeded with by this government?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I answered similar questions some months ago. The provinces, under our Constitution, have no right to veto an international treaty entered into by the federal government.

Senator Lucier: Honourable senators, I just wonder if the government leader could then tell me how that statement compares to a statement that he made to me on May 5, 1987. It is found on page 947 of *Debates of the Senate*. We are now talking about provincial status for the Yukon, which is not exactly, according to this government, an earth-shattering occasion. The people of the Yukon were not even suggesting it for many years to come. However, in reply to a question from me he said:

> I frankly believe that it would have been extremely difficult, if not impossible, to have proceeded to create new provinces with the agreement of only seven provinces having 50 per cent of the population—

How could the government make a statement, on the one hand, that it would be impossible to allow the Yukon to become a province if only seven of the provinces agreed, while, on the other hand, you are telling me that you are prepared to go with a free trade agreement of this magnitude whether the Province of Ontario agrees with it or not?

Senator Argue: Or any other province!

Senator Murray: Honourable senators, first of all, I think I should point out that the Free Trade Agreement reached between Canada and the United States would require for its implementation action in a limited field by the provincial authorities.

Senator Frith: Really; do you think that?

Senator Murray: If my friend, the Deputy Leader of the Opposition, wishes to challenge that statement, he can.

Senator Frith: No; I am just surprised. I think that you are quite right about the constitutional—

Senator Murray: I think that there are provisions regarding wine, and so forth, but the provincial action that would be needed for full implementation of this treaty is relatively limited.

The second point I would make is that there is no doubt in the minds of the government—nor, do I think, in the minds of most people—as to the constitutional prerogative of the government with regard to entering into an international treaty.

Senator Lucier: Honourable senators, I do not think that I am really questioning whether the government could legally do what is being suggested by the government leader. I have no doubt that if you chose to implement this agreement you could probably do it. My question is: How can you, in one breath, say to Ontario, about this free trade agreement that will have a tremendous impact on Ontario—whether negative or positive is another story—that, "We will do it whether you like it or not"; and, in another breath, state that it will come to the Yukon, and that it will have absolutely no impact one way or the other on you whether the Yukon is a province or not? It makes absolutely no difference to Ontario or to Prince Edward Island whether the Yukon is a province—

Senator Murray: Oh, I beg your pardon; that is where you are wrong.

Senator Lucier: I beg to differ with you.

Senator Murray: Let me tell you where you are wrong.

Senator Lucier: At least, it would not be detrimental to either of them—I think you would agree with that. How can you say that the Yukon cannot be a province without everyone's agreement, while, in the same breath, you tell me that the Free Trade Agreement could be put into effect?

Senator Flynn: Order!

Senator Murray: The creation of a new province would affect the operation of the amending formula, to begin with. Therefore, we justify and defend the unanimity requirement for the creation of new provinces if only on that basis.

Second, the creation of new provinces in the country will have some effect on financial matters within the federation, including equalization, and so forth. There, again—

Senator Argue: All 25,000 in the Yukon.

Senator Murray: —we defend and support the unanimity requirement in the Meech Lake accord for the creation of new provinces.

Finally, for some years now we have—most of us—agreed on the principle of the equality of the provinces. That means that on fundamental matters such as major reforms to the Supreme Court or to the Senate—which are institutions of our federation—or the creation of new provinces, yes, the vote of Prince Edward Island is as important as the vote of any other province.

Senator Lucier: Honourable senators, it would be nice if this government believed in the equality of Canadians, not just the equality of the provinces. Obviously, they do not believe in the equality of Canadians.

Again, I end my questioning by saying that the government leader has confirmed the suspicions of the people of the Yukon and Northwest Territories is that they are doomed to this status of being territories forever. My honourable friend has just finished saying that the Yukon's becoming a province could certainly have a detrimental effect on Ontario or Prince Edward Island. For him to suggest that they will accept it under those terms is certainly not realistic. The truth is that the Yukon will not become a province.

Senator Murray: Honourable senators, we achieved unanimity at Meech Lake, and I have no doubt that we will achieve unanimity when the time comes to create a province out of the Yukon—

Senator Walker: Hear, hear!

Senator Murray: —and the Northwest Territories.

Senator Lucier: You say that you have achieved unanimity. I do not appreciate the price that you paid for it.

PROPOSED STUDY BY FOREIGN AFFAIRS COMMITTEE—SUGGESTED CROSS-CANADA HEARINGS

Hon. Hazen Argue: Honourable senators, I would like to ask the Leader of the Government in the Senate a question following on his suggestion that the question of the trade agreement or the trade agreement itself should be referred to the Standing Senate Committee on Foreign Affairs. Would the Leader of the Government in the Senate say whether he would be in favour of that committee's travelling across Canada to hear the widest possible submissions from interested organizations and citizens on this very important question?

● (1440)

I suggest to him that the people on the prairies and those interested in agriculture would very much appreciate an opportunity to express themselves in that kind of setting, particularly with respect to the provisions for the beef industry, which are getting general support from the Cattlemen's Association. It would also create an opportunity to hear from those concerned about the removal of certain licensing provisions for the importation of grain.

[Senator Murray.]

What I am asking is: Is the minister in favour of this committee's going across this nation so that it can hear from Canadians generally the great concerns many of them have about agriculture, about our financial institutions being gobbled up by the United States, and about other concerns? Is he in favour of the committee's travelling?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Without accepting some of the premises that the honourable senator has attached to his question, let me say that that will be a matter for the Senate to decide. My honourable friend is getting a bit ahead of himself and also ahead of me in the matter.

I suggest that initially there be some discussions between the two parties represented here as to whether this matter might be referred to the Standing Senate Committee on Foreign Affairs. After that, we can discuss: budgets; travel arrangements, if any; what witnesses should be summoned; what the work plan should be, and so forth. I would not want to anticipate any of those decisions today.

Senator Argue: I find the minister's comment interesting. At this point he has not closed the door, in his own mind, to the committee's travelling. He seems to have a different perspective in this regard from that which he had respecting the travelling of the Special Committee on Bill C-22.

I would think that this committee, if it has referred to it this very important proposed treaty, has an obligation and a duty to travel across this country so that Canadians can be heard, because, to date, they have not been heard.

THE COMMONWEALTH

CONFERENCE AT VANCOUVER, B.C.—PROVINCIAL PARTICIPATION

Hon. Keith Davey: Honourable senators, I have a question for the Leader of the Government in the Senate.

Will Premier David Peterson, or any other premier, be chairing a session of the Commonwealth Conference?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not aware that any of the premiers except, possibly, the Premier of British Columbia will be attending.

Senator Davey: Will the Premier of British Columbia be chairing a session?

Senator Murray: I doubt that very much, and I have seen nothing to indicate that that would be the case.

Senator Davey: I also have a supplementary question for the Leader of the Government. Am I correct in my recollection that at the recent Francophonie conference Premier Bourassa chaired a session? Is that not a precedent?

Senator Murray: Honourable senators, Quebec has the status of a participating government, as does New Brunswick, in la Francophonie. I would have hoped and expected that that

agreement is something the honourable senator would applaud.

Senator Davey: By way of a further supplementary question, did Premier Hatfield chair a session of that particular summit?

Senator Murray: I do believe that he chaired or co-chaired a session at that conference, but I am not entirely certain.

In any case, those governments have the same status. I would like to know to what my honourable friend objects.

Senator Argue: If Hatfield did, it will be his last!

Senator Davey: If this kind of precedent is established, should we not, perhaps, allow the provinces to participate more fully? Perhaps we should allow Ontario to become a member of the Commonwealth Conference.

Senator Flynn: It is not up to us to do that.

Senator Murray: Honourable senators, for more than 300 years Quebec has been the heart and soul of the French language and culture in North America, and it is not the position of this government that she should take a back seat at a conference of la Francophonie.

Senator Davey: But it is the government's position that the other provinces should take a back seat at the Commonwealth Conference, is that correct?

Senator Flynn: You do not understand.

Senator Murray: There is no parallel between the two organizations.

Senator Flynn: You should know that.

TRANSPORT

PORT OF CHURCHILL, MANITOBA, AND PORT OF THUNDER BAY, ONTARIO—REQUEST FOR ADDITIONAL GRAIN CARS

Hon. Joseph-Philippe Guay: Honourable senators, my question to the Leader of the Government in the Senate is not only a question but a request for help.

Western farmers are in dire need of additional money; there is no doubt about that.

Senator Argue: Right on!

Senator Guay: As honourable senators are aware, for many years I have been asking questions about grain cars for the Port of Churchill. The general manager of the Port of Churchill claims, for example, that, this year, if more grain had been received through the Port of Churchill it would have been a paying proposition.

Recently I read a news release indicating that those in charge of the Port of Thunder Bay have had a real problem, and that there are some ships waiting for grain because at the moment there are not enough grain cars to deliver grain to Thunder Bay.

With all due respect, I would point out to the Leader of the Government in the Senate that he is the only person in this chamber who can make strong representations at cabinet level to ensure that additional cars are immediately made available to Thunder Bay and, if there is an excess, that they be delivered to the Port of Churchill.

Senator Argue: You mean the other way around, with Churchill being given the additional cars first.

Senator Guay: They both need them very badly. In a report in the *Winnipeg Free Press* last week I read that there is a shortage of grain at the elevators and that the ships are waiting.

I am pleading with the Leader of the Government in the Senate to make appropriate representations. I would ask him not only to bring back a report but to make the achievement a real one so that everyone in western Canada will benefit.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will convey my friend's representations to Mr. Mayer, the Minister of State responsible, and I shall ask him for a report on the situation that my friend has just described.

PORT OF CHURCHILL, MANITOBA—PREMIUM EARNED BY CANADIAN WHEAT BOARD ON SALES OF GRAIN

Hon. Hazen Argue: Honourable senators, I wish to ask a supplementary question following the important question asked by Senator Guay.

Would the Leader of the Government in the Senate ask Mr. Mayer to inform him and, through him, to inform us about the premium that the Canadian Wheat Board is now earning on the sales of grain through the Port of Churchill over that earned by the St. Lawrence Seaway? From the information I have received over many years my judgment is that that premium must be substantial at this time, because the asking prices out of the St. Lawrence are relatively low as compared to those at Vancouver and the west coast.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall also bring that question to the attention of Mr. Mayer.

PARLIAMENT HILL

CONDITION OF ROADWAYS

Hon. Peter Bosa: Honourable senators, I have a non-contentious, non-partisan question to pose.

Will the Leader of the Government in the Senate inquire from the Minister of Public Works if there are any plans to repave the roads on Parliament Hill? I ask that question because the appearance of those roads is certainly not in keeping with the dignity of the seat of government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I will take that question as representation and convey it to my colleague, Mr. McInnes.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE—MOTION TO TELEVISE PROCEEDINGS—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion, as modified, of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and

That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.—(*Honourable Senator Kelly*).

Hon. William M. Kelly: Honourable senators, I want to explain why I moved the adjournment of this debate on Friday. At that time we had a bare quorum and some senators felt very strongly that sufficient time had not been allowed for views to be expressed by senators who were not present on Friday. I might say that my own concerns were partially satisfied through one question I raised, which had to do with whether or not the use of television cameras in the chamber meant that we were starting on a track that would continue beyond the examination of various witnesses on the Meech Lake accord. I was satisfied with the explanation I received, which I understand to be simply this: First, what is contemplated here is not live coverage, it is the recording of the proceedings having to do with the Meech Lake accord. Second, it is my understanding that this will not lead to a decision to try out the use of television in the chamber on a continuing basis to see how it works beyond the Meech Lake accord.

● (1450)

Senator Frith: Or for any other Committee of the Whole.

Senator Kelly: Yes. Third, I have recently been given to understand that if this motion is approved it does not commit the Senate to having the coverage continued through to the end of the deliberations on the Meech Lake accord. It can be cancelled part way along if it does not seem to be working the way it is planned.

That, honourable senators, is really the full extent of my intervention. I wanted to reiterate that the original purpose was to allow time to other honourable senators who may wish to comment on the subject.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if no other honourable senator wishes to speak on this subject now, I would like to adjourn the debate so that it can be continued tomorrow. I have no intention of holding this matter up, but some of my colleagues have questions and would like to deal with them tomorrow.

Senator Frith: Agreed.

On motion of Senator Doody, debate adjourned.

CHILD CARE

NATIONAL POLICY—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Spivak calling the attention of the Senate to the question of a national policy on child care.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): I would just remind honourable senators that I do not intend to speak on this matter, but have adjourned the debate so as to provide that opportunity to anyone else who wishes to speak. Perhaps we should have Senator Spivak close the debate later this week, and if anyone else wishes to speak in the meantime he or she can do so.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, October 14, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before we proceed with Presentation of Petitions, since honourable senators might be wondering about the table with the two chairs and the microphone set up in front of the Leader of the Government in the Senate, perhaps a word of explanation is in order.

There was a misunderstanding or a breakdown in communications which resulted in one group planning to proceed with the Committee of the Whole on the Meech Lake Constitutional Accord today, with the Leader of the Government and two of his officials appearing before us as witnesses.

Some time ago Senator Murray was asked when he could appear. He picked the date of October 14 and plans then went forward. In the meantime, Senator Molgat, the chairman of the Committee of the Whole on that subject, was overseas with the Special Senate Committee on National Defence and assumed that everything was proceeding as planned when he left for Europe, with Senator Murray making the same assumption.

I had had some discussions with Senator Doody and others on the question of whether we should proceed with the Committee of the Whole on the Meech Lake Constitutional Accord this week, and we agreed that perhaps it would not be appropriate to do that this week, partly, though certainly not entirely, because of the outstanding motion about television access.

What happened is that the whole thing fell between the cracks. I assumed that we were not going on, Senator Doody assumed we were not going on, and Senators Molgat and Murray assumed that we were.

Another complication that developed was that on the assumption that we would not be proceeding the Standing Senate Committee on Banking, Trade and Commerce, which is dealing with Bill C-22, decided to ask for permission to sit at 3:00 o'clock this afternoon.

A further complication is that those of us on this side have an extraordinary, that is, not usual, date for a caucus and dinner meeting this evening, which would limit the Standing Senate Committee on Banking, Trade and Commerce in terms of meeting after the Committee of the Whole.

For all of those reasons the decision we made was to proceed with the Standing Senate Committee on Banking, Trade and Commerce meeting at 3:00 o'clock and to try to set another date to hear from Senator Murray and his officials on the Meech Lake Constitutional Accord. That does not mean that we may not sit next week, but probably Senator Murray would not be able to appear that quickly. Of course, if he wishes to do so, we will make appropriate arrangements.

Honourable senators, I cannot say that I apologize, because I do not think it is anyone's fault. It was a breakdown in terms of two segments talking to each other. I can certainly say to Senator Murray and his officials that I regret that it worked out this way and that plans had to be changed at the last moment.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I discussed the matter a few moments ago with the chairman of the Committee of the Whole, Senator Molgat, and in the next little while my officials and I will try to find a mutually convenient date for our appearance before the committee.

Hon. Allan J. MacEachen (Leader of the Opposition): We now know who is running this place—Doody and Frith!

Senator Flynn: We know that.

Senator MacEachen: We always knew that.

Senator Frith: There is a difference between knowing it and admitting it!

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair, with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at three o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

CHANGE OF VENUE OF MEETING

Hon. Ian Sinclair: I should like to inform honourable senators that because room 256-S is to be used for other purposes this afternoon the committee will meet in room 356-S.

QUESTION PERIOD

[*English*]

NATIONAL CAPITAL REGION

CONDITION OF TRANSITWAYS—COORDINATION OF REPAIRS

Hon. Paul C. Lafond: Honourable senators, I would like to put to the Leader of the Government in the Senate a question of a parochial nature, if you wish, which I do not do very often. Surface access and communication across the river here in Ottawa have been the messiest, over the last couple of months, since there was a fire on the Interprovincial Bridge in 1947. Some senators may not remember that, but I lived through it. The reconstruction work on bridges and roadways in the region is absolutely impossible. We have departments of government on both sides of the river, thousands of civil servants travelling back and forth daily and thousands of other workers travelling back and forth daily. There has been an utter lack of coordination of this reconstruction resulting in a complete mess on the transitways of this region.

I suggest that the government should institute for the capital city a committee with clout that could coordinate these things. In this regard, the National Capital Commission has proven utterly incompetent; the Department of Public Works has proven utterly incompetent; the regional municipalities of Ottawa-Carleton and of the Outaouais have proven utterly incompetent, as have the provincial governments in both instances. I do not know the solutions, but there must be some means by which to organize the capital city so that people can move about with reasonable ease.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I know that our colleague, Senator Lafond, is not usually given to overstatement or exaggeration, so I will take these representations very seriously. I will ask for a report from the departments and agencies of government that he has mentioned, and perhaps some others, and we will see what we can bring in at an early date.

ECONOMIC DEVELOPMENT

NEW BRUNSWICK—FATE OF FEDERAL GOVERNMENT PROJECTS ANNOUNCED DURING PROVINCIAL ELECTION CAMPAIGN

Hon. Eymard G. Corbin: Honourable senators, I should like to put a question to the Leader of the Government. I have in front of me a copy of a Canadian Press story datelined Ottawa, October 14, in which the federal Minister of State for Forestry and Mines, the Honourable Gerald Merrithew, said today:

The people of New Brunswick spoke with a vengeance,

He went on to say:

I did some work in the campaign to the extent I could . . .

I would like to ask the Leader of the Government if he would be prepared to table in this house the list of programs, agreements and projects from every department of the federal government—

[Senator Sinclair.]

Senator Flynn: Order paper!

Senator Corbin: Just a minute, Senator Flynn.

Senator Flynn: Order paper!

Senator Corbin: Would the Leader of the Government be prepared—

Senator Flynn: Order paper!

Senator Frith: It is easy to see who runs things over there!

Senator Corbin: Will you please have the courtesy to hear me out?

Senator Flynn: I was raising a point of order—

Senator Corbin: You have not heard my full question.

Senator Flynn: What you are asking for is something that should be in a question to be placed on the order paper.

Senator Corbin: I am well aware, Senator Flynn, that that whole process is a waste of time. Don't fool me. I tried that in my first year. So, to the Leader of the Government my question is: Will he be prepared to table in this house a list of projects, programs, announcements, and agreements that were made during the election campaign in New Brunswick—as he so well acknowledged to me last Friday. He went further and said that there would be announcements made even to the very eve of the election.

I think it is in the interests of Parliament, and certainly of the Senate, which represents provincial interests, to find out what it is that the federal government shelled out to the defunct government of the province of New Brunswick.

What I am talking about is taxpayers' money, because we want to be able to assess the extent to which those programs are actually going to go into effect. Some of them were rather loosely worded, and I want to make sure that the people of New Brunswick—

Senator Flynn: Order!

Senator Corbin: —were not fooled by electoral trickery.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will be very happy to obtain all the information I can on that subject as soon as possible and bring it into this chamber, provided that the honourable senator will undertake to tell the chamber and the people of New Brunswick to which of those projects he objects. Does he object to a tourism agreement, with expenditures under an ERDA sub-agreement on tourism with the Province of New Brunswick? Does he object to assistance to two universities that was announced in recent weeks? Does he object to the grants under IRDP to such businesses as Atlantic Sugar in Saint John to enable the company to refurbish an old factory and maintain employment in that business, which has been in existence in Saint John for many years?

The honourable senator speaks quite loosely about commitments made, as he says, to save "the defunct government" of New Brunswick. I told him the other day that the commitments that we announced involved projects which had reached the stage of announcement, and happily we were able to announce them during the course of the election campaign.

Be that as it may, the government remains committed to regional development in the Atlantic provinces and in New Brunswick, whatever the political colour of the provincial government.

Senator Olson: Will there be more announcements?

Senator Corbin: Honourable senators, I believe that the Leader of the Government has a wrong assessment of my reaction to those announcements. All I am asking is for information.

Senator Flynn: Then why are you argumentative?

Senator Corbin: Are you not argumentative, Senator Flynn?

• (1410)

Senator Flynn: Not when I put a question. I try to follow the rules.

Senator Corbin: I am also following the rules, and I know this much about the rules, that to place written questions on the order paper is a waste of time. I am quite happy that the Leader of the Government sees the situation otherwise and that he is prepared to make the information I have requested public.

I want to know the full extent to which the federal government has gone in terms of commitments to projects and programs to the Government of New Brunswick, to municipalities in New Brunswick, and to sectors of industry in New Brunswick during the last provincial election. I believe that I have a right to request that information, and I would like to see it all together. That is what I am asking for.

Senator Murray: Honourable senators, what the honourable senator is asking is for me to do some of his work for him, to collect a series of public announcements which he says were made and, of course, which were made during a certain period of time. These matters are all in the public domain, and I shall assemble them and table them or send them to the honourable senator, as he wishes. However, again, I would like to hear from him as soon as possible as to whether he objects to any of the projects announced by the government in his province in the past month.

Senator Corbin: The Honourable Leader of the Goverment is completely wrong in his view of my motives—

Senator Murray: Timing!

Senator Corbin: —and I made my position clear last Friday. What I object to is the blatant electioneering of the honourable senator and his cabinet colleagues and their involvement in the democratic process during an election in New Brunswick. Never in history have we seen such massive intervention, all in the hopes of saving one of their kind. That is what I am objecting to.

Senator Flynn: Obviously, you were born yesterday!

Senator Murray: Honourable senators, let me say in respect of some of the matters for which I have ministerial responsibility, particularly under the Industrial Regional Development Program, the Atlantic Enterprise Program, and so forth, that the applications made for assistance of various kinds would have been made many weeks, perhaps months, before the election was ever called. The announcements made were announcements of projects which, as I believe I told the honourable senator in French the other day, had ripened during the past month.

Senator Argue: Throw out the lifeline!

CANADA-UNITED STATES FREE TRADE AGREEMENT

EXEMPTION OF CULTURAL INDUSTRIES—CONFLICTING VIEWS

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate. Last week, following the initialling of the elements of a preliminary agreement respecting trade between Canada and the United States, I was delighted to read of the Minister of Communications' assurances to the House of Commons, which were echoed by the Leader of the Government's responses in this place, that cultural matters were exempted from the Canada-United States negotiations. In today's *Globe and Mail* is a report suggesting that the Americans have changed some of their explanatory notes respecting cultural industries. It appears that the Americans have requested that irritants relating to broadcasting matters, cultural matters respecting, I assume, Bill C-58, if that is the correct inference, be negotiated so that these so-called irritants from the American side can be settled in some fashion. This appears to be in conflict with the minister of Communications' assurances in the House of Commons, echoed by the Leader of the Government in this place, about exempting cultural industries and leaving the minister free to deal with these matters without any problems or concerns from the American government. Could the Leader of the Government give us some clarification on this matter? Are we to take the assurances of the Minister in the House of Commons and echoed by the honourable senator, or are we in a somewhat different position now, as enunciated by the Americans?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I hope that my friend would accept not just assurances of the Minister of Communications and other ministers of the Crown, including myself, on this matter but also the words of the agreement which was signed by the two countries. There is an explicit exemption for cultural industries in the agreement, and the definition of cultural industries includes, and I quote: "The production, distribution, sale or exhibition of film or video recordings . . . ," among many other matters.

It is true that the United States sought to have the agreement deal with the full range of their cultural concerns, but this was successfully resisted.

Senator Grafstein: Does this mean that, in effect, the Americans have continued to request of the Canadian government that these so-called irritants be negotiated, since that appears to be the wording of the American explanatory notes? If so, it leaves open the question of whether or not the Americans have agreed in principle to the conclusions, as has been suggested by the minister in the other place and the Leader of the Government in this place.

Senator Murray: Honourable senators, to get right to the point, there are no undertakings given by the Government of Canada other than those that are in the agreement signed between our two countries. However, I have no doubt that the next time my friend attends a meeting of the Canada-United States Parliamentary Group, or the next time there is a ministerial meeting between Canada and the United States, or the next time there is a private sector meeting involving interested parties between our two countries, such matters as Bill C-58 will come up, as they have every year since the bill was passed, and I have very little doubt that the same answer will be given from our side.

EFFECT ON TWO-PRICE SYSTEM FOR WHEAT

Hon. Sidney L. Buckwold: Honourable senators, I have a question for the Leader of the Government in the Senate with respect to the free trade arrangement with the United States. I do not have to tell this chamber about the problems facing Canadian grain farmers, especially in my province of Saskatchewan. My question involves the effect of the Free Trade Agreement on the two-price system for wheat. The information is being circulated back home in Saskatchewan that the agreement will, in fact, end the practice that we have in Canada of imposing a higher price for domestic use grain than for exported grain. It involves a figure that runs up to nearly $200 million per year which goes into the pockets of our grain farmers and fulfils a real need.

Would the Leader of the Government clarify this issue? I am not in any way attempting to be combative about it. I am trying to find out whether or not this is, in fact, the case, and what the situation may be in the future.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Free Trade Agreement between Canada and the United States does not provide for any change in the two-price system for wheat in this country.

As far as any new decision on that matter is concerned, that would be a matter for the government to consider, and no decision has been taken.

Senator Buckwold: Honourable senators, that response to a rather non-combative question really bothers me. First of all, the Leader of the Government raised his right hand as if he were saying something that was absolutely gospel truth. If that is so, I respect that. But then he qualified whatever he had to say by indicating that this matter is under review. What I was hoping he might say is that the program is not in jeopardy; that the two-price system for grain will continue for a good period of time and that it is not being reviewed at the moment. However, if it is, then I feel that it must be as a result of the discussions which took place on free trade, otherwise it would not have been affected.

Senator Murray: Honourable senators, I am sorry if my body language confuses the honourable senator.

● (1420)

I was trying to convey the fact that the Free Trade Agreement between Canada and the United States obviously has no provision regarding the two-price system for wheat in this country. Any decision to change the present situation would be one for the Canadian government alone to take, and no such decision has been taken by the government.

Senator Buckwold: Is it being actively considered?

Senator Murray: Honourable senator, the answer to that question, as far as I am concerned, is no. There is no proposition before the government in that respect at the present time.

UNDERSTANDINGS BETWEEN CANADA AND UNITED STATES

Hon. Ian Sinclair: Honourable senators, my question is also with respect to the Free Trade Agreement. I have noted on more than one occasion that the minister has said in response to questions that there are no undertakings between the Government of Canada and the United States other than those set out in the Free Trade Agreement signed by the representatives of each country.

My question is this: Has there been any distinction drawn between "undertakings" and "understandings"? Are there any understandings between the Government of Canada and the United States?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have not made that distinction. I was replying to a question asked by Senator Grafstein. If I understood him correctly, he wondered whether or not we had agreed to negotiate some cultural matters. My answer was no. There are no undertakings, or, if he prefers me to use the term "understandings", there are no understandings between our two countries on that matter.

TRANSITIONAL ASSISTANCE FOR ADVERSELY AFFECTED INDUSTRIES

Hon. H.A. Olson: Honourable senators, I have a supplementary question. Could the Leader of the Government tell us where we could obtain an explanation of the transitional assistance that the Prime Minister has indicated would be provided to some of those industries whose markets are going to disappear? There is no question that, for example, the wine industry or the horticultural industry will be suffering some of the pain that will come out of this agreement. What are the terms and conditions for applying for transitional assistance?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable

senators, what is going to come out of this agreement is the creation of tens of thousands of new jobs in this country. We are talking about the need to adapt our industries and train our work force to enable Canadian workers to take advantage of these new and better job opportunities in our economy.

I simply want to assure the Senate, as the Prime Minister has assured the country, that the federal government will take whatever steps necessary to ensure that our workers are able to take advantage of these opportunities.

As has been evident from questions and answers in the other place this past week, our current judgment is that the existing range of programs would be quite adequate for this purpose. However, if they need to be modified in any way, we will take those steps.

Senator Olson: Honourable senators, that is very interesting. I thank the Leader of the Government for that answer, but it had nothing to do with the question.

My question was this: How do we find out where and how to apply for the transitional assistance to people who are going to be damaged by the agreement? Perhaps you will create hundreds of thousands of new jobs and there may be great economic activity, but there will be some people who will be caught because of the removing of traditional market umbrellas that they had. How do these people go about getting that transitional assistance, or is the Leader of the Government now telling us that there was no undertaking that there would be transitional assistance?

Senator Murray: I have already told the honourable senator that in our judgment the present range of programs in this field will be quite adequate for this purpose. My honourable friend is getting quite a distance ahead of himself.

The Free Trade Agreement has not yet been ratified by Congress. Some of the tariffs to which he refers come off in 1989, assuming the agreement is ratified; others in equal cuts over five years; others in equal cuts over ten years. So we are looking at quite a lengthy period in particularly sensitive industries. There will be plenty of opportunity to ensure that the existing programs are tailored to meet the needs to which the honourable senator refers.

Senator Olson: We will not get much comfort out of that.

BI-NATIONAL TRIBUNAL—NATIONALITY OF CHAIRMAN

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would like to ask the Leader of the Government one question with respect to the tribunal which is to be set up under the Free Trade Agreement. I understand that that tribunal is to be composed of two Canadians, two Americans and a neutral chairman. Will the neutral chairman be a non-national of either the United States or Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, he or she could be.

Senator MacEachen: The Leader of the Government has said that that might be the case. Has a decision been taken on that point, or is it still something that is to be settled between the two countries?

Senator Murray: The only information I have is that it could be a national of neither of our countries. But as far as I am aware, no specific decision has been taken on the matter.

Senator MacEachen: Would the Americans be amenable to having a non-national of either country head the tribunal? In other words, are they as open as the Canadian government to having a non-national of either country head the tribunal?

Senator Murray: My last information did not indicate that there was any problem on that score, but I will try to confirm that.

DISPUTE-SETTLEMENT MECHANISM—ESTABLISHMENT OF TERMS OF REFERENCE FOR ARBITRATION PROCEDURE

Hon. Peter A. Stollery: Honourable senators, I would like to clarify with the Leader of the Government the time period within which the two governments expect to agree on what the terms of reference will be for the final system of arbitration.

As I read what we have been provided with—which seems to me to be essentially a press release—there is about a six-or seven-year period during which time a great deal of negotiations will take place with regard to the terms of reference to be established for the arbitration procedure. Could the Leader of the Government enlighten me on that, please, as it appears to me to be of the essence of the agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think my friend is referring to the five-year period—with a possible two-year extension—that we have given ourselves to try to agree on a definition of "subsidies," "domestic countervail" and "anti-dumping" laws. I do not know what more I can say about it. We have given ourselves five years, with a possible two-year extension, to do this. Meanwhile, we are putting in place a dispute-settlement mechanism which effectively provides a court of appeal from the domestic countervail and anti-dumping decisions based on existing law in both countries.

Senator Stollery: This is a subject that we should know more about, because the Free Trade Agreement essentially deals with how to stop the Americans from using countervail and other forms of non-tariff barriers to stop Canadians exporting to the United States, and more particularly, from my region of Ontario.

Isn't the Leader of the Government really saying that we now have an agreement to reach an agreement within the next seven years, because those definitions of countervail and what are essentially non-tariff barriers are the essence of the agreement? Without that we would not have bothered embarking on a free trade agreement. Isn't the government saying that what we have now is an arrangement to spend the next five to seven years defining what the actual agreement will be?

● (1430)

Senator Murray: Honourable senators, we will spend the next five to seven years trying to agree on definitions of subsidies and the domestic countervail and anti-dumping laws.

Meanwhile, we are putting in place what is, in effect, a court of appeal from the domestic countervail and anti-dumping laws in our respective countries.

The problem that we in this country have had with the United States process in recent years has been its politicization and our view that it has functioned in an unfair and sometimes capricious manner to the injury and potential injury of Canadian interests. Therefore, the court of appeal that we have set up, the dispute-settlement mechanism, will ensure, until we have an agreement on the definition of subsidy and countervail and anti-dumping laws, that the present laws are applied fairly. If they are not, the dispute-settlement tribunal will have the authority to overturn those unfair decisions.

Senator Stollery: Honourable senators, without getting into the question of the dispute-settlement process that will be in force, it occurs to me that for the next five to seven years, until the definitions have been agreed upon, there may well be questions in the United States law that have not been clarified. In the meantime, according to the information that I have read—provided by the government—and from listening to the Prime Minister, it sounds to me as if we have given all of the undertakings.

The problem, as I recall it in the Macdonald report—a lengthy 1,600-page document which was well reasoned and argued—was not that we imposed duties against U.S. products; the problem was in the fact that the United States was using non-tariff barriers to prohibit Canadians exporting into the United States market. From our perspective, the elimination of such barriers is the purpose of a free trade agreement. If we cannot protect our exporters, then we do not have an agreement that is in the interests of Canadians.

From what the Minister seems to be saying and from the material with which we have been provided the problem of municipalities, states a non-governmental organizations in the United States using non-tariff barriers against Canadians has not been solved. The definitions of what those barriers are and how they will be handled have not actually been decided upon. From what the minister says, from our standpoint, we are not actually going to see this Free Trade Agreement for up to seven years whereas, from the U.S. standpoint, they already have a free trade agreement with us.

I wonder if we will be provided with more material to clarify what is not a very mysterious issue, because the Prime Minister himself has been using the Donald Macdonald report as the basis for much of his argument. I am sure I am not the only senator who has read the report, and it seems to me that if the Free Trade Agreement is not consistent with some of the concerns expressed in the report then we really do not have a free trade agreement. We just have the promise that we will have one at the end of seven years, after we have already given the other side everything they have asked for.

[Senator Stollery.]

Senator Flynn: Good speech!

Senator Murray: Honourable senators, the honourable senator keeps talking about non-tariff barriers. As he will see, they are addressed in a number of ways in the Free Trade Agreement. Various quotas, licences, and so forth, are addressed in that agreement.

I have tried, obviously in vain, to explain the operation of the dispute-settlement mechanism to him and the period during which we will attempt to reach an agreement on the definition of subsidy and, therefore, on domestic countervail and anti-dumping matters.

With great respect, I believe my friend is becoming quite argumentative, and it is for this purpose I have suggested on several occasions that we would do well to refer this agreement to the Standing Senate Committee on Foreign Affairs so that my friend and others can examine the Minister for International Trade, and perhaps the negotiators, and go into the kind of detail that they would like to go into on these matters.

DISPUTE-SETTLEMENT MECHANISM—EFFECT OF ESTABLISHMENT OF BI-NATIONAL TRIBUNAL—ADJUDICATION OF APPLICATION OF CANADIAN LAW

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I hope this will not be an argumentative question.

I want to ask the minister in what way the establishment of a bi-national tribunal changes the situation from the present situation. I understand that at the end of the day—if I may use that term—in the United States the settlement of a trade dispute is reviewable by a federal court.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Not after—

Senator MacEachen: I am talking of the present situation. I understand that the end of the process would be a review by a U.S. federal court.

Senator Murray: At present.

Senator MacEachen: I also understand that under the new regime, once it is established, the end of the process would be a review by a bi-national body. My attention was caught by the use of the expression, "The process was politicization" under the present system. Is the minister saying that when the court was asked to adjudicate a case that it was political, and that in this case there would be no political considerations? I do not understand that sort of comparison in the present situation. Are we to believe that this body would be better and fairer as the final arbiter than a federal court in the United States would be with respect to American law? What, on the face of it, would lead us to that conclusion?

Senator Murray: Honourable senators, I certainly mean no disrespect to the federal courts in the United States, but the fact of the matter is that if, for example, in some of the cases we have had recently, we had proceeded in that way, through the federal courts, it would have been considerably more

time-consuming and more expensive for Canadians than the process proposed in the Free Trade Agreement will be.

Senator MacEachen: Presumably, the bi-national body will be dealing with complaints originating in Canada and also in the United States and that, at a certain point, it will reach an adjudication upon the application of Canadian law. Once it reaches that adjudication, will that be the final adjudication of Canadian law, or could the matter be carried forward to the Supreme Court of Canada?

Senator Murray: Honourable senators, my understanding—and I think it is in the text of the elements of the agreement—is that the judicial review would be replaced by the bi-national dispute-settlement mechanism.

• (1440)

Senator MacEachen: To a certain extent, then, if what the minister says is correct, the final arbiter of Canadian law with respect to trade is now transferred from, say, the Federal Court to a bi-national body. The same would hold true for American law. I simply ask now whether it is the view of the government that the new bi-national tribunal is a judicial body, a quasi-judicial body or an administrative agency.

Senator Murray: Honourable senators, I would like to duck the opportunity to put any of those titles on the tribunal. I do say, as I said in answer to questions from Senator Gigantès the other day, that once we have signed the Free Trade Agreement and the United States Congress has ratified it we are bound by its decisions.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as a supplementary to Senator MacEachen's questions, and perhaps to help the minister get the information, I think the issue Senator MacEachen was coming to was that if a decison were made by this bi-national tribunal, whether that decision would be subject to judicial review in Canada—I do not know about the American law—would depend on whether anyone who wanted a judicial review could persuade the Federal Court of Canada that the bi-national tribunal was exercising a quasi-judicial function. Whether it was exercising that function would be decided by the Federal Court rather than by us or anyone else. Perhaps the best way to deal with the question would be to ask the Department of Justice if such a tribunal would be subject to Canadian judicial review as distinguished from an appeal. I am asking whether it would be subject to a judicial review, which would be based on grounds different from those on which a direct appeal is based.

Senator Murray: I appreciate the points made by the Deputy Leader of the Opposition, which only confirm the wisdom of my initial course in ducking the question. I would draw his attention to page 7 of the document entitled "Elements of the Agreement":

> C. Binational panel process.
>
> A new binational panel would replace judicial review in both the U.S. and Canada.

I do not know whether that helps him, but I will see whether there is some further information that the Department of Justice can provide on the matter.

Senator Frith: It would not be the first time that a legislative body tried unsuccessfully to oust judicial review. However, we will see.

Hon. D.G. Steuart: Honourable senators, I have a question supplementary to those put by Senator MacEachen with regard to the appeals mechanism that is proposed in this agreement. Does that mean that in a case like the Saskatchewan potash problem, for example, a Canadian complainant could bypass the existing tribunals or courts of the United States and go directly to this dispute-settling bi-national tribunal? A complainant would not have to go through all of those processes and then, as a final court of appeal, go to this bi-national tribunal?

Senator Murray: I hope that I understand the honourable senator correctly, but, in the situation he describes, action was taken against Canadian potash producers through the process in the United States on anti-dumping matters. In such a case that could still take place, but at the end of the process the so-called court of appeal, the bi-national tribunal, could be appealed to on questions of fact and law, as indicated in the agreement.

Senator Steuart: In effect, then, this mechanism would not necessarily speed up the process, which, in the potash case, for example, can take an extremely long time—not months but perhaps years. If the Canadians then did not like the final settlement, they would have to appeal to this bi-national tribunal. Would the matter then be confined to a decision on whether or not the American law was applied correctly? Is that the case, or should I ask Senator Flynn? What are you doing? Are you changing the law or the judge or what?

Senator Murray: The official review takes place at a certain time towards the end of the process. The bi-national tribunal replaces judicial review in both countries.

Senator Steuart: I think that answers my question then. This tribunal will not necessarily speed up the process. The last time we had a problem with the Americans on potash, for example, the process dragged on and on. Several potash mines in Canada could have been broke before it was ever settled. What we are doing with this bi-national tribunal is really adding another mechanism with another set of judges—hopefully, perhaps, a little more independent, but not necessarily so—and the rules will not necessarily be changed. The judges would be changed, but the rules may not ever be changed, although there is a delay of up to seven years if the Americans finally do not agree. I suppose we could always back out if we did not like the final dispute-settlement mechanism.

Senator Murray: Let me draw my friend's attention to page 9 of the document entitled "Preliminary Transcript—Canada-U.S. Free Trade agreement—Elements of the Agreement", wherein it states:

> The procedures for resort to a panel at the conclusion of an AD—

that is, anti-dumping,—

or CVD case—

that is, countervailing duty case,—

(i.e., at the time an order is issued) would be as follows:

— 30 days for the complaining party to file its complaint.

— 30 days for designation of the administrative record and its filing with the panel.

— 60 days for complainant to file its brief.

— 60 days for respondent to file its brief.

— 15 days for each party to file reply briefs.

— 15-30 days for the panel to convene to hear oral argument by each party.

— 90 days for the panel to issue its decision.

— the investigating authority concerned would take action not consistent with the decision of the panel, within time limits set by the panel—

that is, the bi-national tribunal,—

taking into account the complexity and difficulty of such action (e.g., whether the investigating authority needs to obtain new factual information to take such action).

So the seven years that my friend was talking about would be considerably abbreviated by these procedures, I would think.

Senator Steuart: I was talking about seven years for a possible change in the rules.

Senator Murray: Yes, I am sorry. The point is that this is pretty precise as to the timetable.

Senator MacEachen: Is it not a fact that the timetable is not varied in all of the processes that take place presently in the United States; that the whole process remains intact, and that the only variance is the final step?

Senator Murray: That is pretty important, don't you think?

Senator MacEachen: It may be important, but the fact is that the existence of this tribunal does not end any of the harassment that can take place against Canadian producers. As has happened in the past, it can continue and complaints can be made by United States citizens before their investigative bodies. All of these decisions can be taken, and finally the matter will go to the bi-national tribunal. Perhaps at that point a new timetable is established, but some months and years could elapse in a settlement of trade disputes between Canada and the United States, as now happens. In other words, the agreement does not remove the present situation that creates so much harassment and time loss.

Senator Murray: This agreement substitutes for judicial review the bi-national panel, with quite precise timetables. Further to that, my friend loses sight of the fact that the whole system provides quite a disincentive to conduct harassment of Canadian industries. After all, at the end of the day, the bi-national tribunal can find that the countervail was not justified and that what has been collected must be paid back with interest; or it can find that the duty was too high and should be reduced; or it can find that the process was wrong and that the authority should go back and do it all over again. These are, I think, pretty substantial sanctions and disincentives against frivolous or capricious use of the countervailing duty and anti-dumping mechanisms by the United States.

• (1450)

Senator MacEachen: The United States could make precisely the same finding in the present régime. A court in the United States could make all of those findings now. What the government is saying is that it is a better court because there are two Canadians on it. That is the essence of the change—two Canadians and a neutral chairman. The assumption is that the addition of two Canadians will make it fairer. In other words, it is somewhat of a reflection on the fairness of the American court system.

Senator Flynn: Why not?

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—COMMITTEE OF THE WHOLE AUTHORIZED TO TELEVISE PROCEEDINGS

On the Order:

Resuming the debate on the motion, as modified, of the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and

That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, *where applicable.*—(*Honourable Senator Kelly*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, as I indicated yesterday, I had no intention of trying to delay this particular item. I simply wanted to hear from some of our colleagues on the matter. With that I have every intention of letting it go. I simply want to indicate that I, for one, do not support the presence of television cameras in the chamber. I have made that perfectly clear on several other occasions; so that will come as no shock to anyone. When the matter is brought to a vote, I have every intention of voting against it.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, if the honourable senator speaks now, it will have the effect of closing the debate on the motion, as modified.

Senator Frith: Honourable senators, I have little to add. I have given the explanation that I thought was asked for and I have explained the negotiations. Senators Doody's views are on record, and I do not think that I should add anything except to ask for the vote.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Rousseau:

> That pool television cameras be permitted in the Senate Chamber for the purpose of recording the proceedings of a Committee of the Whole with respect to its hearings on the Meech Lake Constitutional Accord and texts subsequently agreed to; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, *where applicable.*

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

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

Senator Frith: Your Honour, did you say that the "nays" have it?

The Hon. the Speaker *pro tempore:* Yes.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1500)

Motion, as modified, carried on the following division:

YEAS

THE HONOURABLE SENATORS

Anderson	Lewis	Spivak
Argue	Lucier	Stanbury
Barrow	MacDonald (*Halifax*)	Steuart (*Prince Albert-Duck Lake*)
Bosa	MacEachen	Stewart (*Antigonish-Guysborough*)
Buckwold	Marsden	Stollery
Cottreau	Molgat	Turner
Fairbairn	Olson	Wood—28.
Frith	Petten	
Graham	Rousseau	
Haidasz	Sinclair	
Hébert		

NAYS

THE HONOURABLE SENATORS

Bielish	Guay	Molson
Cochrane	Kelly	Murray
Cools	Leblanc (*Saurel*)	Nurgitz
Corbin	Macdonald (*Cape Breton*)	Roblin
David	Macquarrie	Rossiter
Doody	Marshall	Tremblay
Doyle		Walker—21.
Flynn		

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

[*Translation*]

GREY NUNS IN CANADA

250TH ANNIVERSARY—DEBATE ADJOURNED

Hon. Joseph-Philippe Guay rose pursuant to notice of Tuesday, October 6, 1987;

> That he will call the attention of the Senate to the 250th Anniversary of the Grey Nuns in Canada.

He said: Honourable senators, we are living at a time when all interest groups ask for government grants, and women's groups are no exception. Today, I would like to call your attention to a group of admirable women who, without waiting for government help, were inspired by their faith to works that still elicit our admiration today.

The year 1987 marks the 250th anniversary of the founding of the Order of Grey Nuns. I say the founding, and not the arrival in this country, as is often said about other religious orders, because this Order is unique in that it was established in Canada instead of being a Canadian branch of one of the old religious orders in Europe. The Order's founder owes the title of "blessed", which the Church conferred upon her nearly thirty years ago, to the many trials she suffered. She was the first Canadian woman to be honoured in this way. Yesterday, His Holiness Pope John Paul II paid tribute to the Grey Nuns, while the Premier of Quebec, Mr. Bourassa, and the mayor of Montreal, Mr. Jean Doré, also marked the 250th Anniversary of the congregation founded by Marguerite d'Youville.

Marguerite d'Youville, née Dufrost de Lajemmerais, was a woman of great intellect and sensibility. Born in Varennes, Quebec, on October 15, 1701, she belonged to one of the first families of New France. On her mother's side, she was a descendant of René Gaultier de Varennes, Governor of Trois-Rivières, and of Pierre Boucher, Lieutenant General of New France. When she married François-Madeleine d'Youville in

1722, the colony's high society was at the wedding, including Governor General Vaudreuil and the governors of Montreal and Trois-Rivières. Her husband died eight years later, leaving her a widow at 28, with two children and expecting a third, who died at the age of five months.

[*English*]

This fateful event simply enhanced her already deep religious feelings. Three years before the death of her husband her relatives had observed that she was becoming more and more devout under the influence of her spiritual director, Sulpician Jean-Gabriel-Marie Le Pape du Lescoat. In working actively within sisterhoods which she had begun to join in 1727, she applied herself to easing the lives of the poor. Therefore, her early widowhood, combined with the fact that her marriage had not been a happy one, led her to a religious life. Incidentally, it has been observed that the women who launched religious orders were either widows or single women aged 30 or more.

[*Translation*]

The Grey Nuns Community was established in 1737 as a lay charitable association, because the customs of time did not favour this way of life and the French Royal authorities were opposed to the establishment of convents in the settlements. On December 31, 1737, Widow d'Youville and three companions begin devoting themselves to the care of the poor and the sick. At that time they are not yet a religious community as such. "The Associates", according to historian Marguerite Jean, "are living in a kind of religious way, but without any formal commitment nor specified status".

Nevertheless, some actions taken by the Associates show the quasi religious nature of their association. For instance, they fix up an oratory in the house they have rented to carry out their charity operations. They go into retreat for one day every month and abide by monastic life rules established by their spiritual director. After their house was destroyed by fire in 1745, they decide to pool their properties. That fire is not the only ordeal faced by the Associates. They have to carry out their work among a hostile public. It is the public that, referring to the infamous activities of the late husband of Madame d'Youville, gave the Associates the nickname of "the greys".

[*English*]

The lay association headed by Madame d'Youville took a decisive step in 1745 when Bishop Pontbriand asked them to take charge, on a provisional basis, of the Hôpital Général de Montréal. The hôpital had been founded in 1692 by François Charon and had been staffed by the Frères Hospitaliers de la Croix de Saint-Joseph, a male community which had become extinct.

[*Translation*]

A few years of intrigues will follow from which Mère d'Youville will be able to get out with no harm. In fact, on June 3, 1753, the King Louis XV signs new letters patent to put "The Widow dame d'Youville and her companions" in charge of the management and the administration of the Hôpital Général de Montréal. That will be "the cornerstone on which the new female community will gradually and definitely develop in Canada". Their charity had long since earned them public support. In Montreal, it was often said and I quote:

"Go to the Grey Nuns, they never refuse anything".

The time had come for the Associates to be granted in their own right the status of religious community they had acquired *de facto*. On June 15, 1755, Mgr. de Pontbriand granted them canonical agreement. Being known for so long under the name of Grey Nuns, which no longer had any derogatory connotation given the hard work they were doing, they decided to adopt that name which determined the colour of their common clerical dress.

[*English*]

The Grey Nuns were then called upon to face the hardships of the Seven Years' War, during which they distinguished themselves for what could be called their "language-blind" charity. However, the worst blow fell on May 18, 1765, when the Hôpital Général de Montréal was burned down, together with one quarter of the city. Tradition has it that Mère d'Youville reacted to this calamity by inviting her sisters, gathered around her and watching the destruction of their home, to sing the *Te Deumn*, after which she told them: "Mes enfants, ayez bon courage, désormais la maison ne brûlera plus." Thanks to help from outside, including the people of London, the hospital was rebuilt in three years.

● (1520)

At the time of Mère d'Youville's death, which occurred on December 23, 1771, the Grey Nuns numbered 18, and they were in charge of 170 people.

[*Translation*]

The 19th century was, for the Grey Nuns, an era of establishment and expansion. From its creation until 1840, the Order grew very slowly. Then, within 20 years, it sprung off three different groups which carried out their activities independently in other dioceses. They were les Sœurs grises de l'Hôtel-Dieu de Saint-Hyacinthe, les Sœurs grises de la Croix d'Ottawa, and les Sœurs grises de la Charité de Québec.

Les Sœurs grises de Saint-Hyacinthe were founded as a result of an invitation made by Mr. Édouard Crevier, a parish priest, to the Grey Nuns to take charge of the hospital in that city. Four nuns were chosen then to assume this responsibility and on May 4, 1840, Mgr. Bourget signed a canon institution amendment. The new group would operate independently from the mother-house in terms of its spiritual and temporal needs and would have its own novitiate. Thirteen years later, the new group which numbered 17 professed and 3 novices was taking care of 355 patients and 16 disabled.

The year 1845 witnessed the arrival of the Grey Nuns in Ottawa (then called Bytown) at the request of Father Telmon, an Oblate priest. Thus, the new group agreed to depart from its initial calling, since teaching would be one of the activities of les Sœurs grises de la Croix d'Ottawa, with Sister Élizabeth Bruyère acting as its first Mother Superior. The first five nuns served at the Bytown General Hospital and soon opened a

bilingual school. In late 1853, the group numbered 21 professed and 9 novices, who were taking care of 133 patients, 12 orphans and 24 handicapped, and teaching 321 students.

The care of orphans was the reason the Grey Nuns came to the Quebec Diocese in 1848 at the request of the auxiliary bishop, Mgr. Turgeon. Six sisters were chosen by the mother house and Mother Marie-Anne Marcelle Mallet, who lived from 1805 to 1871 was chosen as superior of the new congregation. At the time of their arrival, on August 22, 1849, the city of Champlain was painfully recovering from an outbreak of Asiatic cholera which had claimed more than a thousand victims. They immediately took charge of the orphanage set up by the Société des Dames Charitables de Québec. Four years after their arrival, the new congregations had 11 professed nuns and 12 novices. They were in charge of 43 orphans, three cripples and 340 students.

Following those successive separations, independent congregations were established and the mother house tried in vain to regain its authority. The situation was different with the Red River establishment in St. Boniface, Manitoba, in 1844 at the request of Mgr. Norbert Provencher, Vicar Apostolic for the Northwest Territories. Those nuns remained under the Montreal authority for recruiting purposes. By 1844 those nuns set up their first hospital in St. Boniface. In 1853, the 11 professed nuns in St. Boniface were teaching in French and in English to 70 children. Five years later, the congregation became entirely independent of the Montreal mother house.

The various Grey Nun convents will experience between 1859 and 1960, as did other religious orders, quite a large increase in number, reaching their zenith in the 1930s. Thus the Sœurs de la Charité de Saint-Hyacinthe who were 50 in 1865, were 801 in 1950. The progress appears in the increased number of nuns in existing convents rather than in the opening of new ones. However, let us mention the division within the Grey Nuns in the Ottawa area which occurred in 1926 for language reasons and which gave birth to the Grey Sisters of the Immaculate Conception whose mother house is in Pembroke. Those nuns are in charge of hospitals, homes for senior citizens, orphanages and schools in Ontario, Saskatchewan, British Columbia and elsewere. Their activities at one point even reached out to China, Japan and the Dominican Republic.

The increase in the number of nuns allowed for the establishment of many new charities. For example, tracing the charities of the Sisters of Charity of Ottawa, François-Paul Sylvestre enumerates about fifty schools, hospitals and orphanages scattered over 36 towns in Ontario including Ottawa, Cornwall, Pembroke, Hawkesbury, Sudbury, Sault-Sainte-Marie, Sarnia and Windsor. The Sisters of Saint-Hyacinthe worked at the Hôpital Saint-Charles and at the Convent Sainte-Geneviève. They were also active in Farnham, Hereford, Marieville, Saint-Denis, Sorel and Sherbrooke. They are in Manitoba, in the United States and in Haiti and they also worked in Brazil. As to the Grey Nuns of Montreal, in 1970, they were present in 196 establishments located in Canada, in the United States, in Brazil and in Nigeria. They were active in 30 hospitals, 23 nursing homes, 6 nursing schools, 28 elementary schools, 20 secondary schools, 12 boarding schools, 16 social services centres and three dispensaries.

Like all religious communities, particularly communities of women, the Grey Nuns were very affected by the crisis of Catholicism in Canada and in the world. The state substituted itself for the communities in the areas of health care, education and social services. The raison d'être of those communities was questioned and the recruitment was affected. At the same time, the Council cast a critical look at some forms of religious life. As the nuns became older, considerable adjustments were required. The loss of buildings built with the sacrifices of the past caused traumas. Not many institutions had to face such a sudden and profound crisis.

However, we heard from those who lived through those difficulties comments revealing that an acute awareness of the changes in progress can be coupled with perseverance. Listen for example to this confidence from a nun of your community:

> We were asked from everywhere for a wide variety of foundations. It is because there were not enough people to meet the numerous needs, and also because the State did not take the responsibility for anything in those times. It is an evolutionary process; now the State has taken over the education of the young and the care of the sick, the old and the handicapped. What can I do about it? Does that mean that I am no longer needed? If I stick to my old ways, yes! I should step aside, and we should all step aside for that matter! So, I must adapt because there might be no more place for charity. However, the Lord said: "The poor will be with you always" (and poverty encompasses much more than economic hardship). That means the Grey Nuns will be needed till the end of time—

Today, more than 3,600 Sisters of Charity have followed in the footsteps of Mother d'Youville and kept her work alive.

Whatever the plans the Creator may have for the Grey Nuns in the future, they have largely earned an important place for themselves in our history through their many works of charity. Future generations should not be allowed to forget these courageous women who, for the past 250 years, have chosen to live according to the moto that was engraved as an epitaph for their blessed founder: "She devoted herself to Jesus Christ and the poor".

Hon. Jacques Flynn: Honourable senators, the Senate is grateful and indebted to Senator Guay who told us the deeds, not to say the epic of Grey Nuns in Canada.

Founded by Marguerite d'Youville, the order spread throughout Canada and in many mission countries. The details given by Senator Guay are of great interest.

In subscribing to the comments of Senator Guay and his congratulations to the order, I would like to say three things. First, Marguerite d'Youville, as he pointed out, was a descendant of Pierre Boucher, Governor of Trois-Rivières and seigneur de Boucherville. I happen to have the same ancestor. My grandmother was called Angelina Boucher de la Bruère. I must say that sanctity is not hereditary!

An Hon. Senator: We did not say it.

Senator Flynn: No. I thought I had better say it before someone else did.

An Hon. Senator: What a coincidence.

Senator Flynn: No, it is not a coincidence.

The second thing I wanted to say is that I spent three years at the Saint-Louis-de-Gonzague boarding school in Quebec City, which was run by the Grey Nuns. I must say that I was not a very good student and that I gave a hard time to the poor sisters who were trying to teach me.

An Hon. Senator: We are not surprised!

Senator Flynn: I nevertheless managed to survive, and so did the order, which is even more surprising.

The third point I want to mention is that, later in life, when I was practising law, I had the opportunity to act on behalf of the order in Quebec City. Anyway, I want to stress that the Grey Nuns took care of all kinds of destitutes, of orphans, old people and sick people in hospitals and mental institutions. They also worked in the field of education.

When I attended the Saint-Louis-de-Gonzague boarding school, there was an orphanage and a nursing home nearby. Of course, I also knew the other institutions in the Quebec region.

As mentioned by Senator Guay, the Quebec order is an offspring of the order founded in Montreal in 1737. It served the Quebec region for over 150 years.

The order and all the nuns deserve to be congratulated for their extraordinary contribution during the past 250 years. I hope the nuns will continue their beneficial action in the future.

Senator Guay: Honourable senators, I just have one more word to add. I did not mention that fact, but I now want to express my personal appreciation to the Grey Nuns for their work, specifically in my region, in the city of Saint-Boniface. As I mentioned earlier, they came to Manitoba 143 years ago.

I also want to express my deep appreciation to Senator Flynn for his good words. We share the same point of view about the contribution of the Grey Nuns. We are aware of their work which may have put us in a better position today.

May I mention, Senator Flynn, that I too attended the Grey Nuns school for eight years, starting in 1920. This gives you an idea of how long I have known them.

I want to stress all the sacrifices made by the Grey Nuns in various Indian missions, all the help they gave to the poor at a time when there was no welfare. They never refused their help. There are many things I could say about the Grey Nuns, but with these comments and what I said earlier, I think everybody will know that we give recognition to the accomplishments of these women who work for the good of humanity.

Hon. Gildas L. Molgat: Honourable senators, on this memorable occasion when Senator Guay and Senator Flynn finally agree on something, I move the adjournment of the debate.

On motion of Senator Molgat, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, October 15, 1987

The Senate met at 2 p.m., the Honourable Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-FIRST REPORT OF COMMITTEE—NOTICE OF MOTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I give notice that on Tuesday next, October 20, 1987, I will move:

> That the Thirty-First Report of the Standing Committee on Internal Economy, Budgets and Administration respecting approved salary increases for Senators' secretaries, tabled in the Senate on October 9th, 1987, be referred back to the Committee with instructions that the Committee consider the impact such increases will have on negotiations with represented employees, and on the Hay formula of classification and salary levels for non-represented employees.

Hon. Royce Frith (Deputy Leader of the Opposition): What was the date?

Senator Doody: Tuesday, October 20.

BUSINESS OF THE SENATE

On Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, usually at this time I have the duty to present the adjournment motion. As honourable senators are aware, there is a piece of emergency legislation in the process of being passed in the other place. I believe that an understanding is being arrived at among the various parties that the legislation might very well be passed some time later today or tonight. I do not have the exact details, and I am not sure that I can tell honourable senators exactly when the legislation will reach us. With the permission of honourable senators, I will revert to Notices of Motions later this afternoon after I have obtained more details, and we will then be able to decide when it will be most appropriate for us to deal with the legislation.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Jacques Flynn: It will be interesting to know if the Opposition is willing to forgo the delays and proceed with the bill as soon as it reaches us.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have already discussed that with the Deputy Leader of the Government. As is usual with this type of legislation, we will certainly consent to abridgement of time.

QUESTION PERIOD

[*English*]

FIJI

CURRENT POLITICAL SITUATION—GOVERNMENT POSITION

Hon. Lorna Marsden: Honourable senators, over the past few weeks several members of this chamber have asked the Leader of the Government about the situation in Fiji. Now that the Commonwealth Meeting is well advanced and now that one of the Commonwealth leaders has commented to the effect that the Commonwealth is impotent to deal with the situation in Fiji, can the Leader of the Government tell us more about the position of his government? If the Commonwealth is not able to do anything, are there plans in place for the Government of Canada to take any independent action or attitude towards the situation there?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know what kind of action the honourable senator would recommend that Canada take in the situation. I have nothing new to report on Canada's position. In our judgment the only legitimate authority in Fiji at the moment is the Governor General of the country. We do not recognize Colonel Rabuka, who led the coup; nor do we acknowledge his right to declare Fiji a republic, as he has done.

Senator Marsden: Honourable senators that response is similar to the ones we have received before, and I quite understand it. At the same time, a number of Fijians in Canada are very anxious about the fate of their families and relatives in Fiji. Will the Government of Canada, for example, be making any special provisions for people who may wish to come here, either temporarily or on a long-term basis?

Senator Murray: Honourable senators, I shall make inquiries of the Department of External Affairs on the matter.

[*Translation*]

NEW BRUNSWICK

AUTHORS OF OFFICIAL BILINGUALISM IN PROVINCE

Hon. Eymard G. Corbin: Honourable senators, my question is directed to the Leader of the Government. This morning I

received a press release from the Prime Minister's office, dated October 13, 1987, which mentions the telegram sent by the Prime Minister to Premier Richard Hatfield. In the third paragraph of the telegram, the Prime Minister says, and I quote:

> You have made New Brunswick the only official bilingual province in Canada, which will go down in history as an important and enduring contribution to the unity of our country.

I do not deny that Premier Hatfield did a great deal for the Francophone community in New Brunswick and that he sought the entrenchment of the official language rights of New Brunswick Francophones and Anglophones in the Charter of Rights and Freedoms.

In fact, I had the honour and the privilege of presenting a motion to that effect to the joint committee examining the constitutional text at the time.

However, I would like the Leader of the Government to recall what our colleague, the Honourable Jean-Maurice Simard, said in a speech in this house on December 5, 1985, and I quote:

> New Brunswick is the only Canadian province that is officially bilingual, something of which I am very proud.

And I share that feeling. Senator Simard went on to say:

> However, for this achievement we also have to thank another honourable member of this house, Senator Robichaud, who as Premier of my province first put the concept into law in the late 1960s.

I raised the matter for the sake of historical accuracy, not for the sake of argument. The Leader of the Government knows I am not fond of controversy on these issues, and he knows I am more of a pacifist as far as the Official Languages Act is concerned. I just wish the people who draft telegrams at the Prime Minister's office would realize that the Honourable Louis Robichaud, P.C., when he was Premier of New Brunswick, gave the Official Languages Act his official blessing, and that it is true Premier Hatfield went on to seek entrenchment of this principle in the Canadian Constitution.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the history lesson my colleague just gave us is correct. It is true that in 1969, Premier Robichaud's government had the Official Languages Act ratified by the New Brunswick legislature. I just would like to add that Mr. Hatfield, Leader of the Opposition at the time, and all the members of his caucus supported the motion in the New Brunswick legislature. It was thanks to Premier Hatfield's leadership in 1981 that we entrenched the bilingual status of New Brunswick in our Canadian Constitution.

[Senator Corbin.]

THE CONSTITUTION

MEECH LAKE ACCORD—CONSULTATIONS WITH PREMIER ELECT OF NEW BRUNSWICK—POSITION OF GOVERNMENT ELECT OF NEW BRUNSWICK

Hon. Eymard G. Corbin: I have another question for the Leader of the Government, and it concerns a statement he made a few hours ago, when reporters asked him whether he thought the Constitutional Accord would be adopted, considering the position of the new Premier of New Brunswick. The Leader of the Government said:

• (1410)

[*English*]

> . . . he replied: "Yes, sir."

Here I am quoting from the press release:

> But he added that if Frank McKenna is adamant the accord must be amended, that "would of course be a very serious matter."

I would like to ask the Leader of the Government if he has spoken to the Premier-elect of New Brunswick, requesting a meeting with him on this issue, or if this was simply said by way of sending him a smoke signal.

Is it the intention of the Leader of the Government in the Senate, who handles this dossier, to sit down with the Premier-elect, Frank McKenna, rather than sending messages through the self-declared official opposition of the press?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I rely on the statements that Mr. McKenna himself has made, and I believe I am stating his position correctly when I say that, first of all, he supports the main elements of the Meech Lake accord and, second, that he recognizes the fundamental importance of Quebec rejoining the constitutional family, which was—and is—the principal goal of the Meech Lake exercise.

I have not, of course, been in touch with Mr. McKenna, but Prime Minister Mulroney has sent him a telegram, and I certainly would make clear, on behalf of the government, that if he, his cabinet or caucus wished to be briefed either by ministers or by officials on this or any other matter of mutual interest, we stand ready to accommodate them.

Senator Corbin: Does the Honourable Leader of the Government in the Senate acknowledge that Premier-elect Frank McKenna has spoken of this issue during the recent election campaign in New Brunswick, and that he does indeed have a mandate from the people to debate the matter in the Legislative Assembly of New Brunswick?

Further, is it not the feeling of the Leader of the Government in the Senate that we ought to allow the new Government of New Brunswick time to go through this exercise at its own speed and on its own terms, according to the mandate that it has received from the people, and not attempt to bully him, force him or dare him into taking a position which would necessarily be to the liking of the central government here in Ottawa? This is a new ball game. It seems to me that we

should respect the democratic process. We now have a new government. That new government has a mandate; the issue has been debated, and the Assembly will make a decision. I am sure that Premier-elect Frank McKenna will respect the wishes and the decision of his legislative assembly.

Senator Murray: Honourable senators, I am sure that he will, too!

Senator Frith: He has a working majority—or a workable one, any way!

Senator Murray: Honourable senators, I understood that it was the intention of Premier Hatfield, supported by Mr. McKenna, as Leader of the Opposition, to have committee hearings on the Meech Lake accord. I assume—and I trust that I am not assuming too much—that the new government will take that initiative.

Meanwhile, if Mr. McKenna has, as he seems to have, some concerns that he wants to express and some suggestions that he wishes to make, he will have ample opportunity in the coming months. There are various multilateral meetings of First Ministers, including one on trade, and there is the annual First Ministers' Conference in Toronto in November. So, he will have plenty of opportunity to raise these concerns. Of course, he will proceed at the pace that he decides is appropriate for him and for New Brunswick, because no one is rushing anything.

All I am saying is that the Government of Canada and the governments of the seven provinces that have not ratified the accord committed themselves in a political agreement to proceed as soon as possible. My friend will know that the motion for a resolution has been debated for some time in the House of Commons, and we are proceeding there, as we are proceeding in this chamber, as we expect the other governments involved to proceed—

Senator Frith: Partners!

Senator Murray: —namely, as they committed themselves to do as soon as possible.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR—GOVERNMENT ACTION

Hon. H.A. Olson: Honourable senators, I would like to ask the Leader of the Government if he could deliver on a commitment that he made to me and to the grain producers of western Canada some time ago, namely, that he would advise them of the consideration of the government with respect to a deficiency payment for the 1987 crop after a number of meetings that he then indicated were about to take place. Those meetings have now taken place, I believe. Indeed, I believe that there was a particularly important one in Winnipeg a few days ago where there was at least an indication that the government had decided to make a deficiency payment for 1987. If that is not right, I would like to be corrected.

Could the Leader of the Government in the Senate tell us now how much it will be and when they will get around to specifically telling the western farmers when they can expect this announcement to be made?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, no decision has been made by the government in that regard.

● (1420)

Senator Olson: Is it now under active consideration by the government?

Senator Murray: Honourable senators, the entire question of possible assistance to grain producers is now under consideration by the government, yes.

Senator Olson: Honourable senators, replies to the effect that the government is considering this have been given for about four months. In fact, if I look back in my notebook I find that I have repeatedly asked this question since the government announced a severe reduction in the initial prices for grain. Since then the Leader of the Government has been telling us that it is under consideration, whether it is active consideration or whatever. Is it not about time that we got an answer?

Senator Murray: Honourable senators, when a decision is made I will indicate that decision to honourable senators.

Senator Olson: Can the Leader of the Government give an indication today as to when we can expect a decision to be made?

Senator Murray: I am sorry, honourable senators, I cannot answer that question with any precision today.

NOBEL PEACE PRIZE

CONGRATULATORY MESSAGE TO PRESIDENT OSCAR ARIAS SANCHEZ OF COSTA RICA

Hon. Heath Macquarrie: Honourable senators, I should like to make a brief sortie into the rarefied element of foreign affairs.

As a Canadian dove, deeply interested in and highly supportive of the peace efforts of Costa Rican President Arias, may I ask the Leader of the Government in the Senate to convey my appreciation of the Prime Minister's congratulatory message to the President on his being awarded the Nobel Peace Prize?

I hope I speak for other senators, but, being a long-time Conservative, I have learned that I should not presume to speak for others beyond myself.

Further, I would comment upon and commend the Canadian Secretary of State for External Affairs for his continuing wisdom and moderation on behalf of peace and reasonableness in respect to Nicaragua and the troubled central American region.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I thank Senator Macquarrie—whose dedication to the rule of law and to the principle of peaceful co-existence among nations is well known in this country and beyond this country's borders—for his comments, which I shall be glad to convey to the Prime Minister and to the Secretary of State for External Affairs.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have two delayed answers. Following the usual procedure, I ask that they be printed as part of today's proceedings unless some honourable senator wishes them read.

TRANSPORT

ESTABLISHMENT OF PERMANENT LINK BETWEEN NEW BRUNSWICK AND PRINCE EDWARD ISLAND—ENVIRONMENTAL IMPACT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first delayed answer is in response to a question asked on September 16 by Senator Bonnell regarding Transport—Establishment of Permanent Link Between New Brunswick and Prince Edward Island—Environmental Impact.

(*The answer follows:*)

At the end of 1986, Public Works was authorized to conduct feasibility studies regarding proposals to build either a bridge or a tunnel across the Northumberland Strait. These studies include an initial Environmental Assessment and Review Process. Public Works commissioned a number of environmental studies in February 1987, set up a public information office in Charlottetown and arranged for a mobile display to visit key locations in the three maritime provinces. The department also held meetings with fishermen's groups to discuss their interests and concerns about the proposals. A Project Planning Committee chaired by Public Works, together with associated working groups, has reviewed the results of the environmental studies as they have become available.

At present, Public Works, assisted by consultants, is preparing an Initial Environmental Evaluation (IEE) report which will present the final results of the environmental studies. The IEE is expected to be ready in draft form by the end of October 1987, at which time it will be made public. Following a review of the IEE in consultation with other departments of the Government of Canada, with the concerned provinces and with the public, the department will reach a decision on whether there is a need for any further environmental assessment of the proposal.

[Senator Macquarrie.]

AGRICULTURE

POTATO INDUSTRY—SUBSIDY PAYMENT FOR 1985 CROP YEAR—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the second delayed answer I have is in response to a question asked on September 29 by Senator Bonnell regarding Agriculture—Potato Industry—Subsidy Payment for 1985 Crop Year—Government Action.

(*The answer follows:*)

The 1985 crop year for potato producers was a very difficult year. Production exceeded demand in all eastern North America and prices plummeted to record low levels. In Canada, production was at a record high of about 3 million tonnes and prices at a record low of 9 cents per kilogram. Production would normally be about 2.6 million tonnes at a price of about 13 cents per kilogram (previous five-year average).

The federal government co-operated with the Prince Edward Island and New Brunswick provincial governments in a surplus disposal program in early spring of 1986 in an effort to relieve pressure on prices. The government was successful, but average prices received by producers were still extremely low. The agriculture sector in Atlantic Canada has continued to suffer since the potato industry is such an important part of the sector. The impact of the poor economic performance of the industry has long-lasting impacts on the regional economy. Therefore, the government believes producers should be assisted.

The government received representations from Quebec and the maritime producers as well as from their respective provincial governments to provide assistance. There were requests that this assistance be part of the $1 billion grain program. The government did not agree, as the poor prices for potatoes were not the result of the U.S./EEC trade war. Instead, the government assisted in the potato diversion program. The respective provincial premiers also raised the matter with the Prime Minister at the First Ministers' Conference in Vancouver last year. The Prime Minister indicated that he would seriously consider further assistance to producers.

The government is presently examining the mechanics and the source of funds for an assistance program and hope to have it concluded soon. This commitment will be met to the satisfaction of the provinces and in a responsible manner.

REQUESTS FOR ANSWERS TO ORAL QUESTIONS

CANADA-UNITED STATES FREE TRADE AGREEMENT

REQUEST FOR TABLING OF INITIALLED COPY OF DOCUMENT CONTAINING REFERENCE TO CANADA'S UNDERTAKING RE PASSAGE OF BILL C-22—NEWSPAPER ARTICLE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, under the heading of "Delayed Answers" I

point out that there is still outstanding a question, the answer to which has not yet been given. It concerns the documents issued in Washington on the occasion of the Free Trade Agreement.

As I recall, the question concerned a previous document that had been circulated, withdrawn and then re-issued and about who had initialled it.

I waited until delayed answers were called in the hope that the government would have an answer to that question. I draw the attention of the leader and the Deputy Leader of the Government to a report by a journalist, Mr. Allan Fotheringham, which might help the government locate the document and get the information which is being sought. In fact, it might simply be a matter of confirming that the information in Mr. Fotheringham's article is correct. The article is to be found in the *Ottawa Citizen* of October 15 and refers to a document that was issued while in the presence of, in fact under the hospitality of, our distinguished ambassador in Washington, Mr. Allan Gotlieb. The document was issued to a group of journalists after they heard the tape of an earlier press briefing given by Ambassador Reisman. At the time Ambassador Gotlieb was leafing through the documents. The article says this:

> On it is hand-written "Original." And: "Attached are 38 pages of agreed text setting out the essential elements of a Free Trade Agreement between the United States and Canada. Each was initialled by the negotiators."
>
> Below are the signatures.

A number of adjectives are used to describe the signatures, and I will not read all of them. Included is a description of the signature of U.S. Treasury Secretary James Baker III, a "Texas millionaire's" signature; an adjective which I will not use describing a signature of Clayton Yeutter, the U.S. trade ambassador, and the signature of Peter Murphy, the U.S. negotiator. The article goes on to say:

> Opposite, there is—

And here I will mention the adjective, because if there is any double entendre intended it is unfair.

> —the tight Michael Wilson, the expansive Pat Carney, . . .

He is describing here the signatures.

> —the small-and-controlled script of Derek Burney—

who is parenthetically described, also unfairly perhaps, as "the PM's new hitman," and the "screed" of Simon Reisman.

Then, apparently, this is what happened:

> . . . John Fieldhouse rises, somewhat agitated, and announces that the usual "eagle eye" of the ambassador has detected a small glitch in the distributed "agreement" and would we all please hand in the erroneous document . . .

The article goes on to say that some reporters did not hand in the document.

> When Mr. Fieldhouse, his minions swift with the Xerox miracle, hands back the revised document, page 37 is strangely stretched to be almost the same length—to obscure detection—as the previous page 37.
>
> The only difference is that deleted is a vital paragraph: "Canada has agreed to pass the pending amendments contained in Bill C-22 in respect of compulsory licensing of pharmaceuticals."

I wonder if the Leader and Deputy Leader of the Government, when looking at the answer to the earlier question, might simply tell us whether that is correct. In other words, was the earlier document circulated—which was a part of Senator MacEachen's question, I believe—and is it correct that those are the initials that were on it?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I recall the exchange last week between the Leader of the Opposition and myself on this matter. I have investigated the matter and I find that the situation is as I speculated it might be. Various drafts come forward from working parties in the course of negotiations. I am told that there were more than a dozen working parties focusing on major elements of the agreement in the final days of the negotiations. One of these working parties sent forward to the negotiators a draft initialled by the working party chiefs. I believe Senator Frith mentioned the initials of Germain Denis, who was one of the negotiators.

Senator Frith: I did not, but he is referred to in this article, I believe.

Senator Murray: I believe he was in charge of one of the working parties. In any case, that working party sent a draft up to the negotiators, and the negotiators for our side were Mr. Burney and Ambassadors Reisman and Ritchie.

In any case, the draft sent up was rejected. This is part of the overall process of these negotiations. As I suspected the other day might be the case, this was one draft that came forward and was rejected by the negotiators.

All of the relevant documents are those that have been signed by the negotiators for Canada and the United States and that were tabled in the House of Commons and the Senate following the agreement of October 3 between our two countries.

● (1430)

Senator Frith: Honourable senators, that is exactly why I have raised this question. My recollection coincides with that of the Leader of the Government, namely, that he speculated at the time that what was involved was an earlier draft, that a number of drafts were kicking around, and a draft which had been sent forward had been rejected and had found its way into the hands of the press.

But that does not appear to be what happened. According to someone who was present, it was not a matter of a loose, rejected draft but of the distribution of an actual document that was signed and which said, "This is the agreement." The reporters were then asked to hand back that formal document—not some rejected draft that had been lying around—for correction.

That is why I ask the Leader of the Government, when he continues his attempts to obtain an answer to the earlier question, to take into account this version. I accept that he did not mislead us. He did not say that is what happened. He speculated that that is what happened. If what one of the reporters who was present says is true, then I think the Leader of the Government's speculation was not accurate, as it has turned out. That is why I am asking him to give attention to this matter to see if, in fact, the events transpired in that way.

Senator Murray: Honourable senators, my information is that what was agreed to in Washington, and signed by ministers, is the document that was tabled in the House of Commons on October 6 and in the Senate, I believe, either on the same day or a day later.

Senator Frith: According to this article, by someone who was present, there was an earlier document signed and released—not signed, rejected and left around—and then withdrawn: It is not the same thing. I ask the Leader of the Government to look into it and to check his speculation and understanding at the time he answered the question with the events described in this article.

Hon. Ian Sinclair: Honourable senators, I have a supplementary. As honourable senators know, the issue of Bill C-22 is now before the Banking, Trade and Commerce Committee, which is striving to prepare a report to be made to the Senate. We will be meeting again on Tuesday next at 5 p.m., and I hope that the Leader of the Government will be able to dispose of this issue and have an answer so that when the committee meets at 5 o'clock that matter will not be overhanging, because the question of a relationship between Bill C-22 and the Free Trade Agreement was raised in the committee yesterday.

Senator Murray: I was not aware that this issue was part of the honourable senator's ostensible search for a compromise.

Senator Frith: Now you are up to date.

Senator Sinclair: Honourable senators, no matter what the Leader of the Government may think we are trying to do, we will give him ample opportunity when we present our report to make his comments. In the meantime, would he please undertake to give us an answer so that we can deal with it next Tuesday?

Senator Murray: Honourable senators, I think I have given the answer, which is that the commitments which our two countries have made—the only commitments, the only undertakings—are contained in the documents that were tabled in the House of Commons and the Senate—that is, the elements of the Free Trade Agreement between Canada and the United States; and whether an earlier draft was rejected or somehow was circulated by mistake at one point in the proceedings is really irrelevant. The document that was signed by ministers of the Crown and by the negotiators for the United States government, and which contains our commitments, was tabled in the House of Commons and the Senate on the days I have indicated.

That is the answer to the question. I will ask if there is any further information that needs to be brought in, and if there is I will do so; but the information I am giving, by the way, is information that was conveyed to the country last Friday by the Minister for International Trade.

Senator Frith: I understand what the Leader of the Government has said, and that is acceptable so long as he understands that we hope he will have a look at this document and make the connection.

Senator Murray: The Deputy Leader of the Opposition cannot expect me to make an investigation based on a column by a journalist. He cannot expect me to do that, and he cannot expect me to comment. The rules provide that questions may neither be asked nor answered on the basis of reports appearing in newspapers.

Senator Frith: No question has to be answered. That is why I asked it in the way that I did. I was not asking the Leader of the Government to comment on the correctness of an allegation made in a newspaper article. I am simply asking him, when looking at the earlier question, to look at the allegations that are contained in this document as to events and to see if that helps him to bring back an answer to the question that was asked previously by Senator MacEachen.

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION—REQUEST FOR ANSWER

Hon. H.A. Olson: Honourable senators, I am wondering whether the Deputy Leader of the Government has overlooked a delayed answer, because on September 29 I asked him whether or not he could find out whether Memotec was asked by the government to withhold the announcement of its bid back in January 1987. Two weeks have now gone by, and surely he could find out whether the government asked Memotec to withhold its bid and, if so, why. Is the Deputy Leader of the Government sure that he does not have an answer today?

Hon. C. William Doody (Deputy Leader of the Government): I am absolutely positive, senator. I can assure you that if I had an answer I would be the first to leap up and shout it from the housetops. But I will do what I can to find out something for the honourable senator, because I know how desperately anxious he is to get that piece of information.

CANADA-UNITED STATES FREE TRADE AGREEMENT

EFFECT ON TWO-PRICE SYSTEM FOR WHEAT—COMMENTS ATTRIBUTED TO PREMIER OF SASKATCHEWAN—EFFECT OF ENTRY INTO CANADA OF U.S. MILLING WHEAT—COMPENSATION TO CANADIAN FARMERS FOR LOSS

Hon. Hazen Argue: Honourable senators, yesterday Senator Buckwold asked the Leader of the Government a question regarding the two-price system for wheat and whether there was anything in the Free Trade Agreement which meant that the two-price system for wheat would be discontinued. The minister replied:

I was trying to convey the fact that the Free Trade Agreement between Canada and the United States obviously has no provision regarding the two-price system for wheat in this country.

The Regina *Leader Post* of a few days ago referred to a statement of the Premier of Saskatchewan as follows:

"A two-price system for wheat under which Canadian buyers pay more for wheat than foreign customers will be eliminated as part of the Free Trade deal with the United States", Premier Grant Devine confirmed on Thursday.

My question is: Is it part of the deal; does it flow from the removal of the Wheat Board licensing of grain coming into Canada; does it mean that from now on—I am asking for information—when this provision goes into effect, if it should go into effect with the agreement being ratified, that United States milling wheat for domestic consumption will come into Canada? Does it mean that with the removal of tariffs generally bakery products from the United States will be at such a low price that Canadian millers will not be able to afford the two-price wheat system?

Farmers are pretty disturbed about this, because the Prime Minister implied—that is a mild way of putting it—that he would be in favour of $11 per bushel for domestic wheat. A committee of the House of Commons looked into the matter and, with certain provisions, made recommendations that the price be $10 per bushel. That has not happened. The price now being charged in the Wheat Board system is something over $7 per bushel, which is a good deal more than the Wheat Board gets per bushel on the export market. So what I am asking is: Does the minister say that the report of what the Premier of Saskatchewan is alleged to have said is wrong; namely, that the two-price wheat system is in no way, directly or indirectly, a part of the trade agreement that has been divulged?

• (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, when the honourable senator says "directly or indirectly" he leaves an awful lot of leeway.

Senator Argue: That is right.

Senator Murray: I tell him, as I told Senator Buckwold yesterday, that there is nothing in the agreement between Canada and the United States concerning the two-price system which we have in this country. Nor is there any undertaking or commitment on our part with regard to the two-price system. I fail to see what the interest of the United States would be in the matter, in any event. The future of the two-price wheat system is a matter for the Canadian government to consider on our own responsibility, as we will do.

Senator Argue: Honourable senators, is the Premier of Saskatchewan wrong in the sense that it is not part of the deal? I ask: Is the government considering removal of the two-price wheat system?

Senator Murray: Honourable senators, I answered the second part of the question yesterday. There is no such proposal before the government at the present time. As for the remarks attributed to the Premier of Saskatchewan, I cannot comment. It would be improper for me to comment on a press report of that kind. I simply say that the agreement made between Canada and the United States is on the table. It speaks for itself, and it says nothing about the two-price wheat system. I assure the honourable senator that no other commitments or undertakings in connection with the Free Trade Agreement between our two countries have been given by the Government of Canada in this or in any other regard.

Senator Argue: Honourable senators, is it possible under the agreement that has been arrived at to allow, without licensing, milling wheat from the United States to enter Canada to be purchased by millers in Canada? If that is the case, there is no way that a miller in Canada will pay $7 for Canadian wheat when he can get American wheat for $4. That is obvious.

I think what has happened—and I may be 100 per cent wrong—is that the Premier of Saskatchewan knows that this may well be the case. If it is the case, it will destroy the two-price wheat system, because if the millers will not buy the wheat the fictitious price of $7 per bushel will not matter.

Senator Murray: Honourable senators, the honourable senator has raised an entirely different question.

Senator Argue: All right.

Senator Murray: I am telling the honourable senator that if his facts are correct, it is a question that will have to be considered by the government in due course. However, it is not a matter on which the government has made any commitment to anyone in the course of the free trade negotiations.

Senator Argue: Honourable senators, it is clear that the licensing is gone. When the Wheat Board's authority to license and thereby to prevent, as they now do, American wheat coming into Canada to be bought by Canadian millers is taken away, and if nothing else is done, then the two-price system will collapse. The government can technically keep the price on and can technically say that it is not considering removal of the system. However, in the words of Premier Grant Devine, the government has in fact removed the two-price system by this agreement that has been signed. That is the result of the agreement.

Senator Olson: Or else you didn't consider it! Which is it?

Senator Argue: I would ask further: Is the government considering, in the words of Grant Devine, a payment from the treasury equal to the value of the two-price system as a method of compensating farmers for their loss? Those are not my words. They are the words of Grant Devine, your buddy.

Senator Murray: Honourable senators, I am glad to have that suggestion from the honourable senator.

Senator Argue: Not from me!

Senator Murray: However, I want to tell him and the house, I believe for the third time, that no such proposal is presently before the government.

Senator Argue: Honourable senators, what is happening is that we have before the country a trade agreement with

provisions to destroy the two-price wheat system, and the government is not even considering compensation. That is what we have.

Senator Murray: Honourable senators, I do not accept the premises of the honourable senator's question. The honourable senator has gone from supposition to conjecture, to allegation, to assertion—

Senator Steuart: To fact!

Senator Murray: —in one mad dash. I have made it clear in my answers to the questions, first, that there is nothing in the agreement about the two-price system for wheat in this country—

Senator Argue: What about the licence?

Senator Murray: —that the future of the two-price system for wheat is a matter for the Canadian government to decide, and that there is no proposal presently before the government to make any changes in that system. When and if any other decision is made by the government, I cannot undertake that the honourable senator will be the first to hear about it, but he will be one of the first.

Senator Olson: In other words, you have not considered the consequences!

Senator Argue: The minister has put his position before the house. I think it is just words. Premier Devine of Saskatchewan has said that the Free Trade Agreement will result in the removal of the two-price wheat system. He has said that his confidant, his buddy the Prime Minister—that is what he said—the Prime Minister, will consider compensation to the farmers. Events will show us who is right, but the fact is that by this action under this agreement the government is undertaking to destroy the orderly Wheat Board marketing system by removing the licensing power of the Wheat Board. That is what has happened.

Senator Murray: Honourable senators, the honourable senator has worked himself into quite a state.

Senator Argue: Not at all!

Senator Murray: —on the basis—

Senator Steuart: You have not seen him in a state, yet!

Senator Argue: You should see me when I am worked up. You should have seen me going on at about 10.30 this morning. But here, now, is mild stuff compared to when Senator Doody gets worked up.

Senator Murray: I do not know anything about what the honourable senator was doing at 10.30 this morning. In any case, he is quite agitated over a press clipping. His first citation was that the Premier of Saskatchewan had said that as part of the Free Trade Agreement certain things have been done. I think I have explained the position of the government pretty fully. When and if there is a change in that position, I shall let honourable senators know.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, a little while ago I undertook to report back to the Senate on the situation with regard to the return-to-work legislation in the other place. I am told that there will indeed be a House order to get the legislation out of there tonight. I was unable to get a firm time for tonight, so, rather than have honourable senators sit around waiting for the legislation, I suggest that we come back tomorrow morning at 9 o'clock and deal with the bill at that time. If that is acceptable to the Senate, I ask leave to revert to Notices of Motions to put a motion to that effect.

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

Hon. Senators: Agreed.

Senator Doody: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until tomorrow, Friday, October 16, 1987, at nine o'clock in the forenoon.

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

• (1450)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think the proposal by the Deputy Leader of the Government is quite reasonable. I take it that our plan will be to proceed through the usual order of business, but that it is understood that, as far as I am concerned, we will be granting leave for first reading and proceeding directly to second reading. Also, I understand that, in accordance with the way we usually handle this type of legislation, after second reading debate the reference will be to the Committee of the Whole and that the minister will be present.

Further, it would certainly be my intention to give leave for third reading after the report of the Committee of the Whole.

Senator Doody: I certainly appreciate that, senator. It is our intention to ask for leave to go through all stages of the bill tomorrow morning and to refer the bill to the Committee of the Whole. The minister has been invited to attend, and I am told that he will be here.

With the assurance of the Deputy Leader of the Opposition, for which I am grateful, we can now also make arrangements to have Royal Assent tomorrow.

Motion agreed to.

ROYAL ASSENT

ALTERNATIVE PROCEDURE—MOTION STANDS

On Motion No. 1:

By the Honourable Senator Frith:

> That the present formal procedure of Royal Assent be retained and that it be used (a) at the request of the

Governor General or of either House of Parliament and (b) at least once a session, for example at the prorogation of a session;

That, in addition to the present practice, a simpler procedure be established based on the following principles: (a) that the procedure involve representation from both the Senate and the House of Commons, (b) that it be public, and (c) that the declaration of Royal Assent be subsequently reported to both Houses of Parliament; and

That representatives of the Senate meet with representatives of the House of Commons to draft a resolution for a joint Address of both Houses to be presented to Her Excellency the Governor General praying that she approve such changes to the Royal Assent ceremony as described in this motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, since this motion deals with Royal Assent, if it turns out that we do not have Bill C-86 for consideration at 9 a.m. tomorrow, I will proceed with my speech on this motion. It seems to me that that is an appropriate time to do so.

Motion stands.

The Senate adjourned until tomorrow at 9 a.m.

THE SENATE

Friday, October 16, 1987

The Senate met at 9 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

POSTAL SERVICES CONTINUATION BILL, 1987

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-86, to provide for the resumption and continuation of postal services.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, October 20, 1987, at two o'clock in the afternoon.

Motion agreed to.

POSTAL SERVICES CONTINUATION BILL, 1987

SECOND READING

Hon. R. James Balfour moved the second reading of Bill C-86, to provide for the resumption and continuation of postal services.

He said: Honourable senators, I rise to speak on Bill C-86, known formally as the Postal Services Continuation Act, and I intend to be as brief as possible.

The bill is straightforward, at least in comparison with much of the legislation that comes before us. First, the bill provides for the immediate termination of work stoppages by the 23,000 inside workers at Canada Post and a resumption of full postal services. Second, the bill provides for the extension of the now expired collective agreement for a period of a minimum of two years and a maximum of three years. The actual length of the extension within these boundaries will be decided by arbitration after the bill is passed.

Finally, the bill provides for settlement of the issues in dispute by the appointment of a mediator-arbitrator. If negotiations between the parties do not result in a settlement, the mediator-arbitrator is directed by this bill to give due cognizance to the report of the conciliation commissioner in the dispute between Canada Post and the Canadian Union of Postal Workers in relation to the renewal of their collective agreement, otherwise known as the Foisy report.

Honourable senators, let me now turn to some of the criticisms of this bill made in the other place and in public through the media. There appear to be two generic criticisms: the first is that the government acted precipitately; the second is that this bill is unfair to the workers represented by the Canadian Union of Postal Workers.

To accuse the government of acting too quickly is, in my view, utter nonsense. The last collective agreement expired on September 30, 1986, over one year ago. A notice of dispute was received from the Canadian Union of Postal Workers on October 16, 1986, and the Minister of Labour responded with the appointment of a staff conciliation officer on October 30. Since it was not possible to reach agreement through this route, on February 23 of this year the Minister of Labour exercised his discretion under the Canada Labour Code and appointed Claude H. Foisy, Q.C., as a conciliation commissioner.

As many honourable senators know, Mr. Foisy is an experienced labour relations practitioner, a former vice-chairman of the Canada Labour Relations Board, and is now a highly respected labour arbitrator and conciliator in private practice. Mr. Foisy held a series of meetings with the parties from early March to mid-August, and his report was released on September 22. The report indicated clearly that Mr. Foisy found it difficult to engage the parties in a genuine dialogue and concluded that a settlement was not possible in negotiations under his auspices.

On September 29 the Minister of Labour directed his associate deputy minister, Bill Kelly, to meet with the parties and assess the prospects for a negotiated resolution. I am sure that we are all aware of Mr. Kelly's experience and skills in such matters. He reported back to the minister that a lengthy test of economic strength would, unfortunately, have to occur between labour and management before there could be any prospect for a negotiated settlement. The minister again urged the parties to return to the bargaining table, but warned them that the government would not tolerate a protracted and disruptive work stoppage.

The parties resumed bargaining, and met for all of two hours before negotiations once again broke down, and they

resumed their war of words in the media, each criticizing the intransigence of the other. At that point, honourable senators, the minister formally notified both sides that their behaviour was unacceptable. He served notice that he was prepared to introduce back-to-work legislation and challenged them to show the will and capacity to achieve a resolution of their differences through collective bargaining. After a meeting lasting less than half a day, the parties once again admitted their utter inability to come to grips with the issues separating them.

A background to these events is the report of the Marchment committee. The report stated that the committee had never seen labour relations as acrimonious as those existing between Canada Post Corporation and its unions. Further background was provided by Kenneth Swan, the conciliation commissioner in the recent dispute between the corporation and the Letter Carriers' Union of Canada. He stated that the relationships between management and the unions have deteriorated to the point where they are intensely personal and bitter.

As we all know, the Letter Carriers' Union of Canada dispute resulted in postal interruptions across Canada through rotating strikes from June 16 through July 4 this year, and also resulted in deplorable incidents of violence on the picket lines.

Honourable senators, I believe it is clear that the government did not move too quickly with this back-to-work legislation. Given the events and circumstances that I have recounted I believe that the government made a reasonable and accurate judgment that the dispute was not likely to be resolved quickly—that, in fact, the situation was deteriorating.

In my view, there is a fundamental principle at stake in this issue. One of the first responsibilities of government is to protect the weaker, disadvantaged elements in society from oppression by the strong. Such is the nature of the social contract between government and the governed. In our Constitution this social contract takes the form of a general duty of the federal government to maintain "peace, order and good government." Our new Charter of Rights and Freedoms sets out a number of obligations for the government to protect weak or minority interests from oppression by the strong.

In the dispute between Canada Post Corporation management and the unions—described by some as the "war between the Titans"—innocent third parties are caught, who are no less important and needing of protection, for example, small businesses, the elderly awaiting pension cheques, people in remote regions, farmers, the disadvantaged, and the unemployed. Each one of these groups, and more, relies on an operating postal service. None of these groups can afford a protracted strike. Allow me to give you just one indication of the impact of a protracted postal strike. According to the Confederation of Independent Businesses, the 42-day postal strike in 1981 cost the small business sector $3 billion. Another charge levelled against this bill is that it is unfair to the unions. Let me say at the outset that I hold no particular brief for either side in this dispute. I have watched with dismay the machinations and media antics of both sides. I suspect they are both equally to blame for the current impasse.

Having said that, the union suggests that the mediator-arbitrator's statutory reference to the Foisy report "stacks the deck" against the union's interests. This, I understand, is largely due to Foisy's recommendations on the job security issue raised by the postal corporation's wish to award franchises and to open new sub-post offices. The report did not recommend modifying the corporation's contracting-out plans. Instead, it recommends guarantees of employment protection and financial compensation for employees currently working at post office counters. In my view, such a direction is reasonable: on the one hand, it provides protection for workers; on the other hand, it would allow the post office to improve and expand services and improve efficiency.

I note, honourable senators, that when the Foisy report was tabled, the unions characterized it as being a good basis for negotiation. I think, therefore, that under the circumstances it is entirely reasonable for this bill to incorporate a reference to Foisy as some form of touchstone, should all else fail. Surely, given all the studies, reports, inquiries, conciliators, et cetera, relevant to the Post Office over the past half decade, the mediator-arbitrator should not be expected to start from scratch. Finally, honourable senators, I think it important to note that in prescribing penalties for breaches of the provisions of this legislation the bill is entirely even-handed—prescribing equal penalties for both union and management.

In closing, honourable senators, let me make one final point. I suspect I speak for many parliamentarians and Canadians when I say that I am tired of postal strikes. In 1981 the previous government reorganized the Post Office Department into a crown corporation in response to union pressure. It was supposed to open a future of labour peace and postal efficiency. It obviously did not. Instead, the conversion from department to crown corporation proved to be largely cosmetic, an exercise in political gimmickry. The government appeared to give the corporation independence, but the increased independence was illusory to a considerable degree. Furthermore, removing postal workers from the Public Service Staff Relations Act to the Canada Labour Code evidently accomplished little, in light of the number of labour disputes since then. The same problems persist, the same disputes erupt, the same negative rhetoric bursts forth, and the Canadian public is held hostage.

In my opinion, Canada Post suffers from a severe structural malaise. Although important to resolve our current predicament, Bill C-86 is stop-gap, damage control, fire-fighting. The basic problems persist and more studies, more back-to-work legislation and more rhetoric will not solve them. Faced with the current impasse, there is nothing else that we can do but respond to the crisis that confronts us. I therefore commend Bill C-86 to honourable senators for expeditious passage.

• (0910)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, at second reading we debate the principle of a bill. If the only principle this bill proclaims is to end the

postal strike, then I think it will enjoy support here and I think it has support across the country. I agree with Senator Balfour that it is a fair reading of Canadian public opinion that the public is tired of postal strikes, although, looked at in the broader perspective, it has not suffered very frequent postal strikes. However, as Senator Balfour has said, because postal strikes affect everyone, one quickly becomes tired of them, and perhaps justly so. Therefore, if that were the only principle, I do not think there would be any difficulty in supporting this bill.

The difficulty, however, is that there have been allegations that there are some very unprincipled dimensions to this bill. There have been allegations that it is effectively a union-busting bill and that its main principle and main object is to crush this union; and, in the course of doing so, to hammer a savage blow against the equally important principle of the right to strike.

What was the situation when this bill was introduced? First, there were rotating strikes and not a strike of general application. Second, the mail was moving, and the Post Office boasted that the mail was moving. In fact, before the strike the Post Office predicted that the mail would move perhaps even better than it had moved before the strike. That may have been an idle boast to say that the mail would be moving better, but, in fact, the Post Office delivered on its undertaking to keep the mail moving, and I think the people of Canada recognize that. I, personally, received mail every day, here and at home. It may not have been the volume that I would otherwise have received, but there was no indication of that. I did not notice any important change—

Senator Guay: The bills got through!

Senator Frith: That is right, the bills got through, using the word "bills" in the other sense.

That, then, honourable senators was the situation. It is very important to remember that, and to remember how quickly this legislation was introduced. It is also important to remember how draconian are the provisions in this bill. I would ask honourable senators to remember the situation: the mail is moving; the strike is not one of general application and, considering the temperature of the feelings, there was very little violence.

The word "draconian" has been used to describe this legislation and other recent legislation by this government. Everyone else may know the origin of the word "draconian". I did not; therefore, I looked it up in the dictionary.

In the Oxford English Dictionary it says:

> Draconian, Draconic (Of laws)

Clearly it is of good application here.

> . . . rigorous, harsh, cruel (f. Drakon . . .

Drakon was apparently an Athenian legislator in 620 B.C., who was famous for his rigorous, harsh and cruel laws.

Why is that particularly important in the context of the introduction of this legislation?

Senator Nurgitz: It is not.

[Senator Frith.]

Senator Frith: Senator Nurgitz seems to be convinced that it has no importance that this legislation is so draconian. Let him listen! This legislation is being introduced at a time when, I repeat, there is no general strike, there is virtually no violence, and the mail is getting through. So, exit Drakon; enter Machiavelli.

Senator Doody: Give or take a few hundred years.

Senator Frith: Yes, give or take a few centuries.

Senator Nurgitz: What section are you referring to?

Senator Frith: Of course, Drakon and Machiavelli are not named in this bill. They should be!

Senator Doody: That's an aside.

Senator Frith: As I was saying, exit Drakon; enter Machiavelli. Here is a government whose responsible minister is playing a role in Senate affairs on another bill, who, it is alleged—and we will look at the evidence to see if there is any justification for it—wants, along with his government, to break this union. They want to out-muscle—which was a word that was used—this union. What does the government have going for it? It has the fact that people are tired of postal strikes, although I do not believe it is justified to say that Canada has suffered too frequent postal strikes. However, that is the general feeling. They have a union that is unpopular. They have a union leader who seems to be locked in a bitter battle with the Prime Minister of Canada to finish last in the popularity polls. The perfect situation. They need not wait. They introduced premature legislation. Was it because they were impatient? Was it because they felt that Canadians really were tired of this "long" postal strike, which had continued for a matter of a few days—this "long" postal strike, while mail was getting through with very little violence and no general strike? No.

This is where the word "draconian" becomes important. Aren't you glad you waited? The word "draconian" becomes important because in that context this legislation was introduced and timed for one purpose. It was to provoke a general strike and to provoke the union into extending its strike. You will remember that at the time this bill was introduced there was no general strike. That is important to remember, because the government is trying to justify this legislation by saying, "But look, the strike has become a general strike. Violence has increased!" To which the union says, "Yes, because you introduced this legislation when those conditions didn't exist." How perfectly machiavellian: provoke the union into a general strike, increase the heat and temperature, have some violence, which is exactly what the government wanted to happen, and then turn around and say, "What are we going to do? We have to introduce this legislation!"

• (0920)

Is there a familiar whiff here? There is. I suggest to you, honourable senators, that you think back to this summer when a relatively small number of refugees arrived in Halifax. What was the result then? Again, a strong reaction from the people of Canada against refugees; again, the government jumped at

the chance to exploit that feeling to introduce the draconian legislation that is before our Committee on Legal and Constitutional Affairs now, Bill C-84.

Honourable senators, this bill is part of a machiavellian attempt to out-muscle this union. I expect that it will pass in the Senate; it passed in the other place. The result is that the callous exploitation of the unpopularity of the postal union has worked. But the bill, first in its terms, is too strong and too cruel on the questions of penalties, particularly penalties to prevent people—and there is a serious question as to whether this is consistent with the Canadian Charter of Rights and Freedoms—from working for their union for five years, in the case of some breaches. There are heavy fines, all, as it turns out, effectively provocative. Without those provisions, and with more reasonable provisions in terms of penalties introduced when the strike had gone on too long and had become a general strike, or had resulted in violence without the provocation of the legislation, then I think the legislation would have been appropriate and would have been entirely acceptable. Those conditions did not exist, and therefore, because I believe that the bill will pass for the reasons I explained, I intend either to vote against it, if I can do so without defeating it, or to abstain if my vote would be—

An Hon. Senator: That is machiavellian!

Senator Frith: Is that machiavellian? Perhaps someone speaking on the other side will explain why that is machiavellian. In the first place, it is not machiavellian because it is not sneaky, as this bill is. I am saying precisely what I intend to do and why I intend to do it. This bill does not. This bill is an attempt to achieve something more than the end of the postal strike. It is an attempt, because of its provisions and its timing, to bust this union and to interfere unduly with an important Canadian right—the right to strike.

Hon. H.A. Olson: Honourable senators, I want to participate in this debate briefly because of the type of bill we have before us and the methods used in this bill by the government to settle what I acknowledge is a serious problem. As Senator Balfour pointed out, this is not a problem that has just occurred this year—that is, 1987; it is one that has been building up for a long time. It is something, I am sure, that the government ought to come to grips with, for some of the reasons the sponsor of the bill pointed out.

At the outset, I have to say that if you have ever seen iron-fisted legislation, this is it. This is the most severe legislation in terms of the imposition of penalties that has ever been presented in Parliament, that I know of. There is absolutely no consideration for the other side of the argument at all.

I have looked this bill over from one end to the other, and there is absolutely no provision in it which deals with the grievances the union claimed they had and which led up to the calling of rotating strikes. That, honourable senators, so far as I am concerned, is a cop-out by the government. All they have done is introduce a bill, using the weight of the federal Parliament to hammer the union back into line. It is iron-fisted, there is no doubt about that. There is no compromise in this legislation. There is not even a reference to direct the mediator-arbitrator to deal with the privatization of certain postal stations, which, as I understand it, is the job guarantee issue—the major issue—in the dispute between the postal corporation and the union.

As I said, it is an abdication of responsibility. I suppose one ought not to be surprised at that, because this government has taken on a stance of deregulation—that is, getting the government out of everything—and just letting the chips fall where they may. That may fit some kind of Conservative philosophy, but I can tell you that the Canadian people are sick and tired of a government that is constantly backing out of its responsibility to govern this country. This bill is a good example of that.

As I said, it is a wrong principle to write a back-to-work order taking into account only one side of the argument. You can be neutral and provide for the termination of the withdrawal of services with some consideration being given for the grievance on the other side, and have a balanced bill. But this bill is not balanced. As has been pointed out, this bill is iron-fisted, draconian, machiavellian, or whatever you want to call it. It makes no provision for the argument on the other side. It orders the workers back to work.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): It provides for mediation-arbitration.

Senator Olson: Every bill that has ordered the termination of a strike has provided for some mediation and arbitration to follow, there is no doubt about that.

Senator Murray: Would you rather we impose a settlement and that we decide the issues ourselves in a postal settlement?

Senator Olson: The government is elected to make decisions, and I suggest that they ought to do so.

Senator Murray: Do you think we ought to decide the issues ourselves and impose a settlement?

Senator Olson: When you come to the conclusion that this is the only bill you can write to terminate a strike, it clearly indicates that you are unwilling to make any decisions.

Senator Murray: What do you think the settlement should be?

Senator Frith: That is a governmental responsibility.

Senator Olson: Should I stand up here and give my opinion? The government has had dozens of people working on this for months and all they have come up with is a cop-out.

Senator Argue: Stop privatization!

Senator Olson: Are you saying that you realize now that you cannot do the job and you would like us to help you?

Senator Murray: Senator Argue says that we should stop privatization.

Senator Argue: So does Premier Devine. He wants to keep the Candiac postal station open.

● (0930)

Senator Olson: The only comfort for the members of the union in this entire bill is the obligation placed on the corporation not to discharge or in any other manner discipline the employees for having taken strike action. That is all.

Senator Murray: The corporation is subject to the same sanctions as those governing the union members.

Senator Olson: Oh, we understand that very clearly. We on this side also know the difference between laws that a corporation has to abide by and laws that individuals have to abide by and the enforcement of them.

Senator Murray: Read the bill!

Senator Olson: We are not that naive. I hope that the Leader of the Government is not so naive that he thinks that is fairness.

Senator Frith: Don't worry, he isn't naive; he is just parading naiveté.

Senator Olson: We have simply arrived at this situation: The government has ordered the termination of the strike. It has ordered the extension of the existing collective agreement without taking any action to recognize any possible grievances. That means that the employer wins all the way for the next two years, because there is no provision in the bill to change this.

Senator Balfour: Read the Foisy report!

Senator Olson: Oh, the mediator-arbitrator can come forward with some things, including some of the recommendations in the Foisy report. I understand that can happen. I am just saying that there is some validity to the union leaders' view that this government has not met its responsibility in terms of being fair. That is the point.

Clause 5 of the bill provides—although I will not get into the details of it—that the collective agreement can be extended and fixed by the mediator-arbitrator for at least one year and up to two years, up until September 30, 1989. Operating under the present conditions, if there is a grievance—and I think there is some grievance that this government has not come to grips with—then the workers are caught with two more years of the same treatment. That is why I say there are bad principles in this bill. There is no compromise; this bill is just an iron-fisted order to get back to work. The government has announced that the strike is over and that the employees must work under the same terms and conditions as before. If they do not, there are penalties of up to $50,000 written right into the legislation.

Senator Frith: Vintage Tory!

Senator Olson: As I said at the outset, this is the most severe penalty that has ever been presented to Parliament in this kind of situation. Of course, the Canadian people want the strike settled; there is no doubt about that. I think that Parliament has a responsibility to bring in a bill to terminate the strike; there is no doubt about that either.

Senator Murray: And to impose the new contract.

[Senator Argue.]

Senator Olson: There is no new contract—that is the problem. Nothing in the bill indicates a new contract. The bill states that a mediator-arbitrator should look for one.

Senator Murray: Do you want us to do it?

Senator Olson: I want the government of this country to govern. I don't want it to back out of its responsibilities, and it has done that in one field after the other, letting the weak fall where they may.

Senator Murray: Are you against mediation?

Senator Olson: I don't know if the government can twist things around so as to be able to say that this bill and all its parts will be settled by something called "Let the market decide," but I wouldn't be surprised if we get a speech on that, too.

The Leader of the Government either has to speak loud enough for me to hear him or keep quiet.

Senator Murray: I say that the honourable senator is against mediation. He wants us to impose—

Senator Argue: This is not mediation, it is a mailed fist!

Senator Olson: This is an iron fist, that's what this is!

Senator Frith: I wouldn't invite him to speak any louder if that is all he has to say.

Senator Olson: Good idea; I won't extend the same invitation again.

Honourable senators, I merely want to make these few remarks to point out the weakness of this government in dealing with these kinds of problems.

Senator Balfour: I thought we were too strong.

Senator Olson: You are too strong with the penalties. Are penalties the only thing this government understands? That must be true, because that is all this bill contains. There is no attempt in this bill to deal fairly with the dispute. I can tell the Leader of the Government that I have seen legislation like this before. I have seen legislation without any consideration for the point of view of the worker, and it was stopped in Parliament and amended so that at least some of the things offered by the employer to the union were included in the bill. At one time in a railway dispute, for example, I saw a bill brought in that did not even provide to the workers what the railway company had offered them. That only meant that the company could sit back, day after day, week after week, doing nothing, and still winning. That is what this bill does, too. If the company could sit back for two years doing nothing to deal with a grievance—

Senator Murray: That is nonsense.

Senator Olson: —it would be an important gain to the employer. I know that the mediator-arbitrator could come in with other recommendations, but that is not what Parliament is doing.

Senator Murray: Pick up the bill and read clause 7, please.

Senator Olson: I have read clause 7. It gives authority to the mediator-arbitrator. It does not tell him that this Parliament is in favour of fair treatment. It does not set out what fair treatment is going to be. This clause is only a bunch of words.

Senator Murray: It gives collective bargaining another chance. Read it!

Senator Argue: That's not collective bargaining.

Senator Olson: I have read it.

Senator Murray: Honourable senators, I think I ought to read this into the record. Clause 7, subclause (2), states:

> The mediator-arbitrator shall, within ninety days after the mediator-arbitrator's appointment or such longer period as the Minister may allow,
>
> (*a*) endeavour to mediate all the matters referred to in paragraph (1)(*a*)—

which is all the matters relating to the revision of the collective agreement

> —and to bring about agreement between the union and the employer on those matters;

The honourable senator suggests that we forgo that. He suggests that we not appoint a mediator to bring the parties together on those matters but, rather, that we decide the issues here in Parliament and impose a settlement. Who is recommending the iron fist here?

Senator Olson: That is the most ridiculous statement I have ever heard anybody make. This bill just contains some fancy words about a mediator who shall endeavour to settle the dispute. What has the government been doing since they knew that the last collective agreement was going to end? The parties have been endeavouring to settle the dispute.

Senator Simard: It takes two to settle.

Senator Olson: Now the government is taking the whole matter out of their hands, putting in iron-fisted penalties—

Senator Murray: On both sides.

Senator Olson: —and sending it off to a mediator to find a solution. The Leader of the Government says that penalties apply to both sides, but the government knows full well that the longer it takes the corporation to come to an agreement the more it will win in terms of the outstanding grievances and differences of opinion.

Honourable senators, I know that we need to terminate this strike. Very responsible people like Mr. Kelly have looked at this and have told us—or, at least, have told the government, and it has been reported to us—that there could be a long test of economic strength. That, of course, means that severe consequences would flow to third parties—namely, the Canadian public—and that is unacceptable. I agree that we probably ought to have a bill, but I am not so sure whether it is not too soon. I just say that the government has done a very poor, incompetent job of drafting the bill.

● (0940)

Hon. Hazen Argue: Honourable senators, I wish to say that I believe that this bill should not be before Parliament at this time. In my view, it was brought in precipitately. In fact, I believe that there was not really an effective strike going on, that it was a rotating strike, harassment, a slow-down—but it was not a full strike.

What disturbs me most about the government's course is that I feel it has taken a position which opposes the whole principle of collective bargaining that has been built up in this country over many years. It seems to me that for collective bargaining to work it is necessary that when there is a dispute, when there is a strike, or a rotating strike, a strike that was not holding up the total movement of mail—as a matter of fact, postal officials and others have said that the mail was moving in record quantities—there should not be too much haste; and, therefore, I feel that this legislation has been introduced far too soon. I have a suspicion that the government is following a course against the whole principle of collective bargaining. Collective bargaining, to be collective bargaining, requires that when there is a dispute the two parties to the dispute should be allowed, in a free and democratic society, to have a strike or a lock-out, and that there should be a period of time during which the workers may not be getting paid and the management may not be receiving an income and the company may not be receiving revenue—they suffer on both sides for a period of time—but then they start making offers and to bargain in good faith.

Therefore, I believe that a great mistake has been made, that it is going in the wrong direction, when the minister, even before the strike took place, said, "If there is a strike, back-to-work legislation will be brought in very quickly."

I still cannot fathom it.

Some Hon. Senators: Hear, hear!

Senator Argue: When we have a government that is condoning and supporting a strike-breaking mechanism, training so-called "replacement workers" long in advance, getting them all set to come in and break the strike—and at pretty high wages, I guess, from what I have read in the press. They are guaranteed wages whether they work or not, so long as they cross the picket line. I believe that to be a very bad thing. I believe the government should keep its hands off that kind of stuff. The government obviously supports the Canada Post Corporation in that kind of attitude. If the government wants something done, then they are replacement workers; if people are more neutral, they are strike-breakers; and if you are on the side of labour, the words are, "They are scabs." That, in itself, is a very disturbing feature. It is vitriolic and it threatens violence.

Honourable senators, I am a farmer. I am not a labour official. I am pleased that I played some role in seeing a union established in Regina when settling the dispute involving the Co-op Oil Refinery there. The man who became the leader of the union was a close personal friend of mine. I worked there for a summer, and I believe that I have some idea of how working people think and react.

Senator Murray: Well, it's equal.

Senator Argue: The minister says, "Well, it's equal." I guess that if you are a big official with Canada Post and you had to pay a fine of $1,000 per day, perhaps you could digest it for a while; but if—

Senator Murray: But they lose their job.

Senator Argue: —you are working for $13 or $14 per hour, of course, that would be different; but it's nice to say that they are equal!

Senator Murray: They lose their job, senator.

Senator Argue: The Leader of the Government can go on and quote, but I am saying that this bill should not be before Parliament. The Leader of the Government can make his speech later. He does not have to gurgitate from his seat. He can get up and make his speech in time. You might convince Mr. Mulroney that you are a great cabinet minister and a great servant of the Prime Minister—

Some Hon. Senators: Hear, hear!

Senator Argue: —but this legislation is anti-democratic, it is punitive, it is not helpful to labour relations in this country.

Of course, the Canada Post Corporation is out for privatization. Workers are concerned, and I believe rightly, about their jobs, about job security. The word "privatization" was just a new label, and if they received equal treatment, that would be one thing; but the workers are afraid that this government and other Conservative governments like privatization so that they can knock down the wage levels of workers. Perhaps they can get the wage levels down, if the workers are not unionized, if they are part of privatization, to something close to the minimum wage—and we do not need that in this country. I have read that the Canada Post Corporation wants to get rid of approximately 4,000 post offices—"wickets," as they are called—in urban areas, and that is privatization. Privatization is going on in my province. In the little village of Candiac they are ready to privatize that post office; and, when that is done, the postmistress has been offered one-third of the income that she now receives as the postmistress. That is privatization! People went to a meeting and came out of that meeting weeping and upset. That is part of the system. That is what this government is condoning, and I am opposed to it.

I do not believe it is necessary to promote the idea of replacement workers, to promote that kind of confrontation where we have to have busloads of police circulating around peaceful picket lines. That, in itself, promotes violence. I was the minister in charge of the Canadian Wheat Board when a strike occurred at Thunder Bay. Many farmers said, "We want to go down and take over. We will run the place, we will go down and handle the grain." I thought it was a mistake for them to take that attitude, and responsible farm leaders agreed. We felt that it would create violence and ill-will. We believed that the strike would end some day, and that when it did end the workers would again handle the grain. The dispute was settled after some time, and when it was settled the workers went to work with enthusiasm and goodwill and handled more grain in the balance of the year than they had ever handled before in a 52-week period.

So, I believe there is much to be said for good labour relations and for keeping up the morale of the workers, and that there is much to be said against the kind of action now being taken by the government. The government says that the people of Canada are tired of strikes, tired of this and tired of that. I guess that if you were trying to govern the country all the time by popular opinion polls you might be going in a certain direction, and it might not be the correct direction. Sometimes there have to be people who stop and say, "There is a principle of collective bargaining here, and there should be a period in which that collective bargaining process is allowed to function." I realize that the bargaining period cannot go on for ever, and the Post Office cannot be totally shut down for a long time.

● (0950)

I can remember the longer strikes. My gosh, people were starting to laugh, because they were getting their mail anyway by other means. They were starting to say, "Maybe the service has improved!" So the severity was not all that great. However, this government thinks that there is a mood in the country of anti-labour, anti-union, and they want to cash in on that mood by creating circumstances that really did not exist before they brought in the legislation. The government criticizes the CUPW leader, Jean-Claude Parrot. Mr. Parrot has a history of being an aggressive leader, who has sometimes done things that some would greatly disagree with. However, I cannot say that in this particular situation Mr. Parrot has been unreasonable, that he has supported violence, or that he has even instigated a total strike. A total strike has not occurred. Mr. Parrot has acted constructively.

Some time ago I went to a postal terminal in Ottawa and walked the picket line with the workers who were there. The mood was not a violent one; the mood was rather gentle. The police were present and buses went by full of riot police, but no offensive words were spoken when I was there. They made some body gestures to the people on the bus, but they did not take any violent action. I had a long talk with Louis Lang, who is a shop steward and lives in Aylmer. I thought he was very reasonable in everything he had to say. I spoke with Roland Beauchamp, who lives on Maitland Avenue, and Mike Tang, who lives on Prince of Wales Drive. I talked with other people present. These people have families. They do their jobs to earn their wages, but they are worried about security. The workers of this country number in the millions. Corporate managers number in the thousands. As far as I am concerned, if you want a country to function and if you want efficiency, you need the goodwill of the working people of this country. This kind of legislation will not generate goodwill. When the mediator has the powers of an arbitrator, you do not have mediation at all. If the parties do not accept mediation in the first few days, they will have to take arbitration later. Mediation should be neutral, without the power of arbitration. I think it would have been more in the interest of this country if the government had not brought forward this legislation as quickly as it has. The government should have allowed the collective bargaining process to proceed.

I believe that the government is anti-labour, is anti-union, and is trying to smash unions by privatization or by any other means. The government's philosophy is that if the country is to get going again economically, you have to get wage rates down, you have to destroy the power of the unions so that the bosses can manage and run their corporations as they like. If the government can destroy CUPW today, the government can destroy the Canadian Union of Public Employees and the Public Service Alliance tomorrow.

Senator Frith: And the government!

Senator Argue: The United States is an example. Industries there are moving out of unionized areas and are going to the sunbelt where unions are not as strong or are non-existent. It is the wrong way to go. The correct way to go is to have in the country a partnership of labour, management and government, not a government in office that is anti-union. It has been said very often in the House of Commons that this government would appear to be here on a temporary basis. Never has a federal government been so low in the public opinion polls. Never before has a government deserved to be so low in the public opinion polls. In my judgment, this kind of legislation will ensure that they stay low in the public opinion polls, in spite of the fact they think they are leading a cheering nation that wants this legislation. What the people of Canada want is a government that is fair, that recognizes collective bargaining, that respects the process, and that allows a mediator to mediate without being armed with the powers of an arbitrator, and allows a strike—and in this case there has not been a strike—to proceed for more than a few days before taking unnecessary, anti-union, anti-democratic action.

Hon. Charles Turner: Honourable senators, once again, we can say that the Minister of Labour will never make the World Series. He did not win the divisional penant this summer. In three games he struck out every time at bat, but he did get a walk on the postmen's strike. The honourable senator who introduced this bill stated that he was tired of strikes. We are all tired of strikes, but perhaps if the postal workers and all workers in Canada were lawyers, they would have a closed shop. They would set up their own wage scale and benefit plans and, above all, have their own court system to try members who violate the rules and regulations of the system. They would use their clients' trust funds for their personal use when they get a little short of money. We read every day in the *Toronto Star*, the *Globe and Mail*, and all the papers in Canada, about lawyers getting into trouble. We would all like such a job. We would never get into trouble with our federal members trying us, because, like lawyers, we would have a society where we try our own members. It is rather like putting a fox in the chicken coop. The unions would love to be in that position.

Senator Murray: I am enjoying this.

Senator Frith: We lawyers are used to being downtrodden and despised, a crown of thorns again pressed to our heads!

Senator Turner: Labour relations are nothing more than human relations. Many years ago, as an MP, I saw how post office officials operated the Post Office. In the main post office in London, Ontario, was a group of lady casual workers. All their bosses said that they were the best workers they had ever seen. They would do eight hours' work in four hours as compared to the regular postal workers. A new boss came in, right out of university. He was going to clean house. He was going to show everybody how to operate this post office. The first thing he did was lay off the casual workers. About two weeks later he brought them all back at half the pay. I am talking about the university grads who were management.

Senator Argue: An MBA from the U.S.A.

Senator Turner: These workers called me, and I went to work on the case. We got them all back to work, and for a Christmas present we got all their back pay. They were very happy people.

My good friend Bill Kelly worked on the railroad, like I did. If you want to destroy a postal service, Bill and I can tell you how to do it. A passenger train carries freight, express, passengers and mail. The railroads provided Canada with a very efficient mail service for many years. Then they decided they would get rid of passenger trains. I will tell you how they got rid of them.

I ran passenger trains between London and Toronto, London and Windsor, and London and Clinton, Ontario. We carried passengers, express and mail. You are ordered to report for work at 8.30 a.m. You go to the station and sit there for one hour and 45 minutes. You go in and talk to the dispatcher, and he says: "You will go when I tell you to go." So you leave one hour and 45 minutes late.

• (1000)

The further north you go the later you become. The mailman is down there, expecting the train to be on time. The mail that he picks up in the morning is delivered in the afternoon. The mail is eventually a day late when the train comes back to pick it up. The mailman gets mad; he complains to the Post Office. The Post Office complains to the railway. So they put on trucks. The mail service is lost by the railway, and eventually they lose the express service. The railway company can then walk into the CTC and say: "We lost $200,000 on this train. Take it off." That is how you destroy the mail service!

For many years mail was sorted on moving trains across this land. There were mail clerks that were experts at throwing letters into the various bags. When the train stopped at a station, they dumped the mail off. In those days over 60 per cent of the mail did not go into the terminals. It was sorted on the moving trains.

We now have a case here where hard-working people are concerned about their jobs. Everyone is concerned about his job. We had this same situation of technological change on the railway, but we did not lose too many employees. The situation is, if you are a worker you will certainly protect your wife, your family and your home. What is wrong with that? That is democracy. That is why we have 100,000 people lying in Flanders Field who lost their lives for democracy. That is the

type of government we are supposed to be living under, but, apparently, it does not apply in this country.

I have lived under four Tory governments. I never worked harder or had less. I remember my dad taking me down to Massey Hall in Toronto to listen to this great new Canadian, R.B. Bennett. We were going to have a lunch bucket under both arms. In less than a year both buckets were gone.

Senator Argue: And in four or five years he was gone.

Senator Turner: When my good friend John Diefenbaker was elected, I was on a good day job. Six months later I was back working nights. That is Tory action in this country.

There is nothing wrong with rotating strikes. It is a new system. The mail was getting through. Even the Post Office said 80 per cent of the mail was going through. That is good. But even before the rotating strikes started the Post Office officials had ads in the paper. They were going to hire scabs; they were going to hire strike-breakers. No wonder the employees went on strike.

I say to this government that you have done a very poor job with labour relations in this country, and labour will take care of you in the next election, there is no doubt about that. Even in the House of Commons and in the Senate the employees are fed up with this government. So take it and run with it, because this will be your last chance for many years.

Hon. Paul Lucier: Honourable senators, I want to make a few comments about Bill C-86. I do not think anyone quarrels with the objective of Bill C-86 since it is to restore the postal service, and I think we all want to see that happen. However, the objections being raised both in this house and in the other place are to what Bill C-86 does in going beyond restoring the postal service. I think it is one more example of the inept, dishonest manner in which the government has been governing this country since they were elected in 1984.

If we look back a little bit, we find that when Bill C-22 was introduced we were dealing with amendments to the Patent Act that were intended to protect the drug industry and encourage research and development in Canada. Those were objectives that people were in favour of. We had the Eastman report that said: "This is good for Canada; it should be done." So what happens? We have a government that brings in Bill C-22, a bill that has turned absolutely everyone in Canada against the amendments to the Patent Act that were brought in. The situation now is that we have people who are in favour of research and development being forced to vote against Bill C-22. We have people who wanted to see implemented the recommendations of the Eastman report, which would have done some of the things that were required in Canada, and who now have to vote against Bill C-22 because of what this government has done. Instead of introducing legislation that followed the recommendations of the Eastman report, or something close to it—

Senator Murray: When do you think that vote will take place, by the way?

Senator Lucier: You had better hope it never takes place. However, honourable senators, my point—

[Senator Turner.]

Senator Argue: When does Ronald Reagan want it to take place?

Senator Murray: That is your decision.

Senator Lucier: The Special Senate Committee travelled the country and heard very clearly from Canadians what they think of Bill C-22.

We then move on to Meech Lake. The objective of the conference at Meech Lake was to bring Quebec into the family, something that everyone in Canada wanted to see happen. So what happens? We end up with the Meech Lake Accord that, although it brings Quebec into the Constitution, sells out the Yukon; sells out the Northwest Territories, and sells out the rights of women. The aboriginal peoples have been absolutely sold down the river, and you have a whole group of individuals who—

Senator Murray: Is the Liberal Party, then, opposed to Meech Lake?

Senator Lucier: I really do not have a lot of difficulty with the Leader of the Government in the Senate objecting to the things I am saying. He has had a very serious part to play in what has taken place. In fact, as the minister responsible for federal-provincial relations, he should be ashamed of himself, and not enjoy the things I am saying.

Senator Murray: Mr. Turner supports it.

Senator Lucier: That is up to him; that is not up to me.

Senator Murray: I see.

Senator Lucier: But again, honourable senators, my point is that in Canada the large majority of Canadians support the objectives of the Meech Lake Accord, including Mr. Turner and everyone in the Liberal caucus. However, in the same fashion as in the Conservative caucus and in the NDP caucus, we end up with a group of people who cannot support it, and are placed in the position of voting against the inclusion of Quebec because of the other things that have taken place when, in fact, they really want Quebec to be part of the Canadian family. That is just another piece of inept Tory deceit. That is what we are dealing with.

Senator Frith: Hear, hear! You've got the word.

Senator Lucier: Honourable senators, we then move to free trade, and we are into the free trade debate one more time. I would think that 80 per cent of Canadians are in favour of freer trade with the Americans, but because of the sneaky way in which this deal was done, again very much like Meech Lake—

Senator Murray: You are going to vote against it?

Senator Lucier: We are not only going to vote against it; all Canadians will not only vote against it; they are going to be scared stiff of ever seeing any freer trade with the Americans. You have not only prevented yourselves from doing it, you have prevented anyone else from doing it in the future. In my opinion, the free trade deal is another example of the way in which this government governs.

Honourable senators, let us look now at Bill C-84, the refugee legislation.

Senator Murray: We are talking about Bill C-86.

Senator Lucier: Everyone in Canada that I can think of was opposed to illegal refugees coming into Canada in the way in which it was happening. Everyone wanted legislation that would prevent that from happening in the future. So what happens? The government brings in Bill C-84, a bill that not only will not accomplish that objective but will turn us into a country that will be the laughing stock of the world because of the way we treat refugees.

Honourable senators, the list goes on and on. My point is that, again, I have no problem with the objectives of Bill C-86 in respect of restoring the postal service.

• (1010)

Why didn't you leave it at that? Why do you have to bootleg these other things in, which make those who would otherwise be supporters of Bill C-86 vote against it?

Senator Murray: What are those things that you object to?

Senator Lucier: They have been outlined very clearly. If you do not know that by now, honourable senator, I do not think you will ever know it.

Senator Murray: What part of the bill are you referring to?

Senator Argue: You're getting as bad as Senator Flynn!

Senator Lucier: Honourable senators, some of the postal workers and some of the leaders in the postal unions are very militant. Quite frankly, I do not agree with the way they do things, and I am in full support of a piece of legislation that stifles some of their activities. I have no problem with that.

Senator Murray: Good!

Senator Lucier: However, the majority of the inside postal workers are good Canadians, who are trying to earn a decent living and a decent wage. I do not see anything wrong with that. The majority of them, in fact, are women—many of them are single women who really need the job. They want to go back to work. There is general support for anything that would make them go back to work.

I think the government should take a look at the policy they have concerning replacement workers. As Senator Argue has said, this is a very distasteful policy, especially for a government to be following. I could understand Chrysler doing this, but the Government of Canada?

If the government is opposed to strikes, why can it not be honest and say, "We are opposed to strikes in the Post Office." Why does the government not declare the Post Office an essential service and introduce legislation that will bar strikes?

Senator Murray: Is that your policy?

Senator Lucier: I am asking you if that is your policy.

Senator Frith: It is your policy, but you will not do it openly.

Senator Lucier: If it is your policy, why don't you do it? If that is what you think, why don't you introduce legislation, and then we will tell you how we feel about it. Introduce legislation. You are the government; your job is to govern.

Senator Murray: We have introduced legislation.

Senator Lucier: No, you have not.

Senator Frith: It is your policy, but you do it in this sneaky, underhand way.

Senator Lucier: Honourable senators, this is just a continuation of the other things I have described. It is not what this government is doing; it is the way they hide under the table and the way they do things that has turned Canadians absolutely against them. If you do not believe that, check the polls. You will find that you have a 23 per cent standing in the polls, and you have that standing for a good reason. You are there because you are dishonest. You do not know how to put things up front and deal with Canadians up front.

Senator Frith: Hear, hear!

Senator Lucier: In closing, I just want to say that, as far as this piece of legislation is concerned, I have no objection to what Bill C-86 wants to do as far as it deals with restoring postal service. Generally speaking, Canadians want postal service and Canadian postal workers want to be back at work. I object to the sneaky, underhand way that this government continues to govern. They are going to pay for it; there is no doubt about that. The polls indicate what people think of the government for this type of behaviour.

Senator Balfour: Honourable senators—

The Hon. the Speaker *pro tempore:* I wish to inform the Senate that if the Honourable Senator Balfour speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Balfour: Honourable senators, I move that the bill be referred to Committee of the Whole.

Senator Argue: There will have to be second reading.

Senator Balfour: I have nothing to add.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Balfour, seconded by the Honourable Senator Macquarrie, that this bill be read the second time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Senator Argue: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say "nay"?

Senator Argue: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "yeas" have it.

Senator Frith: On division.

Senator Argue: I would like to have a recorded vote.

Senator Frith: On second reading?

● (1020)

Senator Argue: I would like to have a vote on second reading. If there are no other senators who wish a vote, I cannot call it myself. However, I want a recorded vote.

Senator Frith: Wait for third reading. We will have a recorded vote then.

Senator Argue: I think it is better to have a vote on second reading because second reading deals with the principle of the bill. When we get to third reading it is finished. It is too late.

Those are my reasons why I think we ought to have a recorded vote. If there is no other person to call for a vote, there will be no vote.

Senator Frith: We promise we will have one. There will be a recorded vote.

Senator Turner: I call for a recorded vote, too.

Senator Argue: My colleague and I are calling for a recorded vote.

And two honourable senators having risen.

The Hon. the Speaker *pro tempore:* Please call in the senators.

● (1030)

Motion agreed to and bill read second time on the following division:

YEAS

THE HONOURABLE SENATORS

Anderson	MacDonald (*Halifax*)	Rossiter
Atkins	Macquarrie	Sherwood
Balfour	Marshall	Simard
Bielish	Murray	Steuart (*Prince Albert-Duck Lake*)
Cochrane	Nurgitz	Tremblay—22
Denis	Olson	
Doody	Robertson	
Doyle	Robichaud	
Lafond		

NAYS

THE HONOURABLE SENATORS

Argue	LeBlanc (*Beauséjour*)	Lucier
Corbin	Lefebvre	Turner—7
Frith		

[Senator Frith.]

ABSTENTIONS

THE HONOURABLE SENATORS

Kenny	Molgat	Rousseau—3

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. R. James Balfour: Honourable senators, I move that the bill be referred to Committee of the Whole and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Balfour, seconded by the Honourable Senator Macquarrie, that this bill be now referred to Committee of the Whole.

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

Motion agreed to.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Molgat in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-86, to provide for the resumption and continuation of postal services.

Senator Murray: Mr. Chairman, I suggest that if it is the committee's pleasure, the Minister of Labour, the Honourable Pierre H. Cadieux, be invited to take part in the deliberations of the committee.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Pursuant to rule 18 of the rules of the Senate, the Honourable Pierre H. Cadieux, Minister of Labour, was escorted to a seat in the Senate chamber.

Senator Murray: Mr. Chairman, there is hardly any need to introduce my colleague, the Minister of Labour, the Honourable Pierre Cadieux, who is before the committee for the third time in recent months. Mr. Cadieux is the member of Parliament for Vaudreuil and has been Minister of Labour since June 1986. He is accompanied, as has been the case in the past, by the Associate Deputy Minister of Labour, Mr. Bill Kelly. I believe the minister has an opening statement, Mr. Chairman.

• (1040)

[*Translation*]

The Chairman: Mr. Cadieux, I wish to welcome you in this house. If you have a statement to make, you have the floor.

[*English*]

The Hon. Pierre H. Cadieux, Minister of Labour: Thank you, Mr. Chairman.

Honourable senators, as my colleague, Senator Murray, has indicated, this is my third visit to the Senate within a period of 11 months. One would, perhaps, be tempted to point out that this is a confirmation of what was earlier said in this house, that labour relations in Canada are not that good. But, of course, one really has to look beyond the major cases that make the headlines to see what labour relations are all about in Canada.

I am pleased to inform this house that, notwithstanding the fact that this is my third visit within a period of 11 months, more than 90 per cent of all collective agreements in Canada have been arrived at without one single day of strike or lockout in the past year. Consequently, the labour relations system and the negotiation system works very well in most cases. Unfortunately, there are cases such as this one where Parliament has to intervene.

I can assure honourable senators that I do not wish to transform the Parliament of Canada into a labour court. I do hope that the parties involved in the various negotiations in the country will not abdicate their responsibilities, as has, unfortunately, happened in this case, and will do everything possible to come to a negotiated settlement. I could point out that as of the day before yesterday a settlement has been reached in the St. Lawrence Seaway negotiation, and that is an indication that the system works.

I would be pleased to answer senators' questions.

Senator Frith: Mr. Minister, is it not correct that at the time this legislation was introduced mail was being delivered and the strike was not of general application?

Mr. Cadieux: I heard earlier this morning in this house some senators saying they had read in the paper that the mail was being delivered at 80 per cent. I have read the same news story, senator, so I presume that one could conclude that the mail was being delivered. Whether the strike was rotating, general or total, I suppose that would depend upon which part of the country you look at. I would point out that in Montreal, where I am from, there was a general strike at the post office, whereas in other parts of the country it was a rotating strike.

Senator Frith: Did you realize at the time you introduced the legislation that it would provoke a strong reaction from the union?

Mr. Cadieux: What we realized at the time of the introduction of the legislation, honourable senators, is that we were in a dead-end situation. I would like to go over the various facts of the dispute.

As senators are aware, the parties had been negotiating directly for 15 months. Then they negotiated with the help of a conciliator, then with the help of a conciliator-commissioner, after which a report was handed down by Commissioner Foisy. Upon publication of the report of Commissioner Foisy both parties made statements. I should like to quote what Mr. Parrot is reported to have said upon the publication of Commissioner Foisy's report:

> Commissioner Foisy made some recommendations that reflect our demands, some recommendations that reflect the employer's, some others that go half way for both and others which are not addressed. This report, therefore, sets the stage for serious negotiations, but does not necessarily provide the basis for an agreement.

The parties went back to the table with that report after making those statements, and I must admit that the Post Office made similar statements and they were getting nowhere.

Sensing that the parties were getting nowhere, and that there might be an escalation in the various procedures they were both using, I decided to involve my associate deputy minister, Mr. Bill Kelly, whom I think all senators know. I do not think I have to go through the curriculum vitae of Mr. Kelly with respect to labour relations in this country.

Senator Frith: No.

Mr. Cadieux: Mr. Kelly was sent to meet with the parties to assess the progress that had been made since the release of Commissioner Foisy's report, how far the parties were apart, their willingness to compromise, and whether, in his view—acknowledging his qualifications, capability and knowledge in this sort of situation—the dispute could be resolved through the collective bargaining process, short of a protracted strike with all its inherent dangers.

Mr. Kelly reported to me that in his opinion there was very little possibility, not to say no possibility, that this dispute could have been settled at the bargaining table without a protracted, disruptive work stoppage, with all its inherent dangers. I informed the parties at that point that I encouraged them to come to an agreement, but that I thought they would not be able to do so, and that we would not tolerate a protracted, disruptive work stoppage in Canada, and that we would intervene if they did not meet their responsibilities and come to an agreement. Consequently, unfortunately, I introduced the legislation.

[*Translation*]

Senator Frith: Mr. Minister, which clause contains a provision for a five-year suspension of union officers or representatives?

Mr. Cadieux: Clause 11, Senator Frith.

Senator Frith: Our Liberal colleagues in the other place moved several amendments, and perhaps I may recall what those amendments were and ask you to explain why you refused to accept them.

If I am not mistaken, the first amendment concerned this particular provision. Is that correct? Liberal members in the other place suggested dropping this provision.

Mr. Cadieux: I believe they wanted me to drop clause 11 from the bill. Apparently, a motion to withdraw clause 11 is out of order, according to the procedures of the House of Commons.

First I was asked to drop clause 11, and failing that, Mr. Guilbault, the honourable member for Saint-Jacques and Liberal Labour critic, moved an amendment that would reduce the period from five years to three days, if I remember correctly.

Senator Frith: Did you agree?

Mr. Cadieux: No.

Senator Frith: Why not?

Mr. Cadieux: There was of course a lengthy debate in which Liberal and NDP Members were particularly active. My main reason for objecting—

Senator Frith: You objected to a reduction but not to eliminating the clause.

Mr. Cadieux: I objected to the proposed reduction as well as to withdrawing the clause altogether. In fact, a reduction was proposed because the clause itself could not be removed, and reducing the period from five years to three days would have substantially the same effect.

You will agree that a three-day period means that practically speaking, the clause has ceased to exist.

Consequently, we made the following point—but incidently, I would also like to clarify something. Unfortunately, it is not the first time this clause has been included in a bill. In fact, this is the second time the clause has been used. The first time was in Bill C-24 which concerned ports in British Columbia, when an identical clause was incorporated in the bill.

In fact, this particular clause has already been the subject of a fairly long debate in this house. At the time, the amendment was passed because, I suppose inadvertently, the bill originally indicated a suspension of employment in the capacity of officers or representatives only in the case of the union. In the other place, we passed an amendment to make the clause apply to the employer as well.

In fact, the clause as passed in Bill C-24 now appears in Bill C-86.

The reason for inserting this clause in Bill C-24 was more or less the same. The history of negotiations between the parties justified inserting such a clause, considering the very real possibility that the bill would otherwise be unenforceable.

Need I remind you, honourable senators, that in 1978, after similar legislation concerning the same parties was passed by the Liberal government at the time, there was a case of failure to comply with the legislation in question, with the result that one of the union leaders spent a few months in prison.

Senator Frith: You say Bill C-24 was passed in 1978?

Mr. Cadieux: In November 1986.

Senator Frith: That was after the Charter of Rights and Freedoms, of course.

[Senator Frith.]

Mr. Cadieux: Yes.

Senator Frith: Was any consideration given to the Charter of Rights and Freedoms and how it would apply to this provision? If I am not mistaken, the subject was never brought before the courts, in this particular context.

Mr. Cadieux: To my knowledge, this particular clause has never been subject to a ruling by any court whatsoever. Fortunately so far, the legislation has been complied with. I hope that will also be the case with this bill and that we will never have to test the clause before the courts.

However, you know better than I do that all bills tabled in the House are referred to the Department of Justice, which determines whether they meet certain standards, including the provisions of the Charter of Rights and Freedoms.

Senator Frith: Thank you Mr. Speaker. I will yield the floor to Senator Argue and to other senators who may wish to put questions to the minister.

● (1050)

[*English*]

Senator Argue: Honourable senators, I have a question for the minister. I have already said in my speech on second reading that I felt that the government acted precipitately, that it did not allow the period of time for collective bargaining that I believe should have been allowed. It is one thing to say that there were many weeks or months when they could have been settling this, but the rotating strike existed for only a short time, and I personally was surprised that the minister should have announced early that if the workers and the corporation did not reach an agreement quickly there would be back-to-work legislation—because that very announcement removed any chance for a negotiated settlement. When the parties know that the government is going to interfere, then the easiest thing they can do is to stop the collective bargaining process.

I therefore want to make my position clear. I believe that the government was mistaken, that this is bad legislation, that it is anti-labour legislation, that it will not help future labour relations in this country. I believe that labour will get its back up and will oppose this kind of legislation. I ask the minister: What is the thinking of the government, what is his own thinking, and when he announces that there will be immediate back-to-work legislation, does he not think it will torpedo the whole process of collective bargaining?

Mr. Cadieux: Senator, I wish to point out particularly that I sincerely believe in the collective bargaining process. If you look at the number of bargainings in which the federal jurisdiction is involved that occur in Canada over a year, particularly with respect to the Mediation and Conciliation Department of Labour Canada, you will notice that the numbers are there to show. Earlier I heard people talking about polls, but if you accept certain numbers then you have to accept all numbers; and we have numbers to show that the system works. We are there to encourage, help and enhance this particular system.

As I said before, honourable senators all know the credibility and knowledge of my associate deputy minister, who is my principal counsellor in these issues. In this case, if I did inform the parties of my intentions, it was because there was no other alternative. There was no other alternative, after going through 15 months of negotiations. I agree with the honourable senator that it is not a question of 15 months being not enough or too much. Nevertheless, we have spared no effort in this case, as we spare no effort in other cases, and as we have spared no effort in connection with the St. Lawrence Seaway dispute, which was settled two nights ago with the help of the federal Mediation and Conciliation Department of Labour Canada. But in this case we concluded—I concluded—after obtaining Mr. Kelly's assessment, that there was no way that this particular dispute would be settled through the ordinary collective bargaining system without a protracted, disruptive work stoppage.

I should like to make a parallel here, senator. I was accused in the LCUC dispute of not moving fast enough and of sitting back and watching violence on the picket lines. We were told that the government was not doing the right thing, that it should step in and do what it had to do. We did not do it at the time because we had the conviction—or, at least, a fair degree of conviction—through the good auspices of my principal counsellor and mediator in that case, that the system was workable. But that is not the case in this particular dispute.

Senator Argue: Well, I can see the advantage of having a mediator at an early stage of a dispute. I will not try to rehash the other situation, but if my memory serves me correctly, it was the feeling among some that a mediator should have been assigned to that dispute at an earlier date.

I have the greatest respect for the judgment of your deputy minister, Mr. Bill Kelly, but no one is infallible in forecasting what is happening in a labour dispute; no one is infallible in forecasting the future. So it was a very able person, a person who has a very good track record, who gave you that opinion.

It is my judgment that by bringing in this legislation immediately—I call it "immediately," before there was a general strike—this legislation denies workers the right to strike. We may not like the idea of a strike; we may think it is inconvenient; the public may not like it, but show me a country where there is no right to strike and I will show you a country where there is no democracy.

That is what really disturbs me, what really galls me. I believe that this legislation is anti-labour, anti-democratic, and if it is a consistent practice of this or any other government it will, in fact, outlaw strikes—and I do not think that should happen.

Let me comment on what might have happened. One scenario is that there could be a protracted debate, and there could be violence. But another scenario might be that the labour leadership has learned something over the years, that perhaps it senses that the mood of the public is different. It must sense that the mood of this government is different. By God, it is a lot different from that of a Liberal government which more or less let them knock their heads together and let each side suffer for a while—and it is admitted that the public would suffer at the same time. But that is part of the sacrifice that everyone pays for the free democratic process of collective bargaining. But this government shut it off, it stopped it, and there was no chance—and that is what I object to.

If the government goes on with this kind of thing, then it has all of the elements of turning this country into a dictatorship. Some honourable senators can snicker, but I would remind them that there could be an election within the next 12 or 15 months, and this government does not have a hope; yet this government proceeds to alienate everyone—labour, the farmers. The government promised farmers $10 per bushel for a two-price system for wheat; it gave them $7, and then took it away—and so on and so on. I do not expect the minister to agree with me, but I repeat that, in my opinion, this is very bad legislation. Another thing I object to, and I object very strongly, is a crown corporation—and I believe the government is condoning it—that has as a policy the hiring of replacement workers to break strikes. You can call them replacement workers, strike-breakers or, in the language of the labour movement, scabs. I am a farmer. I am not a labour expert, and I do not belong to a labour union. But, by God, I have been down to Cape Breton, which some would call the seat of the labour movement of this country. They have experienced all kinds of situations in the past such as companies bringing out goon squads and strike-breakers.

• (1100)

Senator Murray: Under Liberal governments, as it happens.

Senator Argue: The honourable senator can get into playing that kind of political game if he likes. I think that there are some things that are more important than citing action by a given party in the past. I say that the record of Liberal governments on labour over the years is a proud record. It does not contain the shameful kind of tactics that are being undertaken in this instance.

Before the honourable senator interrupted I was about to say that this kind of strike-breaking action was originally undertaken to wreck the labour movement, to stop it from being formed. Now this government is condoning a return to strike-breaking.

I joined a picket line before one of the post offices in Ottawa. While I was there some buses with replacement workers came along, and the police were there. The workers did not get upset. They did some fiddling to indicate that they were not too happy. They said things to the effect, "You guys go back to sleep and leave us alone." The mood of the workers on the picket line was that they were frightened. They were not militant in the sense that they were threatening what they would do. They talked about their futures and their families. These are the things they are worried about. They do not trust Canada Post with its privatization policy. They have no trust in what is going on. They fear that they will lose their jobs and that if they have to take new jobs they will be paid something pretty close to the minimum wage.

My question is this: Why does the government condone a crown corporation undertaking strike-breaking activities, which I think are absolutely repugnant? We have had railway strikes and other labour disputes in this country. I do not remember the railways trying to hire replacement workers and providing them with training months in advance. I do not remember crown corporations ever taking such action. Why should it be necessary? When the Liberal Party assumes office after the next election, I hope that it will correct the sad state of affairs that allows crown corporations to engage in premeditated strike-breaking of the worst possible kind. That is one of the elements in this situation.

Mr. Cadieux: With respect to the mediation process, again, obviously, it is a judgment call. As I indicated in the other place earlier this morning, some people will agree and some will disagree as to whether or not the right judgment call was made. Of course, each judgment call is made on the basis of the particular circumstances. In this case, after following the history of the negotiations of the parties involved for 15 months, after hearing the statements of both parties with respect to how the negotiations were going, and after wondering would they go anywhere upon hearing statements from one of the parties about whether or not a mediator should be appointed—and I am not one to follow necessarily the advice of either party or both parties—we had to take some action.

Unfortunately, I do not have the exact quote with me, but the honourable senator referred to the fact that a mediator was requested in the House. As a matter of fact, the request was made by the honourable member for Saint-Jacques, the Liberal Party labour critic. He asked that a mediator be appointed. At the time the honourable member asked me to appoint a mediator both the president of the union and the vice-president of the union said publicly that they were not prepared or ready to sit down with a mediator. These comments are documented. They were made by Mr. Tingley, first vice-president of CUPW, who suggested that perhaps in a month or so a mediator could be appointed. Mr. Parrot picked up the same argument that I used in the LCUC strike, that timing is everything, and that you appoint a mediator when you think the parties are prepared to compromise. In this particular case, and according to my judgment, after receiving very good advice that, unfortunately, is not infallible—but Mr. Kelly is not wrong too often—I made a judgment call and took the action I have taken.

Senator Argue: We do not agree, so I do not see much point in carrying this line of questioning further. However, I would ask the minister to comment on the strike-breaking activities that have been undertaken by the Canada Post Corporation. The newspapers say that for months you have been training replacement workers. If that is not provocative action, if it is not insidious action, I do not know what is. I am disturbed that the government would condone—and it is probably supporting it, too—this kind of action, and I think it is a grave situation.

Mr. Cadieux: Honourable senators, this point has been argued at length in the other place by various members of all parties, including the honourable minister responsible for Canada Post. I shall just repeat what the minister has been saying in the House and outside the House in reply to various questions to that effect: The crown corporation, operating as a private business, has hired some replacement workers, as they are referred to in some circles, which is not illegal in this country.

Senator Argue: That is not a satisfactory answer. I can understand the Minister of Labour. He is quoting what his colleague has said, which is perhaps a nice way of saying, "I do not agree with what the hell he is saying, but I do not dare to disagree with him in public." It is a very bad move. It should be opposed. I cannot for the life of me see how the Canada Post Corporation could think that it would be seen as going into a reasonable collective bargaining process if, before the strike, lockout or rotating strike even takes place, they have their goon squad or scabs trained to come in as replacements. These scabs are Canadians. They are just people out of work. If you guarantee them up to $159 per day whether or not they work, it looks like big wages to them, but if you bring these people in, smash the union, and go on to privatization, the workers who are presently employed as well as the replacement workers will all be receiving the minimum wage.

I say that the Minister of Labour has failed to give an effective answer on behalf of the government. I think the answer is that this kind of practice is abhorrent and undemocratic. It is likely to lead to less productivity on the part of labour. The labour movement of this country is composed of Canadians like all other Canadians. They want to do a job, they want to be productive and they want some consideration. This government, with its anti-labour pitch, is condoning replacement workers by saying, "Yeah, its legal." I never said that this action was illegal, but I think it is a very bad labour practice. I would be highly surprised if the man to whom you referred earlier, your associate deputy minister, said that Canada Post was going in the right direction by training and hiring replacement workers and then asking the police to protect them as they cross picket lines. In my judgment, the government is fomenting labour violence by its action. It is not saying that there should be labour violence. On the contrary, it is saying that there should not be labour violence, but it is allowing this situation to arise and it is condoning it. The minister in charge of Canada Post obviously condones and supports it. That kind of action is aimed at destroying the labour movement; it is the kind of action that is undemocratic and is likely to lead to generally less productivity from labour. This is not a constructive thing to be doing.

● (1110)

Mr. Cadieux: Since I quoted my honourable colleague, the minister responsible for Canada Post, I will perhaps simply paraphrase something that the honourable senator said a little earlier, before his last intervention, and that is that obviously we will not necessarily agree on that point so we may not usefully continue this particular debate. However, this may not be the appropriate legislation to deal with this particular question, and perhaps there may be other interesting debates in other quarters at other times on this particular issue.

Senator Argue: I do not know whether the minister is implying now that the government intends to undertake to introduce legislation to outlaw that. All I say is that it would be better if the Prime Minister were to whisper to Canada Post: "Don't do this stupid kind of stuff," instead of indicating that it is a great way to go.

As I see what has happened, the Prime Minister thinks it is great to have a big labour dispute; he thinks it is great to have a situation such as this; he thinks the public is on his side when he says: "We will settle this, and settle it fast."

However, I think the public catches on to these kinds of shenanigans. I want to say to the honourable minister that I have had a lot of experience in this area. When you vote on the side of the workers who are in trouble, they remember your vote. However, when you vote the way the general public think you should be voting, sometimes that is a pretty soft vote, and very often they do not remember what you did, even for 48 hours. In the same fashion, when you undertake legislation that damages agriculture, you have the same kind of reaction. I think the more than two million trade-unionists of this country will remember what you are doing and, because of what you are doing, they will be far more effective in their political action, which they are still free to undertake. That is just the way I read it.

Mr. Minister, you are talking about the public wanting you to undertake this action. But the public are pretty fickle, and if this labour difficulty had been allowed to go on it is quite possible, in my judgment, that public opinion might well have come around to the side of the workers. Because the government seems to want to react to that kind of public opinion, that would then have forced the government to take a different course of action and to bring in legislation at a much later date, if it were necessary, which would be less draconian—to use that word that has already been worn out in the House of Commons—and that might have had more support.

I point out to the minister that a different set of circumstances prevails in this country at the moment from that which prevailed a few years ago. There is a lot of unemployment; there is a lot of anti-labour feeling that I think labour does realize, although both they and I feel that a lot of it is unjustified, but it is there.

I may be very naive, but I think if this situation had been allowed to continue for some time conditions could have arisen whereby the parties were ready to bargain. Then bargaining could, in fact, have come about. It would have been necessary for the government to endeavour to call off the strike-breaking tactics of Canada Post. While I realize that the Minister of Labour cannot do something that the Prime Minister does not want him to do, as I know from my own past experience, I still feel that the Minister of Labour might have taken a position more in keeping with the traditional position of a Minister of Labour; perhaps more in keeping with what is in the heart of the Minister of Labour, although I cannot read that. But if the minister had taken that position, I think it is quite possible that a settlement could have been reached; that the workers would have felt a lot better about the situation, and the general public would have come to the conclusion that it had been better to let both the Canada Post Corporation and the workers suffer for a longer period of time before the government—with expert but, perhaps, faulty advice in this case—brought in this kind of legislation.

Mr. Cadieux: I very much appreciate the comments of the honourable senator. Again, obviously, we will not agree. However, the honourable senator did mention a set of circumstances. I just want to reiterate that I made my decision according to the set of circumstances with which I was faced at that moment. I will obviously live with it, and perhaps the wishful or not so wishful thinking of the honourable senator will or will not occur.

Nevertheless, this decision was taken, in my view, in the best interests of the Canadian public.

Senator Argue: I disagree most strongly with that. I do not think the facts were available; I do not think the situation is really as it was said to be. In my opinion, if the government had called off the strike-breaking tactics of Canada Post and had given the parties a fairer chance to bargain, my judgment is that there would have been a chance, and a good chance, for settlement.

However, the minister by undertaking what, in my opinion, was wrong, precipitate action has not only brought about an undesirable situation in the Post Office, but that action may have very bad repercussions within the labour movement generally, and may adversely affect the economy of the country, instead of operating in a constructive way, which might have had more beneficial results.

I understand that the minister and I will not agree on these points. However, before I sit down, I do reiterate that what troubles me most is that I feel there is a deliberate plot to remove the process of collective bargaining which, over the years, has served this country so well.

Senator Lucier: Mr. Chairman—

The Chairman: Senator Lucier, is this a supplementary? I have the names of several senators who wish to question the minister.

Senator Lucier: Mr. Chairman, it touches upon the point with which Senator Argue has just been dealing with respect to the replacement workers.

The Chairman: Senator Lucier.

Senator Lucier: Mr. Minister, my question is with respect to replacement workers, following what Senator Argue has just said. It seems to me that there would not be much doubt that the practice of training and hiring replacement workers, even before a strike takes place, will incite violence rather than curb it. It seems to me that the violence is brought on by the hiring of replacement workers. I do not think there is much question about that.

My question is: With respect to this new policy that apparently is being followed by this government as far as crown corporations are concerned, does the government intend that as an ongoing policy? Would it not be better, if you feel that a

service is essential, to protect that service by making it illegal for people to strike? It just seems to me that what the public wants in this particular case is mail delivery.

In Whitehorse I had the pleasure of working in the fire hall. I was working for an essential service. I was the president of a Public Service Alliance in Whitehorse; I was the shop steward in the fire hall, and I was working for a service where we were not allowed to strike, and we knew that we were not allowed to strike. That was not a problem for us. We knew that our services were required, and that was no problem.

At one point I sat on the City Council of the city of Whitehorse where I was a negotiator for the City of Whitehorse with respect to labour disputes—some, in fact, involving the fire hall. There was never a question about the fact that the essential services were to be maintained.

With respect to mail delivery, it does not matter to me if I get a letter from my sister three or four days late, but it does matter to a small business operator whether or not his bills are paid on time, and it seems to me, Mr. Minister, that if you really believe that mail delivery is an essential service it would make more sense to simply say: "There will be no strikes in the Post Office," rather than going through this charade of hiring replacement workers.

● (1120)

Mr. Cadieux: With respect to the question of essential services, senator, I am sure you are aware that that question is being studied right now. There was a House of Commons Standing Committee on Government Operations report that was tabled in June, if my memory serves me correctly. In that report I believe there is a recommendation with respect to making the Post Office an essential service. The report has to be answered by the government within 150 days. My understanding is that the minister responsible for the Post Office is in the process of going through that particular report and will presumably be stating the government's policy on that issue in the near future.

Senator Olson: Honourable senators, I am sure the minister is aware that I have fairly severe criticism of the way this bill is put together, notwithstanding certain reports that were made to the government, the most important one being that there would be a long test of economic strength before the two sides would sincerely get together and try to settle this. Therefore, I support the need to have back-to-work legislation.

I would like to ask some questions about the contents of the bill that disturbed me.

There is no provision in this bill for proclamation or for authorizing the government to make regulations. This may be something that has been settled some time ago. Is there a blanket authorization for a bill to come into force, or for the proclamation to be made, that has been given some time ago by the Parliament of Canada? Clause 13 of this bill says:

> This Act shall come into force on the day immediately after the day on which this Act is assented to . . .

Does the government no longer need to proclaim legislation?

[Senator Lucier.]

My next question is this: There is no authorization sought in this bill to give the government power to make regulations for application of this bill. Is that normal now?

Mr. Cadieux: Honourable senator, with respect to the entering into force of the bill, you have referred to the amended clause, which is one of the two amendments that were agreed to. The original clause read:

> This Act shall come into force on the twelfth hour after the time at which it is assented to.

My understanding of the procedure is that the legislation is assented to when Royal Assent is granted and will come into force 12 hours later. After discussions with the opposition critics, we agreed that it would be a little complicated to do this with such a "short" delay. Therefore, we reviewed the clause which was contained in Bill C-85 that was passed in Parliament approximately a month ago. There were four sections in that particular legislation, one of which came into force, as is the case with clause 13, which reads:

> . . . come into force on the day immediately after the day on which this Act is assented to, but not before the twelfth hour after the time at which it is assented to.

And if need be, in that particular legislation, which is not the case in this legislation, the other parts would have come into force upon proclamation. Obviously, this legislation comes into force after a number of hours following assent.

Senator Olson: Could you explain why you do not need authority in the statute to make regulations for the application of the bill?

Mr. Cadieux: I do not foresee the need to make any regulations, honourable senator, with respect to this particular legislation, as we did not foresee making any regulations in Bill C-24 or Bill C-85.

Senator Olson: What is the position with respect to what I think is the major grievance in applying this act? I made a reference to it and the Leader of the Government answered previously but, I have to say, unsatisfactorily.

Senator Murray: I only read the section.

Senator Olson: I understand you did that. Will Canada Post Corporation be free to consummate postal station franchises during the period when the mediator-arbitrator is trying to get agreement for some modification of that?

While you are answering that perhaps you could answer this: Does the present agreement deal with how Canada Post Corporation can conduct its franchising of postal stations? As far as I know, that is not part of the agreement. Therefore, if the mediator-arbitrator is confined—if that is the right word—to modifying the present collective agreement, then he cannot deal with what the Post Office is going to do. Therefore, you come to the conclusion that Canada Post Corporation will be free to continue making franchising arrangements, or what you call "privatization".

Mr. Cadieux: Honourable senator, we could argue that there are many different ways of referring to the process that you are calling "franchising." I believe that the entire debate

has been around the word "franchise." However, I believe you will agree with me that it is also a question of whether or not there is the right of contracting out and a question of job security, which obviously is addressed in the existing collective agreement and is addressed in negotiations. Presumably, it will be dealt with in the settlement or, perhaps, the decision of the mediator-arbitrator.

If you look at the clause that my honourable colleague, Senator Murray, referred to, clause 7, you will see it has different parts to it. One of the paragraphs says that the mediator-arbitrator is to meet with the parties in order to try to bring the parties to an agreement. Obviously, they will be discussing the contracting out, job security and franchising issues. If they agree on one or all of those particular issues, there will be an agreement between the parties. If they do not agree, then the mediator-arbitrator becomes an arbitrator, and paragraph 7(2)(*b*) says very specifically that the mediator-arbitrator will meet and hear the employer and the union, and will take cognizance of Commissioner Foisy's report, which deals with the franchising issue. Obviously, it is an issue that is being dealt with. I sincerely hope that the union not only makes its point but brings in arguments, either at the mediation stage—and hopefully comes to an agreement—and/or at the arbitration stage, and the arbitrator, if he is in a position to have to make an arbitration judgment or decision, will bear all the arguments in mind and will bring down the best decision possible.

Senator Olson: When this bill is passed, will the arbitrator-mediator have the power to prevent Canada Post Corporation from entering into franchising agreements until the union agrees?

Mr. Cadieux: Right now there is no impediment for the corporation to carry out exercises that we will call for this discussion "franchising." Whatever it does is subject to the Canada Labour Code. I am sure I do not have to remind the honourable senators that the CLRB has already pronounced on one issue of "franchising" or contracting out.

● (1130)

Senator Olson: Only what they have to be paid.

Mr. Cadieux: Well, it is on the successor rights as to whether or not the negotiation unit follows what was determined, in that particular case, the sale of the business. Obviously, whether it is dealt with in the collective agreement or not, it is subject to the other laws that exist in this land, including the Canada Labour Code, which, in section 138—I stand to be corrected on the number—

Senator Olson: That does not matter.

Mr. Cadieux: —deals with successor rights and transactions of that sort. Whatever is done will have to be in accordance with the agreement or the law. Commissioner Foisy deals with this particular issue, and I do not want to stand here stating that I agree or disagree with Commissioner Foisy, because it may eventually be the arbitrator's task to do that. Consequently, I want to leave him free to draw his own conclusions. However, that is stated in the report and, as far as I am concerned—whether it is called contracting out, job security or franchising—obviously, it is an issue which both parties will want to discuss, negotiate, hopefully settle, and, if not, there will be arbitration.

Senator Olson: I understand that there is a possibility of all of that unfolding. But I would like to suggest another situation that could unfold, because, as you have pointed out—at least, that was my understanding—this privatization can continue. There is no provision in this bill for the government to say to the mediator, "You can stop this." Therefore, there is an incentive for the Canada Post Corporation to speed it up so that they can get as much of it done as possible within the two-year period, which is the full extension of the mediator's authority.

The next thing I would like to have answered is the question of what is a postal station and what is a substation. There are all kinds of substation post offices around the country now, in drugstores and other stores, and, as has been pointed out a few minutes ago, they are now privatizing the whole post office activity in some smaller towns. Post offices are now being placed in stores and a different structure is being set up from having a postmaster there, as has been pointed out. Could the minister tell us if that kind of activity will take place during this so-called "truce period" that the bill calls for, or will the workers be involved?

I have some sympathy for the problem of severely militant labour union leaders—and I know that you have to deal with that; make no mistake about that—but what I find difficult is that you want to open up the possibility of swooping up thousands of other workers who are not in that category of being exceedingly militant with respect to the operations of the Post Office.

Mr. Cadieux: First, with respect to whether or not it can be done right now, it could be done, since some operations of privatizing or franchising went on. Some cases were brought before the CLRB and decisions were rendered. I do not want to force my judgment on the CLRB or any other deciding authority as to whether or not the decision was correct and should have been done, and so on.

With respect to whether it can be done during the collective agreement or the extension of the collective agreement, I would like to point out that the mediation-arbitration period is 90 days, unless there is an extension, which I have the discretion to grant. Obviously, if the parties ask for an extension to continue negotiations, I presume that I would make a good judgment call in probably agreeing to extend the negotiation period, without presuming what my decision may be at that time. Therefore, the problem will probably be addressed—perhaps solved—within 90 days. After that there will either be a negotiated agreement or an arbitration decision, which may or may not prevent such an exercise. You are asking me to comment on hypothetical questions which I do not think I should do in the circumstances.

As to whether or not it is a sub-post office, or whatever else we may call it, there again, those issues are dealt with by the

parties, the mediator and the arbitrator and, finally—if need be—by the CLRB, which has the jurisdiction to make those determinations, not the Minister of Labour.

Senator Olson: I do not think that the Minister of Labour should be so modest; he is expected to have an opinion on many labour matters. I do not think he can leave all of it to the CLRB, because they have to function and operate within the parameters of the authority that they have.

What I am concerned about—and I am sure that the minister realizes that—is that the one side, namely, the Canada Post Corporation in this case, does not take unfair advantage of the situation in which they received back-to-work legislation terminating the strike and imposing what I call "iron-fisted penalties"—beyond anything that I have seen before. I am concerned that they do not take some kind of action during that period to take unfair advantage of the legislation that we are passing today.

We expect the minister to have an opinion and to make judgments, not to superimpose it in every case on what the CLRB is authorized to do. I am trying to explain to the minister that there is an opportunity here for the corporation to take advantage of this legislation. I hope that he will whisper, or even say loudly, that he does not expect them to do that in this case—not to deal with some of the extreme militancy but to deal with thousands of other people who are also involved in this work stoppage.

Mr. Cadieux: I will deliver your message to the minister responsible for the corporation, who may or may not whisper in the ear of the corporation. Some people say that we should be at arm's length; others say that we should not. Again, we can get into an interesting debate on that. However, I am sure that whatever the corporation and/or the union may or may not decide to do during this collective agreement will be done at their own risk, according to the laws and the rules that are in existence.

For instance, the CLRB has two cases before them on this particular issue, and one case in which a decision was rendered. Will there be an attempt to rush into other situations without knowing what those decisions will be? If I was legal counsel for the corporation—which I am not—I would, perhaps, tend to recommend that they wait and see.

Senator Olson: Well, the minister almost replied to the question that I put to him, but not quite. I asked him whether or not he would agree that the Canada Post Corporation should not take advantage of the situation during the period that we pass back-to-work legislation—because we already agreed that they are free to act on it—to achieve a lot of what they were doing any way, which is what the dispute was about. I asked the minister if he agreed that that kind of activity by the corporation should be discouraged.

Mr. Cadieux: Both the parties should take advantage of this legislation, get back to the table and negotiate a settlement which is the best settlement they can get.

[Mr. Cadieux.]

Senator Olson: That is still not an answer to whether or not you will support the argument which you agreed a few minutes ago was a good one.

• (1140)

Senator Turner: Mr. Minister, when the rotating strikes started, did you conduct any tests or check out the progress of mail delivery as compared to when there was regular mail service?

Mr. Cadieux: Personally, no.

Senator Turner: Did any of your officials in Canada Post Corporation conduct any tests?

Mr. Cadieux: I am unaware of that.

Senator Turner: Well, I did. Mail service to Burlington, Ontario, from Ottawa before the rotating strikes started took five to six days. Even registered mail took four days to go from the Ottawa post office. When the rotating strikes started, it took two days for a letter to go to Burlington, Ontario.

This proves to me that you are getting back to the many years when you were providing good mail service. It can be done.

Why did you or someone in the department not conduct tests when this rotating strike started?

Mr. Cadieux: Honourable senators, as Minister of Labour, I follow the negotiation process very carefully and draw my conclusions on how the process is working with respect to the negotiations themselves in particular.

In this case, as I indicated earlier, we have had negotiations for over 15 months directly and with the assistance of some very able conciliators and conciliation commissioners of Labour Canada. Then I turned to my associate, the assistant deputy minister, whom you know very well, who was, as you indicated earlier today, in the railroad unions, as was Senator Turner, and on whose judgment I rely fairly regularly. With all due respect, sometimes we do not see eye-to-eye, because I have to make my own decisions. But he met with the parties and made his assessment on very specific facts that I outlined. I asked him to find out if the parties had gotten any further ahead since the Foisy report; if they had made any progress in the negotiations; and if there was a chance of the parties making progress, and, finally, coming to an agreement without protracted, disruptive work stoppages in the country that would affect not only the economic strength of both parties but would, unfortunately, perhaps, cause more problems to innocent third parties.

Senator Turner: For over 25 years, 19 of those in public office, I have heard about the sharp practices of the management of the Canada Post Corporation. Sir Henry Thornton, the first president of the CNR, used to wander around the property and talk to employees. Does the Minister of Consumer and Corporate Affairs, the President of the Canada Post Corporation or the Minister of Labour drop in to various post offices and talk to the employees? I would suggest that you do this unannounced, as did Sir Henry Thornton, and talk to the employees to find out what their grievances are, because they

are stacked a mile high and no action is taken. Why don't you wander around and listen to what the employees are saying about this great corporation they work for, the Canada Post Corporation?

Mr. Cadieux: Honourable senators, I suppose there are various times when that could be done. I do not want to boast because I have already been qualified as being modest, but I do go to the post office in Hudson to pick up the mail.

Senator Frith: You don't want to spoil a good reputation.

Mr. Cadieux: I do speak to the people who work in that post office. Mind you, I do not have to go and pick up my mail in all post offices in Canada. However, I will bear Senator Turner's comments in mind.

Senator Turner: Do you go into plants where the workers are to find out what their grievances are? It is all right to go into a post office, but you should go into the plants. I go into the plants and I know what is going on. What do you do? You go to the post office, period.

Mr. Cadieux: There are processes for that, honourable senators, and I am sure that some union leaders might not appreciate my visiting the plants to talk to the membership. However, I will bear that thought in mind, and perhaps I will drop in one day.

Senator Turner: Honourable senators, while driving along highway 401 I listen to all kinds of advertisements which state that Canada Post Corporation is going to hire people at $13.25 an hour. Where did this figure of $13.25 come from?

Mr. Cadieux: I have no idea. The minister responsible for the Canada Post Corporation is my colleague, the Minister of Consumer and Corporate Affairs, and he, presumably, is more aware of those facts than I am. I have no idea.

Senator Turner: Is it not true that down through the years CUPW produced this figure by negotiation and the odd strike?

Mr. Cadieux: Perhaps they produced that number by negotiation, but I am sure it is a combination of both those facts, and presumably including inflation.

Senator Turner: Can you tell me where the figure of $159 a day came from?

Mr. Cadieux: Again, honourable senators, I regret to inform you that I do not know.

Senator Turner: We read and heard that this whole situation was costing this government a lot of money. In fact, the words were, "It is costing us dearly." Can the minister tell us what it cost to use the strike-breakers, the buses and the helicopters to move the mail when the full strike took place?

Mr. Cadieux: No, sir, I do not have the figure for the replacement workers and the various pieces of equipment that the honourable senator has just listed. I want to inform the honourable senator that, contrary to what a lot of other people believe, I do not always believe what I read in the papers.

Senator Turner: The Canada Post Corporation had big advertisements in the newspapers saying they were going to hire strike-breakers to move the mail. I believe that this is the first time in the history of the Post Office that we have had strike-breakers hired by the Government of Canada to bust a strike.

Mr. Cadieux: With respect to replacement workers, I would point out that they were used in the LCUC strike earlier this summer. I would also point out that they were used in the Air Canada strike. It is my understanding that even now they are being used by the Lake Carriers Association in order to replace the engineers so that western grain, which is, of course, a major industry in this country, can be moved to the ships and exported.

Senator Turner: If you were a good, honest, hard-working postal worker, how would you feel if you had listened to the radio and watched TV and saw those big advertisements that your boss was putting in the papers, knowing full well that you could be on strike and that scabs and strike-breakers would be hired to take your job, your wife and family's living and your home away in the event that you were not recalled?

I realize that there are no guarantees for anyone in the working world today. It may be so in the case of a policeman or a fireman if he does not lose his life by being shot or in a fire. We have to gamble and we have been gambling for many years. How would you feel if you were a worker in the Canada Post Corporation?

Mr. Cadieux: Fortunately, I have never worked there, so I would not know.

Senator Turner: You are a lawyer, so you set your own pay and your own benefits. That is the difference between the working people and the professional people of this country or of any other country. You live in a different world.

Mr. Cadieux: As a lawyer, from what I recall of the profession it is a fact that we set our own hourly rates, subject, obviously, to review, complaints and judgments from the Bar Association, which has the discretion to modify, reduce but, unfortunately, never to increase our fees.

Senator Turner: You are judged by men of your own profession. That is like putting a fox in the chicken coop.

Mr. Cadieux: Sometimes, honourable senators, I would prefer that I not be judged by the Bar Association, by my own colleagues, because, in most of the recent jurisprudence that I have seen, they have, rightly or wrongly, taken the side of the client.

Senator Turner: I have talked to a lot of workers since this strike began. We will take care of you in the next election. Thank you very much.

[*Translation*]

Senator LeBlanc: Mr. Chairman, I wonder if it is fair for the Minister of Labour whose instincts, I believe, would or should lead him to take side with the workers, and if, under such circumstances, we should not hear from the minister responsible for that crown corporation who put him in this

unenviable position to defend, because of cabinet solidarity, this case which he might not be very proud of.

I did not intend to rise and I voted against the bill. I am scandalised by the hiring of temporary workers who are replacing regular workers of crown corporations.

● (1150)

[*English*]

Senator Argue did a much better job than I could ever hope to perform on the issue of replacement workers, which is really a polite society term for scabs. The fact is, however, that crown corporations are not ordinary businesses. There is a mythology which is frequently heard in Ottawa—and, by the way, I heard it around the table where I sat for many years—that crown corporations are in some way at arm's length. Yes, they are at arm's length, because they are frequently out of reach of the government which has to answer for the messes they create.

I think that as a matter of policy crown corporations, to whom a government appoints boards, the senior officers of which are appointed by order in council—although that cannot be said for the numerous vice-presidents of Canada Post, because I do not think that many orders in council would be passed in a year—are not really "at arm's length." No government can pretend that it is not in a position to give directions to crown corporations. I know that when I was in government some of my colleagues did entertain this myth. The reality is that crown corporations must have labour relations and must have an attitude towards their workers which is a lesson to the rest of the country, not one of the worst examples.

Personally, as one who has tried to help a group within this society that was disorganized officially, I am profoundly offended that crown corporations should be taking out full-page ads to hire scabs. I am also offended by the televised images of police being used as the "fer de lance" for the penetration of picketers' lines. In fact, Mr. Chairman, it seems to me that there are two recent situations where, in the coming together of the media and a political attitude, rather strange circumstances have been created.

To illustrate my point I take the case of Charlesville, Nova Scotia, where refugees recently came to Canada—as my ancestors did, by the way, by boat, without proper papers. The people of Nova Scotia did what Canadians by instinct do—they received them, they offered them food and they offered them beverage. It was only when the media and tight-mouthed bureaucrats began to produce pictures of military personnel herding these people around that the backlash started to percolate, if I can use that expression.

In the case of this postal strike, pictures of violence have been published—but violence created by what? By a bus moving into a group of people? Who is violent, the bus or the people who are being pushed? Who is violent, the guy getting out of the way of the police coming through a picketers' line or the police themselves? I think these pictures can be very misleading. And I think attitudes harden and change by allowing the projection of images along with words that create the sort of collective malaise that we saw around the refugee issue and that we see again around the Post Office. As somebody said, these are good Canadians doing an honest day's work. They are perfectly entitled by law to go on strike. Why do we apply against them pressure tactics? These are pressure tactics which I, frankly, do not find acceptable in a society.

I think that it is the minister responsible for the Post Office and the officers of the Post Office who really should be sitting in Mr. Cadieux's place, answering some of our questions. If it is going to be a policy that a company can advertise for replacement workers—that it can, in fact, create an act of terrorism in time of negotiations by calling for replacement workers before the strike actually occurs—then I suggest that whoever forms the next government had better think again about the labour relations of this country. I do not think it is civilized behaviour on the part of any crown corporation, as much at arm's length and as out of reach as it pretends to be.

Mr. Chairman, I really did not intend to make a speech at the minister, but Senator Argue asked the right questions. I will put one question by way of a conclusion: Does he, as Minister of Labour, believe that the practice of hiring replacement workers through advertising during a negotiation is a practice which he recommends and can live with?

[*Translation*]

Mr. Cadieux: I would like to call the honourable senator's attention to and emphasize the fact that the corporation we know now, Canada Post Corporation that has become a crown corporation and must deal at arm's length with the government, was established rightly or wrongly in 1981 by the previous government. Someone pointed out to me this morning that if it was not on October 16, 1981, at least it was in October 1981.

Of course we inherited the corporation as it was at the time. And to my knowledge, the corporation has been and is still operating under the laws of Canada. To my knowledge, during the negotiations that started 15 months ago, the practices referred to by the honorable senator did not always prevail.

Senator LeBlanc: I watch television quite often and I am a bit sorry this government should take such an attitude: because something was done in the past and it is quite correct to keep doing it.

When the minutes of the cabinet discussions are published 30 years from now, the minister may then discover that some of us did not agree entirely about the myth that is widely circulated in Ottawa to the effect that when people are appointed to a board of directors, we have no right to give them directions. Indeed, I think that if you look at legislation that at some point is developed by the government, you will find its purpose indeed is to give ministers in charge the authority to give directions to the crown corporations they are responsible for. I believe that is a myth. We may not have been perfect when we established Canada Post Corporation, but I think this government cannot claim that our imperfections warrant the kind of carelessness that prevails today.

Mr. Cadieux: It was pointed out to me on a number of occasions, senator, with all due respect of course, that indeed the previous government was not always perfect in a number of areas. However, as far as Canada Post Corporation as such is concerned, it was established in 1981 under the previous government. I agree with the honourable senator that this is not cast in concrete, if I may use the phrase; I would point out to the honourable senator, as I indicated to another senator earlier, that there is now a standing committee report that deals with Canada Post Corporation, to which the government should be responding in the coming weeks or months.

The Chairman: Have you concluded, Senator LeBlanc? I have no other names on my list. Mr. Minister, have you any comments in conclusion?

Mr. Cadieux: I would simply like to thank honourable senators who welcomed me this third time. Not that I do not appreciate your company, but I hope—

[*English*]

—and I hope—and this is no reflection on your company—that I will not have to come back again.

Senator Frith: Not for these reasons, at least.

The Chairman: Are honourable senators prepared to proceed with clause-by-clause study of the bill?

Hon. Senators: Agreed.

The Chairman: Shall the title be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Senator Olson: I have only one point on clause 7, Mr. Chairman. That is the clause with respect to which both the Leader of the Government in the Senate and the minister indicated there is authority with which to deal with everything, including privatization.

Could the minister be more specific about what it is in clause 7 that gives the mediator-arbitrator the authority to order—I cannot think of another word—the crown corporation not to proceed or expedite the privatization during the period of the truce and the period of extending the existing contract?

• (1200)

Mr. Cadieux: As the honourable senator has indicated, clause 7 deals specifically with what the mediator-arbitrator will have to do. Clause 7(1) says:

> The Minister shall, after the coming into force of this Act, appoint a mediator-arbitrator and refer to the mediator-arbitrator
>
> (*a*) all matters relating to the amendment or revision of the collective agreement that, at the time of the appointment, remain in dispute between the union and the employer;

Subsequently, should the mediation stage fail, then clause 7(2)(*b*) says:

> (*b*) if the mediator-arbitrator is unable to bring about agreement in respect of any such matter, hear the employer and the union on the matter, give cognizance to the report of the conciliation commissioner that was released to them on September 22, 1987, arbitrate the matter and render a decision in respect thereof;

It is my understanding that at the present time—and most probably at the time of the appointment of the mediator-arbitrator—the issue of contracting out, job security and franchising has not been settled. Consequently, it will be dealt with by the mediator-arbitrator.

Senator Olson: It is the wording that troubles me. I will not take up much time on this. I guess that one could interpret the word "revision" to add something that at present is not there; but when it says "... relating to the amendment ... of the collective agreement," one cannot amend something that is not provided for. Certainly one could not add something to the collective agreement that was not envisaged when the collective agreement was made, however many years ago that might have been. Also, in dealing with the terms and conditions with respect to franchising, as you said, it was not in the agreement; so how can you amend what is not there?

Mr. Cadieux: It is the issues that are in dispute that will be amended or revised; and obviously job security and contracting out are already dealt with specifically by the actual collective agreement. With regard to the franchising, it is dealt with in the Foisy report. So, consequently, the parties will be dealing with those issues.

Senator Olson: I know that the Foisy report dealt with it, and there is reference to that later in the clause. Are we now trying to equate this contracting out provision to include a whole lot of other things besides just privatization of stations and substations—that certain transportation services and other things could be contracted out? I am concerned that this could change the level of franchising. There have been substations for a long time to which, apparently, the unions have not objected. But now, if the corporation takes a large postal activity and calls it a substation or "franchising," is the minister saying he believes that the contracting out that is in the collective agreement envisaged that sort of activity?

Mr. Cadieux: The parties have specifically indicated, through various media reports that I have seen, that one of the

issues upon which they could argue was the franchising issue. Consequently, it is one of the matters in dispute. In my view, it is directly related to the contracting out, because should there be an agreement and/or a decision by the arbitrator that there should not be contracting out, then how can you franchise?

Senator Frith: I have a question concerning the English and French versions. The Foisy report appears to play a more muscular role in French than it does in English. At the bottom of page 3 it says:

> (*b*) if the mediator-arbitrator is unable to bring about agreement . . .

et cetera; then, at the top of page 4, it says:

> . . . give due cognizance to the report of . . .

Foisy. It does not use the name "Foisy", but that is what it is referring to. The French version says "prendre sérieusement connaissance." I would think that in English it is easier to say "give due cognizance," because it is a little more subjective as to what is due.

Senator Doody: It was amended in the bill that was passed.

Mr. Cadieux: On that matter, senator, that clause was the object of an amendment following discussion with the opposition parties.

Senator Frith: I was reading from a "First reading" copy of the bill.

Mr. Cadieux: It now reads in English, "give cognizance"; and, in French, "prendre connaissance". I accepted the amendment for many reasons, but also because the opposition parties suggested it after, I am informed, they had checked with various lawyers and other authorities with respect to the equivalence in the language.

Senator Frith: I apologize, Mr. Minister. I was working from the First reading copy of the bill. However, I am glad that I raised the matter and underlined the fact.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 8 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 9 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 10 carry?

Some Hon. Senators: On division.

The Chairman: Carried, on division.
Shall clause 11 carry?

Some Hon. Senators: On division.

The Chairman: Carried, on division.
Shall clause 12 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13 carry?

[Mr. Cadieux.]

Senator Macquarrie: I should like to say a word in connection with clause 13. With regard to the careful scrutiny which the Senate gives to clauses contained in all legislation, I regret that the wording of this clause should end with the preposition "to;" and therefore the bill ends with something that is rather inelegant. I hope that on the next occasion we will have that little inelegance removed.

Senator Frith: It is something that we should not always assent to!

The Chairman: Shall clause 13 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred Bill C-86, to provide for the resumption and continuation of postal services, has examined the said bill and has directed me to report the same without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as I said during second reading, the bill will pass. I believe that the Canadian people want it to pass; but I hope that they will realize how the government has, I believe, mischievously manipulated to set up the conditions for the bill and its premature introduction. We believe that the popular end should not justify such a cynical means.

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

Some Hon. Senators: On division.

Senator Denis: A small division!

Motion agreed to and bill read third time and passed, on division.

• (1210)

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL
OTTAWA
THE SECRETARY TO THE GOVERNOR GENERAL

October 16, 1987

Sir,

I have the honour to inform you that the Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 16th day of October, 1987, at 1:00 p.m., for the purpose of giving Royal Assent to a Bill.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate,
Ottawa.

The Senate adjourned during pleasure.

• (1300)

At 1.00 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act to provide for the resumption and continuation of postal services (*Bill C-86 Chapter 40, 1987*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, October 20, 1987 at 2 p.m.

THE SENATE

Tuesday, October 20, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

DISTINGUISHED VISITORS IN GALLERY

DELEGATION FROM U.S.S.R.

The Hon. the Speaker *pro tempore:* Honourable senators, I wish to draw your attention to the presence in the South Gallery of a delegation from the Supreme Soviet of the Union of Soviet Socialist Republics headed by Mr. Efren Sokolov.

Hon. Senators: Hear, hear!

[*Translation*]

The Hon. the Speaker *pro tempore:* Allow me as well to extend a special greeting to one of the delegates, Mrs. Valentina V. Tereshkova, the first woman astronaut.

Hon. Senators: Hear, hear!

QUESTION OF PRIVILEGE

Hon. Paul C. Lafond: Honourable senators, I rise on a question of privilege.

Yesterday, Montreal daily newspapers carried a full-page ad addressed to Quebec senators.

An Hon. Senator: In both official languages!

Senator Lafond: This ad claims that I support Bill C-22 at this time. I may have been sympathetic to Bill C-22 when it was first introduced in the other place.

As a result of the debates in the other place and here, and given the obvious arrogance, inflexibility and offensive attitude of the government and its spokesman, the sponsor of this bill, whatever sympathy I may have felt at the outset has been severely eroded.

Given also what to me appears to be hypocrisy, not to say a lie—and here I say a "lie" on the part of the government, not of the individual—concerning the link between Bill C-22 and the free trade issue, the sympathy I may have had has been further eroded.

At this time I do not support Bill C-22. I am waiting for the report of the Senate Committee on Banking, Trade and Commerce before making up my mind.

In the meantime I would suggest that this kind of lobbying and pressure tactics is altogether reprehensible and dishonest. The Senate privilege committee and the Senate itself should severely reprimand this so-called coalition committee of greenhorns of the City of Montreal.

[*English*]

SENATE AND HOUSE OF COMMONS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-83, to amend the Senate and House of Commons Act.

Bill read first time.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the second time?

Hon. C. William Doody (Deputy Leader of the Government): On Thursday next, October 22, 1987.

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

Senator Corbin: On division.

Motion agreed to, on division, and bill placed on the Orders of the Day for second reading on Thursday, October 22, 1987.

QUESTION PERIOD

[*English*]

TRADE

IMBALANCE BETWEEN CANADA AND U.S.S.R.—GOVERNMENT POLICY

Hon. Hazen Argue: Honourable senators, I am sure that I speak for all senators in saying that we welcome to our country the distinguished delegation from the Soviet Union. Some of us have had the opportunity to meet a number of them.

I rise now to refer to the fact that the Soviet Union is our number one customer for grain, which includes wheat, and has been for many years. The Soviet Union has always worked very closely with our Canadian Wheat Board. They have been excellent customers by way of buying the largest volume and by way of accommodation, from time to time, with regard to the programming of grain for the export market. They have sometimes accommodated our Canadian Wheat Board when the Canadian Wheat Board has pointed out, for reasons of weather, that perhaps some grades were not available in quantity, and the Soviet Union has altered its buying requests to accommodate Canada. It has been a very good mutual arrangement.

We look forward to the continuing sale of large quantities of grain to the Soviet Union. I am sure I express the hope of

everyone that the Soviet Union will continue to buy quantities in the future similar to those it has in the past.

The Americans are looking very closely at this market. They are tough competition. They are asking Soviets to buy grain from them, with the added incentive that they are prepared to provide some of that wheat at a zero price—a gift. The main problem the Soviets have in dealing with Canada is that trade is almost a one-way street. We sell to the Soviet Union quantities varying from $1.5 billion to $2 billion a year. We buy from the Soviet Union perhaps $25 million or $50 million or $75 million worth of their goods in a given year. Some effort has been made on their part to entice this country to buy more. Some effort has been made on our part to facilitate their goods coming into this country. In response to questions I have raised in the Senate previously, the Leader of the Government has pointed out that there is a desk in the Department of External Affairs that takes a particular interest in this problem, and it hopes to facilitate their sales into Canada.

With that long preamble, I would like to ask the Leader of the Government in the Senate if this area—the area of facilitating the Soviet Union by importing larger quantities of their goods into Canada—is now being looked at in a very active way, and has Canada, directly or indirectly, made some commitment to use its best efforts to increase our purchases of Soviet goods by a very large amount within the next few years?

● (1410)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the answer to the question, generally speaking, is in the affirmative. "Best efforts" is what we have undertaken to deploy, to the extent that the government can. This was the subject matter, as the honourable senator knows, of discussions on the occasion of Mr. Clark's visit to the Soviet Union and on the occasion of the visit of the Soviet Foreign Minister to Canada. We understand the importance of the market of the Soviet Union for our products, and we understand equally well that trade is a two-way street and that, therefore, it is in our mutual interest to promote the purchase of products from the Soviet Union in this country.

Again, I can only reinforce what the honourable senator has said and advise him that our Department of External Affairs and our people in international trade here and in the Soviet Union—and quite a number of private sector people in this country—understand this and are pursuing it with all possible vigour.

Senator Argue: Honourable senators, I appreciate the minister's reply. I have had some association with this problem in a modest way since I was a minister. I know that, although the Canadian Wheat Board is not in the import business by any means, they have been using their good offices, as best they can, to facilitate contacts between Soviet exporters and potential Canadian importers.

Over the last large number of months a distinguished official of the Canadian Wheat Board, Mr. Terry Martin, has devoted a great deal of his time in a constructive way for Canada by meeting with Soviet representatives and introducing them to potential Canadian buyers, whether those buyers be representatives of governments or of private business in Canada. His effective work on behalf of western grain producers is greatly appreciated.

I wish to ask a specific question. There is a rumour around that Canada is trying to be more concrete in its suggestions that it will make a stronger effort. I may not have the right language—and, I hope, the minister will pardon me if the description is not correct—but may I ask him whether or not a letter of comfort has been sent from Canada to the Soviet Union indicating that we in this country, that is to say, the government, would use its best offices to expedite importation into Canada from the Soviet Union of goods produced by the Soviet Union to a value of some $780 million Canadian over the next three years?

I do not put that forward as being something that I can vouch for, so I ask the question. I am not suggesting that you should comment on any answer that has not been given, but that seemed to me to be at least an encouraging rumour, and I wonder if it is more than a rumour.

Senator Murray: Honourable senators, my friend is becoming quite specific in his questions now. He will understand if I tell him that I would want to obtain a precise reply from the responsible minister on this matter.

Senator Argue: I understand that.

Can the minister say whether or not the Canadian government in its purchasing program has looked at the possibility of the Government of Canada's buying some portion of those goods from the Soviet Union when it needs particular goods for the servicing of its departments?

I understand that the Department of Highways of the province of Saskatchewan some two or three years ago purchased a few Soviet tractors and has found them to be very efficient. That department recently purchased an additional small number of Soviet tractors. I am sure that machinery is a requirement of the Government of Canada from time to time. It seems to be a constructive suggestion that in looking at possible sources of supply, in the interests of Canada we should do all we can to assure the Soviets that we want to retain that market for Canadian wheat. I think that $5 billion in hard currency from the sale of Canadian wheat to the Soviet Union over the next three years is something of great benefit to all parts of this nation. I think it would be constructive if the Government of Canada could purchase some of its requirements from the Soviet Union, and I believe that that would be taken as a signal that the government was sincere in wanting to address this problem. The benefits that flow from an acceptable minor effort in this respect would be very important.

Senator Murray: Honourable senators, I do know that the Soviet trade people have been increasingly aggressive in recent years in terms of the possibility of the sale of their machinery and other products to governments and crown corporations in

this country. I will see if there is any more detailed information that I can bring to the attention of the house. Meanwhile, I will convey the honourable senator's representations to my colleagues who are directly responsible for these matters.

CANADA-UNITED STATES FREE TRADE AGREEMENT

AVAILABILITY OF TEXT

Hon. Philippe Deane Gigantès: Honourable senators, I wonder if the Leader of the Government would be kind enough to tell us when we will have the legal text of the free trade deal, the sort of "illegal" or "not-yet-legal" version of which was given to us some time ago.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I hope that Senator Gigantès is not suggesting that the Elements of the Agreement that have been signed by representatives of our two countries and tabled here and in the other place are anything less than authentic and official. In any case, legal texts are under preparation, as the honourable senator knows. My colleague, the Minister for International Trade, advises that it is hoped to have the text available early in November.

ENERGY PRICING POLICY

Hon. Philippe Deane Gigantès: Honourable senators, since the sort of foretaste we were shown was, as the Leader of the Government says, legal and factual, would he answer the following question? On the energy side, all the Americans asked for—and, presumably, all we asked for in exchange—is that they be able to purchase energy here at the same price as we charge Canadians, minus transportation costs, of course, and vice versa. Is that a correct understanding of the agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): There again, the honourable senator engages in something which, if not an over-simplification, is at least a telescoping of the agreement on energy. I suggest that he read the document that has been tabled to gain a fuller understanding of what it provides. As I said last week, the basis of the agreement from our point of view is that we are enshrining not the National Energy Policy of our predecessors but our own policy, the policy of this government, which is well known in the country. If the honourable senator wants more information, he can consult the text or support our efforts to have the agreement referred to a Senate committee, there to be discussed and where he may examine the responsible ministers and negotiators on the details of the agreement.

● (1420)

Senator Gigantès: I think I will give the Leader of the Government an opportunity to answer the question one more time. Is it or is it not correct that the text which was distributed to us says that each signatory should be able to buy any form of energy without any restrictions in the other country—with some exceptions for times of war and grave shortages—at the same price as nationals of the selling country buy it? Is that or is that not correct?

[Senator Murray.]

Senator Murray: Honourable senators, again, I invite the honourable senator to read the Elements of the Agreement and, indeed, the legal text when it becomes available; but the Elements of the Agreement will suffice for the time being. I want to remind him—again, this is a general comment on that component of the agreement—that one of the lessons that we have learned from the disaster of the National Energy Program is that energy development must be driven by decisions made in open and internationally competitive markets, not by government intervention and price fixing, which tries to ignore economic reality.

Senator Gigantès: So, if I understand correctly the answer of the Leader of the Government—I will ask his forgiveness if my English is inadequate—he is saying that the Americans should be able to buy any form of energy in Canada at an internationally set market price, and we should be able to buy any form of energy in the United States on the same conditions. Is that what you said, sir?

Senator Murray: Honourable senators, what I said was that the honourable senator should consult the agreement to understand all of its provisions with regard to the markets for energy and to Canada's rights in this matter and to the rules with regard to investment, ownership, and so forth. It is all there, and I suggest that my honourable friend should read it.

Senator Gigantès: I read it all the time, sir. I find the document absolutely fascinating. But you are still avoiding the question. I have asked you a simple question. Why will you not give me a simple answer? Is it or is it not true that according to the agreement any American can buy any form of Canadian energy at an internationally set market price, and vice versa? Is that not the basic condition really?

Senator Murray: Honourable senators, I hesitate to take the time of the Senate to read the section on energy and other relevant sections into the record. That would seem to me to be an abuse of the time of the Senate and of the Oral Question Period. The honourable senator can read and can understand the Elements of the Agreement, and I invite him to do so.

Senator Gigantès: Honourable senators, I think it is an abuse of Oral Question Period to evade questions. It would be much simpler for the Leader of the Government to say, "I refuse to answer." Why does he not say that? He has the right to say, "I will not discuss this. I refuse to answer." What he does say instead is, "Read the agreement." I have read the agreement. He then says, "Try to understand it." I have tried to understand it. I am asking for his help in understanding the policy of the government.

But let us try it another way. In the energy sector, let us suppose that the Government of Canada or a provincial government subsidizes the production of a particular form of energy. For so long as the product of the particular subsidized facility is sold for the same price to U.S. customers as to

Canadian customers, would that be within the legal limits or the spirit of the agreement?

Senator Murray: Honourable senators, the question asked by the honourable senator is hypothetical. Once again, it points up, I believe, the inadvisability of trying to use the Oral Question Period in the Senate for purposes which would be better served in a standing committee of the Senate, where the agreement could be submitted and discussed in detail with the responsible ministers and the negotiators. The honourable senator should know—and I am sure he does know—that subsidizing energy costs to a particular firm, for example, with or without a free trade agreement, leaves that firm or that industry vulnerable to attempted retaliatory actions, countervail and the like, on the other side of the border. There is nothing new there. But, again, I shall not use Oral Question Period to try to enter into detailed discussions on the Canada-United States Free Trade Agreement and to answer all manner of hypothetical questions about it. This exercise should be carried out with the responsible ministers and negotiators, as I have suggested, before the Standing Senate Committee on Foreign Affairs.

Senator Gigantès: So, honourable senators, is the Honourable Leader of the Government saying that the product of Syncrude, which is subsidized by both the federal government and the provincial government, is countervailable if sold to the United States?

Senator Murray: Honourable senators, I am not saying anything of the kind. I am saying that hypothetical questions are not to be entertained during Oral Question Period. I suggest that detailed questions about the meaning and application of this agreement should be asked of ministers and negotiators in the Standing Senate Committee on Foreign Affairs as soon as we can arrange to have the agreement referred to that committee.

EFFECT ON CANADIAN ECONOMY

Hon. Philippe Deane Gigantès: Honourable senators, from the beginning of these negotiations we have been denied information. We are still being denied information. We were told that there was no connection between Bill C-22 and the negotiations for a free trade agreement. There is, at least, circumstantial evidence that there is a connection. We have been told by one minister that there would be no loss of jobs. We have been told by another minister that they are preparing to deal with the loss of 500,000 jobs. We were told by the Prime Minister that marvellous facilities and programs would be put in place to take care of the people who might lose their jobs. We were told by the Minister of Finance that this was not so. Please, could we not be informed? The fate of Canada is in the balance. Does the Leader of the Government not think that he should give us some information?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, every reputable study that has been done on this matter has forecast that tens of thousands of new jobs would be created in Canada as a result of free trade with the United States. This prediction applies with regard to jobs, output, income and living standards in the country as a whole and in each of its regions. The honourable senator need only consult the studies done by the Economic Council of Canada, by the royal commission headed by the Honourable Donald Macdonald, by the Atlantic Provinces Economic Council, by the Economic Council of Newfoundland, and I do not know how many other studies of that kind. All these studies indicate strongly a net increase in output, income, living standards, job creation in the country and in each of its regions. If the honourable senator does not want to believe this point, then I take it that it is not possible to persuade him. However, he still has an opportunity to gain some understanding of the details of the agreement, what it means and how it applies, if he and his colleagues will agree to have the agreement referred to a committee in the near future.

Senator Gigantès: Honourable senators, I have looked at all these studies and I find them extremely interesting. They all have one basic assumption, and that is that trade remedy laws of the United States would cease to apply to Canada—all of them. The Economic Council of Canada study is based on the assumption that tariffs would be abolished in 1987. So, assumptions on which these studies were done are not at all what we see in this preliminary text that has been tabled. That is why I am asking questions, to try to understand where we are and where we as a country are being led. We are taking a leap of faith—into what?

Senator Murray: Honourable senators—

Senator Muir: Our leader has the patience of Job!

Senator Murray: —even since the agreement was signed by the two countries some of the people who were involved in the studies, including the Honourable Donald Macdonald—

Senator Muir: Tell us about Donald Macdonald! Who was he? What government did he serve in? He is a pretty brilliant man, isn't he?

Senator Murray: He was before Senator Gigantès' time, but he was a Minister of Finance in a previous government.

Senator Muir: It seems to be silly season, so I might as well ask silly questions, too!

Senator Murray: Mr. Macdonald and others have looked at this agreement and have not changed their opinion as to the positive effects of the Free Trade Agreement with the United States on Canada's economy, our living standards, our incomes, our ouput, job creation in this country and in each of its regions. If the honourable senator wishes, I can supply him with the relevant quotations from Mr. Macdonald and many other responsible business people and government leaders in this country.

● (1430)

Senator Gigantès: The Honourable Judy Erola has joined the Pharmaceutical Manufacturers Association. Just because she was a Liberal minister it does not mean that I have to agree with her. The Honourable John Crosbie used to be a

Liberal and he crossed the floor to the other side. Every time you mention what Mr. Crosbie had to say I do not get up and say, "Who was he and what did he say when he was a Liberal?"

We are asking some questions about matters that are terribly important for this country, and all you give are answers based on assumptions that are no longer valid. What I am saying is that you did not get the thing which you said was most basic, which was the binding dispute-settlement mechanism. Further, you refuse to answer any questions, and I would like to know why. You say these questions are not proper in the Oral Question Period. What is the Oral Question Period for if it is not to get answers from the government? I wish to be instructed on this.

Senator Murray: Honourable senators, what it is becoming is the "Senator Gigantès Show," and I think the honourable senator ought to consider his responsibilities in this place in relation to the responsibility of other honourable senators and to the Senate generally. This is not a period for dialogue between only two senators, so I suggest that he permit other honourable senators, if they wish to ask questions, to do so, and if not, that he let the Senate proceed to Orders of the Day.

Senator Gigantès: I would like to assure the Honourable Leader of the Government that I have absolutely no doubts about his love for this country. I do not want him to have any doubts about my love for this country, too, and I am asking questions because I feel that the future of this country and its well-being are being imperiled by this free trade deal.

POSSIBILITY OF REFERRAL TO FOREIGN AFFAIRS COMMITTEE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I ask the Leader of the Government in the Senate if it is the government's intention to introduce a motion referring the agreement between Canada and the United States on the subject of trade, and any subsequent texts, to the Standing Senate Committee on Foreign Affairs. Has such a motion been made?

Hon. C. William Doody (Deputy Leader of the Government): Perhaps I can help the honourable senator. We certainly would like to introduce such a motion. I have discussed the matter with Senator van Roggen and he indicated that he would entertain such a request to have his committee look at the matter. I do not know if he has yet had a chance to consult with his committee, but if that committee wishes to examine the matter I am sure that we would be only too happy to refer it to that committee.

Senator Frith: In that case, honourable senators, I will certainly take it up with my colleagues, now that I have some formal notice. Certainly, the Leader of the Government has not been at all diffident about it, and I am not criticizing him or complaining. He has mentioned the matter two or three times. However, I wanted to know that there was such an intention before I took the matter up with my colleagues.

I must add, however, that that does not guarantee there will be no subsequent questions in Oral Question Period.

[Senator Gigantès.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I may say that there are discussions taking place among the house leaders in the other place with a view to referring this agreement to their standing committee.

PARLIAMENT HILL

CONDITION OF SIDEWALKS

Hon. Charles McElman: Honourable senators, may I raise with the Leader of the Government in the Senate a perhaps more pedestrian type of question? It deals with the walkways on Parliament Hill. Last evening, when I was on the Hill, I saw a guest who was walking around stumble and almost fall on the sidewalk beside the East Block. There are very wide cracks in that sidewalk. It is a disgraceful situation when guests and Canadian citizens visiting the Parliament of Canada must go through this type of obstacle course.

I simply ask the Honourable Leader of the Government if he would speak to his colleague, the Minister of Public Works, to see if some action can be taken before freeze-up. I am sure that the winter ice will fill in the cracks, but perhaps we could do something else before that happens.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I will certainly do that, and I thank the honourable senator for bringing this matter to my attention.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to three questions.

With the permission of the Senate, I shall follow the usual procedure and identify the date, the questioner and the subject matter, and ask that the answer be taken as read and form part of the proceedings, unless any honourable senator wishes me to read it.

CANADIAN TRANSPORT COMMISSION

CREATION OF NEW AGENCY—EFFECT ON TENURE OF PRESENT COMMISSIONERS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 12 last by the Honourable Edward Lawson regarding Canadian Transport Commission—Creation of New Agency—Effect on Tenure of Present Commissioners.

(*The answer follows:*)

> Legislation which provides for the abolition of commissions, boards, ministries or other entities often carries with it the elimination of positions. Holders of positions in such entities are provided with reasonable notice or where such notice cannot be given, payment in lieu of notice.

Compensation is offered in accordance with the separation pay policy approved by the Treasury Board in 1984, which policy can be found in the Personnel Management Manual, volume 2, chapter 8-3. Within that policy, individual claims are negotiated based on precedents in both the private and public sector.

Negotiations are carried out on a confidential basis between representatives of the Crown and the employees or their representatives. Such negotiations are aimed at arriving at a fair settlement. The government is always careful to follow precedent in these matters. An individual may, of course, seek redress through the courts.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

LUBICON LAKE INDIANS—NEGOTIATIONS FOR ALBERTA RESERVE—APPOINTMENT OF NEGOTIATOR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on September 29 last by the Honourable Joyce Fairbairn regarding Indian Affairs and Northern Development—Lubicon Lake Indians—Negotiations for Alberta Reserve—Appointment of Negotiator.

Hon. Joyce Fairbairn: Perhaps the honourable deputy leader would read the answer to my question.

Senator Doody: Yes, certainly, senator.

The Honourable Bill McKnight announced the appointment of Mr. Brian Malone as the new negotiator for the Lubicon Lake Band land claim on October 5, 1987. In his announcement the minister reaffirmed Canada's willingness to continue substantive negotiations over the Lubicon claim. Mr. Malone hopes that productive negotiations on this claim can be commenced by early November 1987.

When the Honourable E.D. Fulton undertook his assignment to inquire into the facts of the Lubicon lake Band's land claim, there was an agreement between Canada, the Province of Alberta and the band that the results of Mr. Fulton's work would not be released without the consent of all three parties. To date the province has not consented to the release of the document.

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on September 30 last by the Honourable H.A. Olson regarding Communications—Sale of Teleglobe Canada to Memotec—Investigation of Insider Trading—Government Action.

(*The answer follows:*)

The government ran a sealed bidding process. All potential bidders received information on Teleglobe only after they had signed a confidentiality agreement. This is standard commercial practice to protect the company being sold.

The bids were received on January 9. The government had agreed with the bidders as part of the confidentiality agreement, that the government would not announce the names of the bidders. The government did not advise them one way or the other on whether they should make an announcement. The government advised any who asked to seek their own legal advice. The government was anxious to have the bidding process conducted confidentially, as is the case in any sale of a similar nature in the private sector.

At a meeting on Janury 10, the government together with outside legal counsel, Justice counsel, CDIC and Dominion Securities agreed that should any bidder make an announcement the government would not comment. The government knew at this point that Spar/Caisse/CTCI were contemplating a press release and that Memotec had already informed the stock exchanges that it had bid.

The confidentiality of the names of the bidders, from the government's point of view as vendor, was to protect the bidders, as is normal commercial practice, because the government did not feel it would be fair to tell bidders who they were competing with. At no time did the government "insist" that any bidder not disclose. The government merely informed them that the government would not disclose.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Stollery*).

Hon. Ernest G. Cottreau: Stand!

Hon. Rhéal Bélisle: Honourable senators, on a point of order, I would like to say that this bill is not receiving the benefit of the democratic process in this institution. This bill, Bill S-7, has been on the order paper since April 2. Senator Stollery has had two months in which to say something, and has not chosen to do so. I am now informed that Senator Stollery will not return to this chamber for two or three weeks. In all fairness, this bill should go to the committee, so that the witnesses can be heard.

Hon. Eymard G. Corbin: On the point of order, I wonder if I may be allowed to ask Senator Bélisle if he has received any guarantee from the committee that they are prepared to examine that bill immediately upon its referral. Has he, in fact, spoken with the chairman of the committee?

Senator Bélisle: May I say to the Honourable Senator Corbin that he was one of those who accused me of being too nosy!

I may say that I have not spoken to the chairman of the committee, because I am waiting for the democratic process to take place so that this bill will go to the committee. I ask the Leader or the Deputy Leader of the Opposition to see if something can be done about this matter. This is the first time in the history of the Senate that a bill is not receiving—and I repeat—the democratic process. Let the bill go to the committee.

Senator Corbin: On that last point Senator Bélisle is wrong. I looked at some precedents going back to the last century.

However, I would like to answer the question that I put to him, and which he did not answer: Last summer I spoke with the chairman of the committee to which this type of bill is normally referred—namely, the Standing Senate Committee on Legal and Constitutional Affairs—and she informed me that as far as she was concerned this private senator's bill would be at the bottom of her list and she did not think the committee would find the time to deal with it this fall. Therefore, I do not know why there is all this pressure on poor old Senator Stollery to speak to this matter either today or tomorrow, when I know for a fact that he is doing research on the background of that famous institution.

Senator Bélisle: Honourable senators, I must rise again and say that if the chairman of the committee has already made up her mind not to give this bill consideration in committee, then the democratic process is indeed being stopped by the chairman.

• (1510)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I take it that Senator Bélisle wishes to record his objection to the motion to adjourn the debate in Senator Stollery's name. No doubt, what he has said today will come to Senator Stollery's attention.

Senator Bélisle: Thank you.

Order stands.

BANKING, TRADE AND COMMERCE

NOTICE OF COMMITTEE MEETING

Hon. Royce Frith (Deputy Leader of the Opposition): I wish to advise honourable senators that the Standing Senate Committee on Banking, Trade and Commerce will be meeting in room 256-S on the Bill C-22 reference. The notice is for when the Senate rises, so it will be meeting immediately following the adjournment.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, October 21, 1987

The Senate met at 2 p.m., the Honourable Rhéal Bélisle, Acting Speaker, in the Chair.

Prayers.

PATENT ACT

BILL TO AMEND—REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON QUESTION AND MESSAGE FROM COMMONS PRESENTED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, I have the honour to present the nineteenth report of the Standing Senate Committee on Banking, Trade and Commerce concerning the motion of the Honourable Senator Murray, P.C., dated September 3, 1987, and the Message from the House of Commons, dated August 31, 1987, relating to certain amendments to Bill C-22, an act to amend the Patent Act and to provide for certain matters in relation thereto.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report see appendix, p. 2009.*)

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Sinclair: Honourable senators, I move, seconded by Senator Stewart, that the report be placed on the Orders of the Day for consideration on Tuesday next, October 27, 1987.

Senator Flynn: That will give honourable senators opposite a chance to read it!

Senator Frith: And you too! I always mind my own business—in the same way you mind mine!

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

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration on Tuesday, October 27, 1987.

QUESTION PERIOD

[*English*]

FINANCE

STOCK MARKET ACTIVITY—CONGRATULATIONS TO MINISTER OF FINANCE FOR STATEMENTS AND ACTION

Hon. Ian Sinclair: Honourable senators, I am sure that all Canadians have been concerned and wondering what has been going on in our world over the past few days. They have seen tremendous and traumatic action being taken in the equity markets throughout the world, and I believe that we should all reflect on the situation and congratulate the Honourable Michael Wilson for the statements he made and the action he took to quieten the situation.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, on behalf of the Honourable Michael Wilson I thank the honourable senator for his intervention. I hardly think it will be necessary to draw that intervention to Mr. Wilson's attention, he being the avid reader of Senate *Hansard* that he is! I am sure he will be pleased to hear that comment, particularly coming from one as experienced and respected in the private sector as Senator Sinclair.

Senator Frith: Harvie Andre always passes his copy of Senate *Hansard* along to Mr. Wilson!

An Hon. Senator: With teardrops!

NATIONAL DEFENCE

COMMITTEE STUDY OF CONCERNS OF MILITARY FAMILIES—STATUS OF REPORT AND NATURE OF RECOMMENDATIONS—REQUEST FOR ANSWERS

Hon. Lorna Marsden: Honourable senators know that later this afternoon we will be in this chamber as witnesses to the presentation of the Persons Award for 1987. It seems to me that it would be very helpful if some of the questions that have been asked concerning the status of women in this country were answered a little more quickly than they have been. I hope I am not being unfair, and that they do not turn up in the delayed answers today.

However, on August 28 I asked the Leader of the Government in the Senate about the status of the report on spouses of members of the military. About one month later an answer came back saying that the Minister of National Defence had the report and that it had been reviewed. I wonder if the Leader of the Government in the Senate can give us some further information on the status of that report, which affects

mostly wives and children of a great many Canadians in the forces.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall have to make inquiries of my colleague in that regard.

Senator Marsden: Honourable senators, it would be very helpful if the Leader of the Government in doing so would get an answer which is a little more definitive than the last one, which said that the minister had taken note of the request and would consider the question when a decision was made. I am sure that the minister has looked at the report very carefully. It is a matter or urgency to a great many women, their spouses and their children in this country.

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—POSSIBLE GOVERNMENT CONTRACT FOR CONSULTANCY WORK OF CERTAIN WITNESSES APPEARING BEFORE SPECIAL JOINT COMMITTEE—REQUEST FOR ANSWER

Hon. Lorna Marsden: Honourable senators, I have an additional question concerning a question I had asked on September 2 about people who had appeared as witnesses before the Special Joint Committee on the Meech Lake accord. I wonder if the Leader of the Government in the Senate has any indication when it will be possible to get an answer concerning the status of those witnesses, as to whether or not they were consultants or in any way linked to the PCO or the government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I recall the question, it asked whether these people had been employed or engaged professionally by various agencies and, indeed, by any department of the federal government. That is a rather wide net, but I have a partial answer that I can give the honourable senator now.

The partial answer is that insofar as the Privy Council, the Prime Minister's Office, the Federal-Provincial Relations Office and the Department of Justice are concerned, the answer is in the negative. I ask the honourable senator to allow me to confirm what I have just said and also to investigate whether replies have come in from other departments concerned.

• (1410)

The Hon. the Speaker in the Chair.

[*Translation*]

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

[Senator Marsden.]

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment.—(*Honourable Senator David*).

Hon. Paul David: Honourable senators, in his speech of June 11, Senator Argue explained why he gave notice on March 12 that he intended to move a motion to create a Special Committee of the Senate on Health Care. I read with much interest the comments made by Senator Marshall on September 14. He spoke about the possibility of reducing health costs for veterans who might take advantage of the Veterans Independence Program. He also referred to the *Health Promotion* paper published by the Department of National Health and Welfare which recommends a nationwide discussion on this issue.

I rise today to ask for further information on the objectives of the proposed committee, the budget needed to meet these objectives and possibility of producing a report within 12 months.

The motion of Senator Argue gives the terms of reference of the committee in a single sentence:

First, to examine Canada's health care system. Second, to report upon the role of preventative medicine and other preventative measures, third, to determine whether the provision of a wider range of health services can make the health care system more effective and contribute to the health, happiness and longevity of Canadians, and fourth, to examine how such an improved health care system might modify or control the ever increasing costs of health care.

Let us look at these four objectives separately so that the sponsor of this motion can give us a better idea of the research that will be needed to obtain the desired results.

A review of the health care system in Canada would cover the ten provinces and the territories. This alone is an enormous task.

For instance, the Quebec government created a commission to examine its health care system and to suggest improvements. For the public and the media, this commission became known as the Rochon Commission after its president, a doctor specializing in epidemiology who, at the time of his appointment, was dean of the faculty of medicine at Laval University in Quebec City. This six-member commission, which included four full-time commissioners, began its study on October 15, 1985, and is expected to present its report on December 18 of this year. It has had an average full-time staff of 30 employees and has contracted work out to some 60 researchers. It will have cost about $6 million. This example in only one province clearly shows the enormous challenge which Senator Argue's motion represents as it covers all Canada.

In his speech, Senator Argue indicated a few parameters for the consideration of the health care plan: the cost of the present plan; the aging of the population and its impact on the utilization and duration of care; cutbacks in services in several provinces, following budgetary restraint; longer waiting lists for surgery and the occupation by senior citizens of short-term care hospital beds over long periods.

We could have added the extreme congestion of emergency wards in most city hospitals, a situation which forces patients to spend many days on stretchers in corridors, while waiting for beds. Many other problems certainly will be brought to the attention of committee members—for instance the shortage of general practitioners and more importantly of specialists in remote areas, the obsolescence of hospital equipment, the renewal or purchase of which is increasingly left to volunteer organizations; reduced numbers of orderlies and nurses on the labour market; beds shut down during summer and winter holidays, etc.

Could Senator Argue tell us whether all the problems relating to health care will be studied by the committee or whether the review of the current system will be limited to specific aspects? Further to that question, could he give us an idea of the size of the funding that will be requested and made available to the committee?

The second purpose of the motion is to study the role of preventive medicine and other measures.

This analysis, I gather, covers two aspects—first, conventional preventive medicine, and second parallel medicine which, according to the mover of the motion, would have preventive effects. Does my interpretation agree with that of Senator Argue?

Conventional medicine always has been and still is playing today, honourable senators, an essential role in prevention. Although it accounts for a mere 2 per cent of the health funding, a figure that was quoted by Senator Argue and which officially seems accurate to me, we should not underestimate the significant contribution made by the 44,000 physicians who individually counsel their patients. The costs of that preventive medicine are not quantified. It is nonetheless part of the medical fees paid by the governments. Whenever a physician counsels his patient not to smoke, to cut down on fat, or salt, or sugar, or calories, as is the case, or to exercise, to change one's lifestyles, etc. he is practising preventive medicine. That kind of medicine is a significant factor in health maintenance.

As factors of risk, Senator Argue insisted upon stress as the most costly of all, and I quote:

> The No. 1 cost resulted from stress. Those people who suffer stress cost more money than people treated for other ailments or afflictions.

And as examples of stress:

> . . . facing unemployment or the current agricultural crisis as we do, facing technological change and the unemployment resulting from that . . .

That is something that should also, according to him:

> . . . be examined and it needs to be considered in any study of Canada's health costs and needs.

It must be pointed out that stress, in itself, is not an illness that can be measured. It is part of our daily life and every individual reacts and adjusts differently to any kind of situation. Hans Selye, whose life has been dedicated to the study of stress as it affects human health, made a remarkable synthesis of his observations in his book entitled *Stress sans détresse*, which I highly recommend to you, honourable senators. Is it conceivable to live in a society free from stress? Would any consideration of causes which might create, maintain or intensify stress not extend considerably the mandate of that committee, so that it would have to review countless psychological, physical, economical and political factors which affect us as individuals and as a society?

The third objective of this motion would provide for the consideration of a wide range of services so as to make the health care system more effective, thus contributing to the health, happiness and longevity of Canadians.

Among that range of services and preventive measures, Senator Argue mentioned "homeopathy, osteopathy, reflexology, holistic medicine, acupuncture, allergy treatments, naturopathy, chiropractic, meditation, herbs, massage, psychic therapy, health foods, counselling and self-therapy".

In my opinion, most of these techniques should not be considered as preventive measures since they are used to alleviate the patients' symptoms.

If such is the case, the study proposed to the committee will deal more with the merits of these parallel medicines and the benefits of integrating them into the present health care system. To demonstrate that these services would contribute to the health, happiness and longevity of Canadians is a utopian exercise, considering the subjectivity of the definitions of such terms as health, not to mention happiness. As to longevity, it is the result of a great many factors whose individual influence would be extremely difficult to determine.

For instance, we are all aware of the aging of our population. Statistics seem to be clear and to be a source of real concern, because they indicate that in 1985, the ratio of people 65 years and over was 10 per cent, while in year 2031, it will

reach 20 per cent. We should not overlook, however, that this percentage is figured out in terms of overall population and that it increases faster as the number of young people decreases. In other words, the current birth rate of 1.7 per cent in Canada explains significantly the rapid climb in the ratio of senior citizens.

Senator Argue will certainly be able to shed more light on the goals of this part of his motion which, in itself, might deserve a special and particularly complex review.

The last objective of the motion is to examine how such an improved health care system could stop or slow down the increase in health care costs.

The health care system, as it exists now, is universal, available, and free of charge. First of all, I should like to know whether Senator Argue's motion challenges the three principles underlying the current legislation. If the answer is no, if this is not part of the committee's mandate, the integration of the various parallel medicines mentioned in his speech into the present health care system would mean added services. I would be quite surprised if added services were a factor in stopping or reducing increases in health care costs.

The introduction of new technologies to treat people more efficiently is, in my view, the major factor of cost increases that have taken place in the last thirty years or so. Senator Argue emphasized in his remarks the increase in days of hospitalization for older people. Our ability to offer palliative or curative treatments to people getting increasingly older confirms that fact. One example is the by-pass involving the use of the artificial heart-lung which is common practice these days with senior people.

I doubt that the addition of parallel medicines to the practices of traditional medicine can change significantly the unavoidable degradation of health with age. Prevention is limited by our knowledge and it regularly improves as medical research progresses. It would still be sheer utopia to think that some day, hundred-year old Canadians will die in "good health"!

To conclude, I will say that Senator Argue's motion has brought to our attention the very real need, and I insist on that, the very real need to assess health programs and costs since a universal and no-charge plan was introduced. Such an assessment would require, I think, a large qualified and full-time staff. Does the Senate have the huge budget required, I suggest, to achieve the many objectives of that motion? Can one really carry out such a mission within the proposed deadline of 12 months?

I wish that Senator Argue would eventually answer my questions and comments before the whole Senate reaches a decision. Thank you, honourable senators.

[Senator David.]

On motion of Senator Flynn, debate adjourned.

• (1420)

[*English*]

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we have a Senate order that we proceed with the hearings of the Committee of the Whole on the Meech Lake Constitutional Accord at 3 o'clock every Wednesday afternoon, unless otherwise ordered.

Since we have now come to this item on the order paper, and since this is our first experience with television media access, I wonder if we could bring this order forward by 25 minutes. I realize that the Senate will adjourn during pleasure while the Senate is put into a Committee of the Whole and await the arrival of the witnesses and the setting up of the cameras, all of which will, as indicated earlier, take approximately three or four minutes. I would suggest that we do not actually leave the chamber but proceed to Committee of the Whole in the normal way and await the arrival of the witnesses.

Hon. C. William Doody (Deputy Leader of the Government): Did you say "witness" or "witnesses"?

Senator Frith: My understanding is that there is only one witness.

Senator Doody: I may have misheard, but I thought Senator Frith said "witnesses."

Senator Frith: I'm sorry. As far as I know, it is one witness.

Senator Doody: My impression was that the television people were to be available from 3:00 to 4:30 o'clock. Are they at the starting gate? Millions of excited Canadians are awaiting the results. I certainly will not stand in the way if the Senate wishes to proceed.

The Hon. the Speaker: Honourable senators, since we are 25 minutes ahead of schedule, is it your pleasure to continue with the Orders of the Day and Inquiries and Motions, and then revert to this item?

Senator Frith: I think that is a good idea, because the Persons Award ceremony is scheduled for this afternoon and we have been asked to try to adjourn no later than 4:30 o'clock in order to make the necessary preparations.

I did hear someone suggest that we revert to Question Period, and if leave is granted to do that, we should do so. However, I ask that we continue with the Orders of the Day before we ask for a reversion.

Senator Doody: I am advised that the television technicians are not yet available but that they will arrive in 10 or 15 minutes. In any event, my cynicism was indeed well founded—

they are not restlessly waiting at the door for this television phenomenon.

Hon. Finlay MacDonald: Honourable senators, am I correct in my understanding that, with leave, any honourable senator can sit wherever he or she may wish to sit this afternoon and ask questions from wherever that may be?

Senator Frith: Honourable senators, perhaps the Speaker can tell us about that.

Senator Doody: This is not the Roman Senate.

The Hon. the Speaker: I have heard conflicting opinions on this matter between the Clerk and the Clerk Assistant.

Senator Doody: Come down clearly in the middle!

The Hon. the Speaker: The rules of the Senate are being perused.

Senator Doody: By that time the technicians will have arrived.

The Hon. the Speaker: Honourable senators, rule 64 states:

> When the Senate is put into Committee of the Whole every senator shall sit in the place assigned to that senator. A senator who desires to speak shall rise and address the Chair.

Senator Frith: I thought Senator MacDonald was asking about the Persons Award.

Senator MacDonald: I was wondering if senators could sit in any place they wish. As I understand it, some senators are going to be discombobulated.

Senator Frith: I still feel combobulated. I have not been discombobulated yet.

The Hon. the Speaker: We will continue with Orders of the Day.

All further items of business on the order paper having been called and stood:

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Senator Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, the business before us today is the continuation of the presentation by the Honourable Eugene Forsey. I presume that he will be down shortly; he was expected here at 3 o'clock.

As was agreed to by the Senate, television cameras will be allowed in the chamber for this meeting of the Committee of the Whole. There will be a slight delay until such time as they are in position. Is that agreeable?

Hon. Senators: Agreed.

Pursuant to Order adopted on June 18, 1987, the Honourable Eugene Forsey was escorted to a seat in the Senate Chamber.

The Chairman: Honourable senators will recall that at a previous meeting we discussed the matter of where the witnesses should be seated. Various points of view were put forward on whether they should be seated at the front or the back of the chamber, where the Gentleman Usher of the Black Rod normally sits. It was decided that the best position would indeed be at the back of the chamber so that the witness could face all honourable senators, and it would be easier from the point of view of questioning. Therefore, the witnesses will be seated, as is Senator Forsey at the moment, just in front of the Gentleman Usher of the Black Rod.

A few questioners were left over from our last meeting. I shall take the names of senators who wish to ask questions as they raise their hands. From my list I have Senator Le Moyne, and Senator Turner has indicated to me his wish to question, as has Senator Olson. I will take names as they come. I believe that Dr. Forsey has some opening comments to make. Is that right, Dr. Forsey?

• (1430)

Hon. Eugene Forsey: Well, very brief ones.

[*Translation*]

The Chairman: Thus, Senator Forsey, I welcome you and I invite you to take the floor.

[*English*]

Dr. Forsey: Mr. Chairman and honourable senators, I have only a brief introductory statement. It is simply this, that I have already had sent to all honourable senators copies of two documents which I have produced recently, one being a submission that I made to the public hearings held by the New Democratic Party in Alberta on this subject, in which I added certain things to what I had said to this committee before; and then, more recently, an analysis of the report of the joint committee of the two houses on the Constitutional accord. I do not know whether those have reached all members of the Senate. I am quite sure that you have not had time to read them, but you may have had time to glance at them. If so, you may want to ask questions arising out of them.

[*Translation*]

Unfortunately, I have no French version of my text, as I did not have much time and have no secretary at my disposal. I mistrust my capacity to write a French text or translation that would be worthy of your consideration.

However, if you want to question me in French, I shall do my best to answer in spite of my insufficient knowledge of the French language.

[*English*]

I think that's about all I wish to say now, although some of the questions that you may see fit to ask of me I may find I have answered in one of these documents—they run, I am sorry to say, about 50 pages of typescript—and I may simply lift something from those to answer some question that is asked.

[*Translation*]

The Chairman: Thank you, Dr. Forsey. I have presently on my list the names of Senator Le Moyne, Senator Turner, Senator Olson, Senator Frith and Senator Robichaud.

I will take names as they come. Thus, I add the names of Senator Hays, Senator Denis and Senator Molson.

[*English*]

In view of the fact that many senators have indicated that they wish to ask questions, I ask honourable senators to try to keep their questions reasonably brief. Our limits this afternoon are that we must rise by 4.15 p.m. because, as honourable senators know, there will be the Persons Award ceremony here later this afternoon and the chamber must be prepared for that. I presume, however, that if we do not conclude with Dr. Forsey today, he would be prepared to come again if need be. Is that correct, Dr. Forsey?

[*Translation*]

Dr. Forsey: I am always at your service, Mr. Chairman.

The Chairman: The first name on my list is Senator Le Moyne.

Senator Le Moyne: Thank you, Mr. Chairman.

Dr. Forsey, my question is general in nature and will probably not surprise you.

I would like to know in what way the Constitutional Accord could contribute to what we frequently call balkanization of the country?

Dr. Forsey: I think that it is probably the clause on immigration which could lead to it, but also, in my opinion, the clause concerning the spending power of the federal government. I believe these two clauses might lead to that.

Senator Le Moyne: Do you see in these provisions the makings of a development potentially detrimental to this country and its unity as we see it now?

Dr. Forsey: I think that the provisions on immigration could lead to a fragmentation of the federal jurisdiction on immigration.

As to the spending power, we could rely on the very forceful, detailed and knowledgeable testimony of Professor Johnson, a former deputy minister first in Saskatchewan and then in Ottawa. He asked questions and levelled very precise criticisms based on his outstanding experience. In my opinion, the Joint Committee did not give a very convincing answer to his questions and comments.

Senator Le Moyne: So you think that there is a very real danger there. This is not just a matter of feeling or idealism about Canada.

Dr. Forsey: Well, I think that his criticisms are very detailed and are based on the profound experience of a very learned man.

It is often said that this is an interpretation principle which is not very important. Interpretation principles are said to carry little weight. I could give a very detailed answer as to the importance of the interpretation principle but I do not think that the answer given is very well justified.

Senator Le Moyne: Thank you, senator. I thank you, Mr. Chairman.

The Chairman: Thank you, Senator Le Moyne.

[*English*]

Senator Turner: Dr. Forsey, I believe that you were a former Director of the CLC. As you know, Canada passed the Canadian Charter of Rights and Freedoms. Under "Fundamental Freedom" there is:

(c) freedom of peaceful assembly; and

(d) freedom of association.

What does that section mean under the Canadian Charter of Rights and Freedoms?

Dr. Forsey: Well, senator, you had a judicial interpretation of part of what it means—an interpretation which I think surprised many people in the labour movement. It didn't particularly surprise me, because I thought that the section in the Charter was so broad that it was certainly open to the interpretation which the Supreme Court placed upon it, a narrower interpretation than many people in the labour movement had expected. But I thought they had expected rather too much of the Charter, and it increased my feeling that possibly the Charter's drafting left something to be desired.

I don't know whether I quite caught the full bearing of your question, senator.

Senator Turner: What do those two sections mean, in your personal opinion?

Dr. Forsey: Well, I think they ought to mean that freedom of association, as most people understand it, is unlimited—save by the provisions of section 1 of the Charter, of course—where you can show the limits to have been reasonably justified in a free and democratic society.

I don't think I can say anything more than that. I think it is possible under section 16 of the accord that these as well as other features of the Charter might in the province of Quebec be placed in jeopardy.

Senator Turner: In your opinion, under the terms of the suggested Meech Lake Accord, will the meaning of those sections be changed in any way?

Dr. Forsey: Yes, it could be, I think, because in the province of Quebec—I don't think outside—it is conceivable that you might find the government of the province saying that they are empowered to promote the distinct society of Quebec: "The distinct identity of Quebec enables us to pass this particular piece of legislation." It would go to the courts, and the courts might say, "Yes, that's quite true." But on the other hand, they might say, "No, it isn't true." We don't know. Nobody can prophesy what the Supreme Court of Canada will say on the matter. But I think there is a possibility there that there might be limitations attempted by the government and the legislature of the province of Quebec which might or might not stand up in court.

Senator Olson: Dr. Forsey, there are a number of areas in the Meech Lake Accord about which I am very concerned. They have to do with the transfer of a certain amount of control over the federal spending power to the provinces; there is the matter of provincial control over certain federal institutions, such as the new method of appointing senators and the matter of Supreme Court nominations; there is also the new, or what I understand to be the new, amending formula.

It seems to me that we are going back into the straitjacket of the requirement for unanimity before any further changes can be made to the Canadian Constitution; and there are some important matters such as the redistribution of powers which was to be another phase of constitutional reform in Canada, and so on. I wonder if you can help me to understand what is in the accord now with regard to the veto that the provinces will have. Will that veto apply only during negotiations, or will there, in fact, be a reference to provincial legislatures after the First Ministers have reached agreement, at which stage the veto can be applied? It seems to me that a lot of other factors come into play here. One, of course, is the Supreme Court ruling of a few years ago with respect to changing some federal institutions, some kind of assertion that provincial agreement was necessary. However, the ruling did not say at what level agreement was necessary to make changes. I wonder if you can help me and give me your understanding of what unanimity means in the context of what we know now about the so-called Meech Lake Accord.

• (1440)

Dr. Forsey: As to your last point about what I fancy is the Senate reference case in connection with Bill C-60 of 1978, I think that is vieux jeu. I think it is now out of the way, because it arose under the old section 91, head 1, which has now been superseded by the Constitution Act, 1982. So I do not think that that question will arise.

The case of where the veto of a single province might apply before it ever got to the stage contemplated in the act of the 1982 formal amendment arises in connection with the inclusion in the accord of the provision for annual First Ministers' conferences, at which Senate reform and fisheries will be on the agenda. Other things can only be put on the agenda by general consent. This means, as Chief Georges Erasmus pointed out in a brilliant piece of evidence to the joint committee, that the question of the rights of aboriginal peoples cannot be brought up at any future First Ministers' conference except with unanimous consent of the premiers. One province can say no, and it is wiped out. This is a very important point which has been largely overlooked.

As to the power of a single province to veto, it does not arise in connection with all amendments. The general formula, the seven-province formula, applies to amendments which are not specified, but what has happened is that a whole series of things that formerly came under section 42 of the 1982 act and the seven-province formula are now transferred, en bloc, to section 41 and are made the subject of unanimous consent. For example, there is the admission of new provinces, and I believe, the extension of provinces into the territories, changes in the powers of the Senate, changes in the number of senators from any province, and the method of selection of senators. Formerly these matters could be changed by the seven-province formula. Under the Meech Lake Accord it can no longer be done in that way, and any one province can say no. That kills the thing as dead as mutton. That is why I have said that Premier Getty has been sold a pup on the subject of Senate reform, because any one province can simply say, "We are not interested in Triple E. We won't consider it. We won't consider anything. We are perfectly happy with the transitional Senate where we, the premiers of the provinces, decide who will go to the Senate. We see nothing that can possibly touch that for perfection. This is superb. This is magnificent. We are the wisest people in the country, and the power is vested in us. Why should we want to hand it over to anybody else?" There are other points on this issue, but those are the ones that occur to me at the moment.

Senator Olson: So it is not only a matter of whether such subjects may or may not be negotiated, but if one province objects, the item will not even make the agenda for discussion.

Dr. Forsey: Except for Senate reform and fisheries, nothing can be put on the agenda without general agreement. On many things it may be very difficult to get general agreement, and on some it might be very hard, indeed, to get general agreement. I cannot prophesy.

Senator Olson: My last question is with regard to section 92 being superseded by what has happened since.

Dr. Forsey: It is section 91, head 1, to which I referred.

Senator Olson: But the distribution of powers between the two levels of government has not been changed.

Dr. Forsey: No, it has not been changed. The powers of the provinces and of the Parliament of Canada in the Constitution are not changed except in regard, of course, to the amending formula; especially as there is a non-derogation clause in the proposed section 2 where you have duality and distinct society. They are not changed except that, in sharp contradistinction to what you get in the equalization section of the 1982 act, the exercise of the authority of Parliament and the legislatures is not safeguarded. Therefore, you have, it seems to me, a possibility that minorities could go to the courts and say, "Look, the legislatures and the Parliament of Canada have committed themselves to the principle of linguistic duality. They are not living up to that principle, and they ought to live up to it. While we cannot expect you, the court, to take away any power they have or to give them any new power, we can expect you to say to them, "You have the power to do such and such more for the minorities in order to preserve the principle of linguistic duality. We want you to exercise it.' " The courts might conceivably be in a position to say to Parliament, "You are not doing enough for the minorities. Get busy and do something more." They might be in a position to say to the Legislature of Quebec or to the Legislature of Ontario, "You are not doing enough." For example, they could say to the Government of Ontario, "What the French-speaking minority in Ontario has by statute is not enough. You must do

more. You must add further rights." So the courts may not be able to touch the authority, but they can tell Parliament and the legislatures how to exercise it.

On the other hand, of course, the principle of duality may mean absolutely nothing. It may mean simply the preservation of the *status quo ante*. So, if the minorities try to do something under this provision, they may be faced with the reply, "All that is guaranteed is your preservation, what you have now. Nothing more." This is one of the great questions. This is one of the cornucopia of ambiguities you find in this accord.

Senator Frith: Dr. Forsey, since you last appeared before this committee we have had the benefit of the report of the joint committee. There are two aspects of that report I ask you to comment upon. The first one deals with the question of whether or not this accord is a decentralizing step in Canada's constitutional history. Essentially, as a federation, Canada has been considered to be more decentralized than many other federations. I get the impression from reading the report that the committee is of the view that the Meech Lake Accord does not really change anything and does not have a decentralizing effect.

● (1450)

On page 14 the committee put to itself this question:

> Is the *1987 Constitutional Accord* consistent with the basic structure and values of the Canadian Constitution or it is a package of provincially oriented amendments that will stand the constitution on its head?

They then cite a former Liberal cabinet minister, Eric Kierans, who said:

> Meech Lake is not new. It is simply the closest that we have come to following the original intent and meaning of the *British North America Act* since Confederation itself. It reflects more accurately the view of what the original Fathers of Confederation thought that they were agreeing to at Confederation. They lived with each other, quarrelled and wrangled in debates, assemblies and conferences for years. They knew what was possible and what the different colonies could accept. They never intended that the provinces should be as dependent as they, in fact became. Above all else, they knew that a centralized Canada would not work.

Then there is a quotation from another witness, Mr. Gordon Robertson:

> Another question is whether the argument weakens the federal government in any significant and important way.

My parenthetical comment to that is that this has become a very important political question.

I continue:

> Here one has to note that the accord does not change the distribution of powers in any way; nothing is changed in sections 91, 92 and 93.
>
> During the constitutional negotiations in 1968 to 1971 and later up to 1979, it was fully expected that there would be changes in the distribution of powers. Quebec sought a number of changes in the distribution of powers. This accord does not change that distribution in any way.

That seems to lead to the conclusion that, in fact, the concern about the accord having a decentralizing effect is over-stated. What is your view?

Dr. Forsey: Senator, I cannot for the moment locate the page from which you read, but the committee itself admitted explicitly, in so many words, that this accord was more decentralizing than the Constitution Act of 1982. It could scarcely fail to do otherwise. It then quoted, with approval, what you, sir, have quoted of what Mr. Kierans said, and I think it might be worthwhile for me to read my comments on Mr. Kierans' remarks. I described his statements as sheer rubbish, which I think they are. I think they are demonstrable rubbish, and here is why:

> Mr. Kierans, plainly, has never read, or has completely forgotten, the British North America Act. He has never read, or has completely forgotten, the *Confederation Debates*. And the Committee, apparently, is in the same state of ignorance, blissful or invincible. Look at the Act of 1867: section 24 (appointment of Senators); section 58 (appointment of Lieutenant-Governors); section 59 (dismissal of Lieutenant-Governors); . . .

And I remind you that three have been dismissed.

> . . . section 91 (the residual power of 'peace, order and good government'), and heads 2 (trade and commerce), 12 (seacoast and inland fisheries), 22 (patents), 23 (copyrights), 25 (naturalization and aliens), 26 (marriage and divorce), 27 (criminal law); section 92, head 10(c) (works for the general advantage of Canada). Look at the provisions for reservation of provincial bills and disallowance of provincial Acts (sections 55, 56, 57 and 90). Look at section 93, paragraphs 3 and 4 (power of the Dominion Government to pass Remedial Orders, and of Parliament to pass Remedial Acts, to protect the educational rights of the Protestant and Roman Catholic minorities). Look at section 94 (power of Parliament to make uniform the law of property and civil rights in Ontario, Nova Scotia and New Brunswick). Look at section 95 (Parliament's paramount power over immigration and agriculture). Look at section 96 (power to appointment the judges from County Courts up); . . .

Except for the judges of the Courts of Probate in Nova Scotia and New Brunswick.

> . . . section 101 (Parliament's power to establish the Supreme Court of Canada); section 132 (Parliament's power to implement treaties). Look at what Macdonald said in the *Confederation Debates* (and he was not expressing an individual opinion; he was speaking for the *Government*): 'We have given the General Legislature all the great subjects of legislation. We have conferred on them, not only specifically and in detail, all the powers which are incident to sovereignty, but we have expressly declared that all subjects of general interest not distinctly and exclusively conferred upon the local governments and

> local legislatures, shall be conferred upon the General Government and Legislature . . . .We make the Confederation one government and one people, instead of five governments and five peoples, . . . one united province, with the local governments and legislatures subordinate to the General Government and Legislature'.

I do not know how on earth anyone who has ever read any of those documents that I have mentioned—and there are others—could make the statement that Mr. Kierans did that the Meech Lake Accord "is simply the closest that we have come to following the original intent and meaning of the *British North America Act* since Confederation itself." That is something that is beyond my understanding and requires a very superior intellect to mine to be able to describe in any other terms than I did, as sheer rubbish. It is demonstrable rubbish; it is nonsense, and "non-sense" in the literal meaning of the word. It makes no sense. Therefore, I think that that particular statement of Mr. Kierans, which is quoted with approval by the committee, is not worth considering at all.

You then get this business that there has been no change in sections 91 or 92. However, there you are up against the fact that you have two new principles of interpretation which apply to everything in the Constitution and in the Charter except multiculturalism and the aboriginals. Exactly what that would do to the various sections of the Constitution or of the Charter is, of course, a matter of opinion, and we shall not know the answer until we get a decision from the Supreme Court of Canada.

The idea exists that principles of interpretation hardly matter; that, after all, they might touch a few grey areas; that they might touch the interpretation of section 1 of the Charter, but, really, you do not need to worry about them at all, because they are only principles of interpretation.

But I say to you: Look at history; look at the history of the United States. They started out very deliberately with a highly-decentralized federation, and the Supreme Court of the United States excogitated from its own inner consciousness a series of principles of interpretation which have turned a great deal of the United States Constitution upside down, so that the United States is now a highly-centralized federation.

Look at what the great Chief Justice John Marshall did with banking. There is not a syllable in the written Constitution of the United States about banking as a power of Congress; not one word. A case concerning a United States bank came before the Supreme Court of the United States, and Chief Justice John Marshall, in effect, said this: "While it is true that there is nothing about banking, there is the power to collect taxes." Yes. "If you are going to collect taxes, that is not going to be much use unless you have a safe place to put them. You cannot expect Congress to put all of the revenue of the United States in an old sock, or up the chimney, or under the pillow. The only place you can be sure of having your revenues safe is in a bank." Yes, again. "But the bank will not be safe unless you have the power to say what the bank shall do and what it shall not do." Yes, again, and from that sprouted the whole idea of the jurisdiction of the United States Congress to establish a United States bank.

You have the same kind of development with the Interstate Commerce Power, which has now become far more than it is reasonable to suppose the Fathers of the American Constitution intended. In any event, that part of the Constitution of the United States has been turned upside down and inside out by a principle of interpretation.

Then you look at our own Constitution, and it seems perfectly clear that the Fathers of Confederation had a very strong belief in highly-centralized federations. Sir John A. Macdonald looked at the American Constitution and said: "They commenced at the wrong end. Here we will adopt a different system." Those are his exact words, and he then went on to make some of the statements I quoted a few moments ago.

• (1500)

The Judicial Committee of the British Privy Council then took a look at our Constitution again, and by a principle of interpretation, excogitated out of its own inner consciousness, it turned the thing very nearly upside down. The general power of "peace, order and good government" has now been whittled down to very narrow proportions, as we all know. Moreover, they did that in the teeth of a statutory statement. In section 91 of the act the examples that were given of the exclusive powers of the Parliament of Canada were not to restrict the generality of the foregoing terms of the section. They excogitated a principle which was directly contrary to the express words of the act. They did what the act forbade them to do. However, they did all that by a principle of interpretation. If someone says to me, "It is just a principle of interpretation, don't worry about it. It won't really change anything," my answer is, "Tell it to the marines!"

Senator Frith: Your conclusion is that the interpretative rule that is contained in the first part of the Meech Lake Accord potentially has an effect on these other aspects of the present Constitution that you have just referred to.

Dr. Forsey: Yes. Of course, it notably has an effect on Quebec. You cannot positively say that, because some people have said—some of my critics have said—that I have raised questions; I have not given answers.

You cannot give answers to many of these questions until the Supreme Court gives an answer, and then the answer is given for you. The Supreme Court says, "this does mean" or "this doesn't mean." The Supreme Court may say, "The distinct society does not enable the Legislature of Quebec to wipe out the Protestant school system in Quebec and with it, of course, the Roman Catholic school system," or the Supreme Court may say, "Section 93 still holds," or the Supreme Court may say, "The distinct society is something new. Here is a new principle of interpretation." "Bang" goes the whole educational system in the province of Quebec!

There may be linguistic schools, for example, with no kind of guarantee for educational rights of linguistic minorities except what is in the Charter, which is not as government-proof or legislature-proof as it might appear to be.

I am prepared to elaborate on that, if necessary.

Senator Frith: Dr. Forsey, the other aspect of the report of the joint committee I would like you to comment on is what I read as the burden of chapter 5 dealing with Canada's linguistic duality and Quebec's distinct society. I have the impression that the committee seemed to feel that the Meech Lake Accord in that chapter asserts the obvious and consecrates the obvious, namely, that linguistic duality is a fundamental characteristic of Canada and that Quebec is sociologically a distinct society. Is that a fair summary of what the accord does?

Dr. Forsey: If that is all it means, then, as Mr. Trudeau said, when a decision of the Supreme Court on these matters comes down, there will be a good many people in Quebec who will find vilaines surprises—nasty surprises, ugly surprises.

Monsieur Rémillard and Monsieur Bourrassa have been vociferously trumpeting forth that this gives all sorts of wonderful new powers. If it turns out that the Supreme Court says that they will not get any real new powers, they are going to be madder than a collection of wet hens. They are going to say, "The damn English have swindled us again. They're too clever for us. They've led us down the garden path." I cannot give you any idiomatic French translations for those expressions, but I think you can see what I mean. However, I do not think they would lose any force if the correct French expressions were used. If, on the other hand, it turns out that the linguistic duality and the distinct society clause, as the committee calls it, really does a great deal, then a lot of people are going to be very much annoyed.

Senator Frith: Having been told that it has no effect?

Dr. Forsey: The idea that this will mean there will be a delightful harmony and all our troubles will be over is, I think, overdone. It has been suggested that this would cure the Canadian disease and everybody would be happy. However, it may turn out to be a narcotic, not a cure.

When Quebec comes out from under the influence and when the rest of the country comes out from under the influence, because the Supreme Court has withdrawn the drug one way or the other, Quebec may say, "This is appalling. We're going back to ask for something in unambiguous terms which not even the slick, clever, diabolically ingenious English can winkle away from us." Other people may say, "We're going to go back and ask for something unambiguous," and it will mean that we'll find the English-speaking minority in Quebec has lost everything but its shirt and socks.

You may find that it leads not to a beautiful harmony but, in due course, after the answers have been given by the Supreme Court of Canada one way or the other, to fratricidal bickering and perhaps worse.

● (1510)

The Chairman: The next person on my list is Senator Robichaud. He was to be followed by Senator Hays. However, in the interest of balance, I wonder if I might put Senator Tremblay on my list after Senator Robichaud.

[Dr. Forsey.]

Senator Flynn: Are you suggesting there has been no balance up to now?

The Chairman: Senator Flynn, I would say that I find the balance very good.

Senator Flynn: I know on which side you are leaning.

The Chairman: For your information, I have the following senators on my list: Senators Robichaud, Hays, Denis, Molson, Steuart, Neiman, Buckwold, Tremblay, Stewart and Marsden.

In view of the fact that most of the questions have come from the Liberal side, I thought it would be fair to give Senator Tremblay an opportunity to ask questions after Senator Robichaud.

[*Translation*]

Honourable Senator Robichaud, please.

Senator Robichaud: Thank you, Mr. Chairman. After all these discussions, I am quite happy to direct a rather trite, yet basic question to our friend Senator Forsey.

I am always quite impressed by his performance whenever he speaks in the Senate, using sometimes French and sometimes English, and handling both official languages with perfect ease. For a Newfoundlander, it is quite remarkable. All his fellow Newfoundlanders do not enjoy such a perfect command of both languages!

As I was listening to him, I was wondering whether he felt nostalgic about his years in the Senate. He could express himself at the time with the same extraordinary ease that he still demonstrates today.

I have discussed with him a number of points relating to the Meech Lake Accord. He touched on this subject this afternoon, but I should like to know his views concerning the proposed amendment concerning the appointment of senators.

I am well aware of the process by which he and I, and all other senators, came to sit here. As a senator and former premier of my province, I should like him to tell us what he thinks of the proposed amendment which reads:

> 25. (1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

In short, this means that the premiers may—they are under no obligation to do so—submit to the federal government a list of nominees. The federal government may be agreeable or not. It can do what it wants and appoint one or two persons from that list.

It seems to me that system is far from being perfect, even though the present one is also far from it. No system, no legislation is perfect.

I am asking for Senator Forsey's opinion, and I call him "Senator" because I believe he should remain a senator for life. Would that new process not be more imperfect than the current one?

Senator Guay: Alberta's Premier Getty wants elected Senators.

Dr. Forsey: First, this is a "transitional" system. In my view, it probably will be permanent. No premier with the power to appoint senators will ever relinquish that power to anyone. One premier saying no is enough to put an end to the process definitely.

However, is it a better system than the current one? Now, if we want a Senate that is more representative of provincial governments or legislatures, very well. If we want that kind of Senate, with the Senate's present powers including absolute veto on any legislation, very well.

If we want a Canadian Parliament that is capable of achieving something important without the final obstacle of someone endowed with that power, then it is another matter. It must be emphasized that such a transitional Senate would have exactly the same powers as the present one. The present Senate can very seldom exercise its powers.

It is now close to half a century since the Senate last rejected a bill passed by the House of Commons. To use a term borrowed from English slang, the present Senate does not have much political clout. I do not know the French word for "clout", but—

Senator Robichaud: "Pouvoir".

Dr. Forsey: All the French-speaking senators are fluent enough in both languages to find the correct word to translate "clout". So, I was saying that presently the Senate does not have political clout.

A Senate appointed by the premiers would be entirely different. These new senators will not think in terms of the Prime Minister, the opposition leader, the third party or whoever in the other place. They will be indebted to the premiers. They will represent the provinces in a new way.

They will say: "We were appointed by the provinces; our duty is to protect the rights and powers of the provinces. Since they do not like this bill, we are rejecting it, and if the House of Commons is not happy about it, it is just too bad!"

Senator Robichaud: If I understand correctly, Dr. Forsey, you are saying that the suggested formula, which has yet to be implemented, would give rise to even more parochialism than the present system. Is that correct?

Dr. Forsey: It will take several years to produce that effect. Initially, only a few senators will be appointed by the provincial premiers. Senator so and so will die or reach retirement age or resign or whatever.

Gradually, under this formula, we would have a Senate consisting of a majority of people appointed by the provincial premiers. Granted, the federal government has the right to veto such appointments. It could say: That one is completely outdated; he is a good-for-nothing. Mrs. So-and-So is very nice and very charming, but she does not have much brains or common sense or whatever. That kind of power is entirely negative.

If a provincial premier insists that such and such a person should be appointed, this will probably, in the final instance, be an appointment that meets both the requirements of the provincial premier and those of the federal government.

Senator Robichaud: Do you think that practically speaking, the same candidate could be agreeable to both the provincial premier and the federal Prime Minister?

Dr. Forsey: Generally speaking, I would say yes.

Senator Robichaud: Whatever the political affiliations involved?

Dr. Forsey: Under this formula, if the federal government does not like the political views of a person nominated by the premier of a province, what can the federal government do? It can say: "No, that won't work. Would you please submit another name?".

Finally, there would be so much political pressure from the province that the federal government would probably say: "Well, this person does not hold to our political views, but he or she is highly intelligent and very sensible. This is someone who has served the public well in his or her province for a long time, so all right. This person is not the ideal candidate, because if we still had the same powers we had in the good old days, we would appoint someone else".

Senator Robichaud: Dr. Forsey, could you explain briefly what you mean by "transitional" when you say that this formula is merely a transitional one? What does that mean?

Dr. Forsey: It means that it would be valid until such time as the Prime Minister, the premiers and federal and provincial governments and legislators agree on a fundamental Senate reform. But to advise such a total and global reform formula for the Senate, you must obtain the unanimous consent of all provinces.

As I said earlier in English, how can you expect that a premier, given the power to appoint a senator, would be eager to give it away? In his view, this is the best system of all. It is a form of patronage which I called "fail-safe" because if Mrs. so-and-so asks for this appointment, the premier will tell her that her name will be submitted. He will agree to submit the name of Mrs., Miss or Mr. so-and-so to Ottawa. The federal government will finally decide to accept one name, rejecting all the others. But if the premier receives complaints from unsuccessful candidates, he will just have to say: "I did my best but those good-for-nothings in Ottawa, those "damn" federalists, those "damn" federal officials spoiled all my efforts. It is not my fault but that of Ottawa."

Senator Robichaud: Thank you, Dr. Forsey.

The Chairman: I thank you, Senator Robichaud. Senator Tremblay will now have the floor and he will be followed by Senator Hays.

[*English*]

Senator Tremblay: Senator Forsey, I should like to know if there is any section in the Constitution modification of 1987 with which you agree?

● (1520)

Dr. Forsey: Yes, and I thought I had said so when I appeared here before.

Senator Tremblay: Perhaps, for clarification, you could indicate the sections with which you agree so that we will know that what is left you do not agree with. I would then ask you to balance the matter yourself. With what do you agree?

Dr. Forsey: In the first place, I think the clarification of just how much of the Supreme Court of Canada's position is entrenched is an improvement.

Senator Tremblay: Could we go through the sections one by one? Do you have the text of the accord before you? I understand that you do not agree with section 1, which concerns duality and the distinct society.

Dr. Forsey: I am not talking about that.

Senator Tremblay: I would like you to point out which sections you agree with.

Dr. Forsey: That is what I am trying to do.

Senator Tremblay: Am I correct in that you do not agree with section 1?

Dr. Forsey: No, I do not agree with that. You want to go through it point by point. I thought, Senator Tremblay, you were going to make it fairly simple and say, "What do you agree with?" Then I could point out right away two things that I agree with.

Senator Tremblay: What are they?

Dr. Forsey: First of all, the provision which sets out exactly what about the Supreme Court of Canada is entrenched, subject to unanimous consent. That I think of as an improvement. I think the existing provision of section 42 is ambiguous, and I think this removes the ambiguity.

Curiously enough, the joint committee is not quite sure about that. It says that it is unclear and that under the Meech Lake Constitutional Accord it is not certain that Parliament would have the power to pass the present Bill C-53 and the present Bill C-225, and it raises other questions. It adds that the better view is that it would have the power, and I have said in my analysis that, in my very lay, illegal, legal opinion, the better view is correct. I think it does clear up the ambiguity, and I think this is an enormous improvement and I have said so publicly more than once.

The other thing that I think is an improvement is the provision for compensation for provinces which opt out of amendments, which would transfer power from the legislature of a province to the Parliament of Canada. That compensation now exists, as you all know, honourable senators, for amendments which deal with cultural educational matters. I cannot see why, if you are going to do that, you should not do it for any amendment which makes a transfer of power, because if a province gives up a power it gives up at the same time the necessity of expenditures for that power. If another province says, "No, we want to keep the power. That means we keep the expenditure. Those other people are getting out from under. They do not have to tax for this, but we do. We want compensation." I think that if you are going to have compensation where there is opting out, you should have it for everything. You can question, of course, whether you want to have it at all, but that is another matter. We have it now for those particular types of amendment, and it seems to me only fair and equitable that it should apply to the others. If someone wants to say, "Throw out the existing provisions for opting out. Do not have any of it," that is another game altogether, and that I do not think we are called upon to discuss.

Those are the two things I do approve of. The rest I do not. I do not say absolutely that I think they are wrong, because in many instances they are so crammed with ambiguities, so loaded with ambiguities, so wrapped in ambiguities, that only when you have got a decision from the Supreme Court of Canada will you know what they really mean. I cannot prophesy what the Supreme Court decision will be.

Senator Tremblay: Having in mind the two sections with which you agree without qualification and those ambiguities, what would be your global recommendation: To accept or to reject the proposal?

Dr. Forsey: Unless there are a large number of very serious amendments, I would reject. I would not vote for it. If I were still in the Senate I would not vote for an unamended Meech Lake Constitutional Accord. I think there are just too many uncertainties, too many invitations to take a leap in the dark, too much transfer of power from Parliament to the court, too much transfer of power to the First Ministers' conferences, and too much transfer of power from Parliament to the legislatures.

Senator Tremblay: Some people, even some members of the committee, have said that they will propose amendments to make the accord better, but that if those amendments are defeated, in the end they will support the accord. Taking account of all the other aspects of the situation, am I correct that you would oppose it until the end? In the end you would still say no.

Dr. Forsey: Be specific. If the amendments which, apparently, the Liberal Party is proposing in the House of Commons, or has already proposed—I am not quite sure how many of them got on to the Order Paper—were carried, I would want to take another hard look and say, "Well, is this enough? Does this improve it enough that I would now be prepared to vote for it?" I think probably not, but I would not want to commit myself absolutely on that until I see the amendments, see what happens to them, and see what the reaction of the public is.

If I had been in Mr. Turner's position I would have followed the practice of Lord Asquith in 1910 in the United Kingdom when they asked him what he would do if such and such and such and such happened, and he said, "Wait and see." I would not commit myself beforehand to a certain course of action in circumstances which, by the time they arrived, might have changed my opinions for one reason or another.

There is, of course, also the possibility that by the time the vote is taken I might have been persuaded by the eloquence of you and your colleagues that I was all wrong, but at present my attitude is that it needs so many amendments, possibly more than the Liberal Party is proposing, that I would not be prepared to vote for it.

Senator Tremblay: I understand that despite the strong reservations you have you are still open to be convinced, am I correct?

Dr. Forsey: "Hoping to be convinced?" Well, I always hope that I may be shown to be wrong on something that I had read. I always hope that I shall follow the dictates of my reason, and I always hope that I shall listen to other arguments and that I shall be prepared to accept arguments which convince me. That is all the hope I can offer.

Senator Tremblay: Let us hope. Thank you very much, Senator Forsey.

The Chairman: The next questioner will be Senator Hays, followed by Senator Denis.

Senator Hays: My question touches on the same area as Senator Robichaud's question. That is, the Senate as it would be if the 1987 accord were passed. I would appreciate hearing your views on the comments that have been made in my province of Alberta about electing a Senate within the context of the accord as it is now.

My concerns are that we might have a different manner of determining who the senators from each province will be, even if they were all elected or appointed in some other way, perhaps, by the legislature. I should clarify that I realize that it will be a list only that is presented to the Prime Minister and the appointment will be made from that list. I do not know whether it will be necessary to have more than one name on the list. The question that arises in my mind is that we might have senators elected or appointed in a different way in each province with different terms of office and with different election expense provisions if they are elected. If they are going to be elected for the full term, that is a long time. Can you spend a lot trying to achieve that office? Would party affiliations be allowed? In other words, under a different system there would be a very different set of rules for each province. It strikes me that that may be challengeable as well. It may well be that the Supreme Court would say that senators must be appointed the same way from each province. In any event, I would appreciate your comments in this regard.

• (1530)

Dr. Forsey: If you are talking about a fundamental Senate reform, senator, then you get into a series of questions with which it would take some time to deal. I would like to concentrate for the moment on the possibility that under this transitional formula—which I think will turn out to be permanent, for the reasons I have stated—you might get one province passing legislation providing for the choice by the electors of the person or persons whose names would be submitted to the Government of Canada. I think that is possible and I think there is a good deal to be said for it. It would require a self-denying ordinance on the part of the provincial government, which might happen in Alberta, I do not know, and which might happen in some other provinces. In general, however, I do not think you will find provincial premiers too anxious to give up any power they have once laid their hands on. If they have the power under the section of the Meech Lake accord to say whom they are going to name for the Government of Canada to accept or reject, I strongly suspect they will want to hang on to it. I think that those provinces adopting a plan involving the election of their nominees would not be very numerous. Under this proposal you could have a variety; you might have six provinces electing the nominees and four not, or three provinces electing nominees and seven not, and so on. I do not know.

If there were a fundamental reform of the Senate in which a section were put into the Constitution stating that the Senate shall be chosen in such and such a way, I doubt very much whether such a section would provide that the senators from Prince Edward Island shall be chosen according to formula 1, the senators from New Brunswick according to formula 2, the senators from British Columbia according to formula 10, and so on. It is conceivable that the powers-that-be of one province might take the view that although they do not like a certain procedure for the whole lot, if they could just have it for themselves the rest could take their own way. Every province would then ask for what it wants individually, and we would have a wonderful chequer-board Senate. I do not think that is very likely; I am rather doubtful about whether such a chequer-board Senate would be very effective for any purpose whatsoever, but I confess the idea is new to me and I cannot say more about it for the moment.

Senator Hays: Do you think, Dr. Forsey, there is any likelihood that the Supreme Court, when asked to look at this, might take the view that there is only one way to appoint senators, that all we have to work with are the provincial lists of names directed to the Prime Minister, and that the provinces will not be allowed different means by which to come up with the list to present to the Government of Canada?

Dr. Forsey: I am not a lawyer, let alone a judge, let alone a judge of the Supreme Court of Canada, so I cannot say positively. It seems to me, however, that the Supreme Court of Canada, faced with a short clause dealing with the appointment of senators, would take the view that what is required is that the province would submit a name or names and that the Government of Canada should say, "Yes" to one name, "No" to one name, or "Yes" to one name and "No" to the others. I think that is all the Supreme Court would consider. I do not see why it should import into this the idea that the government of a province must have an election to decide whom it is going to appoint. I cannot see why the Supreme Court would drag that into it. Again, however, I speak with what I hope is becoming diffidence, as I am not a lawyer and therefore am not really qualified to do more than speculate.

Senator Hays: Do you feel that way even if, for instance, one of the provisions of being on the list is the acceptance of the appointment for a ten-year term only?

Dr. Forsey: The Meech Lake accord does not say anything about terms, it just talks about appointments. Instead of the appointments being made as they are now by the Government of Canada, by instrument of advice to the Governor General from the Prime Minister, they would be made by the Government of Canada from names submitted by the provinces, and that is it as far as I can see.

Senator Hays: Thank you.

The Chairman: Thank you, Senator Hays.

[*Translation*]

Honourable Senator Denis, followed by Senator Molson.

Senator Denis: Dr. Forsey, I would like to take this opportunity to say that your name came up recently when I was being interviewed regarding the matter of the elective or appointed Senate. I would prefer a Senate appointed by Prime Ministers because when the Prime Minister, the State or society needs someone competent, someone who has made, and is still making, a contribution to the country, such a person can always be appointed. Often, this person could not get elected because he is disagreeable or unpopular. I mentioned your name, Dr. Forsey, as an example, in jest, of course.

Dr. Forsey: You are right, Senator Denis, I tried to get elected four times, unsuccessfully!

Senator Denis: I mentioned your name, in jest, as an example of someone who has made a contribution to society, but might have not been able to get elected for one reason or another.

I also want to apologize for another reason. I referred to you again when someone mentioned that with an appointed Senate, minorities and regions are better represented. To a question put to me concerning the representation of the various political parties, namely: Why don't you have any senator from the New Democratic Party? I answered: They did not want to be appointed, they have been offered a Senate seat and turned the offer down. But I added that some of our colleagues are Liberals who think like New Democrats. I even more foolishly mentioned your name. Therefore, I apologize and hope that you will not be offended.

As regards your comments, during your first appearance in the Senate, you said:

> . . . some issues relating to the Meech Lake Accord. At times, you will think that I am perhaps a bit critical but on other occasions, you might be surprised by my favourable attitude.

Now, in your comments, you speak among other things about changes and omissions, you deal with the Supreme Court, you refer to the Senate and its establishment, and you also deal with native peoples' rights and so on. But obviously, during that conference, all issues could not be dealt with thoroughly. I read a statement made in 1986 by the Prime Minister, Mr. Mulroney, who said in answer to a Member of Parliament, Mr. Axworthy:

> . . . let me remind him that at the last Premiers' meeting in Edmonton last summer, which was chaired by Premier Getty, I believe it was agreed that the first round of constitutional discussions would exclusively focus, if I understood well, on the resolution to bring Quebec into the Constitution.

It is obvious that this was the major subject of discussion at the constitutional conference and that there will be other conferences where either the Senate or the Supreme Court will be discussed. But following what was said by the Prime Minister and what you said yourself in the somewhat unfavorable part of your comments, would it not be possible to make use of your comments at a future constitutional conference to discuss such corrections, omissions or amendments?

Dr. Forsey: The next constitutional conference will discuss the issue of Senate reform. However, the only thing that is certain is that the matter will be discussed, because without the unanimous consent of the premiers, nothing will happen.

Senator Denis: Would it not be possible to change the process at a future constitutional conference so that instead of requiring the agreement of ten provinces, we could require the approval, as in all other cases, of seven provinces having 50 per cent of the population? Could there not be a decision at a future constitutional conference to change the amendment procedure for Senate reform, which as you say, now requires the consent of all the provinces?

Dr. Forsey: To make special provisions for the Senate?

Senator Denis: To decide that, to proceed with Senate reform, instead of requiring the consent of ten provinces, we would need the consent of seven provinces with over half the population of Canada?

Dr. Forsey: The Senate cannot be touched without the unanimous consent of the provinces. Remember the provisions of the Meech Lake Accord, which give an absolute veto to the provinces.

Senator Denis: But all the premiers and all the provinces will take part in the next constitutional conference and there could be an amendment to this effect.

Dr. Forsey: There could be an amendment if there is unanimous consent.

Senator Denis: Exactly. Thank you.

The Chairman: Thank you, Senator Denis.

● (1540)

[*English*]

Senator Molson: I would like to revert, if I may, to a subject which Dr. Forsey dealt with to some extent. That is the question of linguistic minorities. Coming from the anglo group of Quebec, I am deeply concerned. I was also concerned in connection with the 1982 Constitution Act. I did not think that the Charter of Rights and the other accompanying actions taken at that time adequately protected the Anglophone minority in Quebec, as I believe in some cases the Francophone minority in other provinces has not been adequately protected. I also believe that our native population was left out entirely. However, I want to get back to the present.

I understand the difficulties that go with the definitions that are not clearly spelled out for us, and I am deeply concerned about the possibilities that may emerge for our English-speaking minority in the province of Quebec as a result of the definitions that are left hanging in the Meech Lake Accord.

You have said, Dr. Forsey, that so much depends on the Supreme Court. I believe we can all understand that. But do you feel, because of the way it is left at the moment, that if the accord passes it will, in fact, leave those minorities in a worse position? The minister responsible, the Leader of the Government in the Senate, has said that he felt that the Anglophones were going to be better off; but, personally, I fail to see that. I have very grave doubts.

I should like to point out something that does not seem to get mentioned very much. In recent years the province of Quebec has been very severely injured by what has happened since 1979. We lost something over 106,000 people who have gone—and I have to remind my friends from Toronto of this—to make Toronto one of the most prosperous cities in the world. It has been very largely our "boat people" who have left Quebec and gone to Toronto who have helped to achieve that.

The idea that that might recur if we are left in an uncertain state is very worrying to many of us in the province of Quebec, of either language.

I am wondering, Dr. Forsey, whether you believe anything can happen to improve the situation; whether you feel that we are in the same danger as we were in before we had Bill 101 and other problems? Have you any views wider than those that you have already expressed in answer to Senator Frith?

Dr. Forsey: Well, I share the views that you have just expressed, senator. I am an old Montrealer and an old member of the English-speaking minority in Quebec, with roots in Quebec reaching back well over a century, and I have exactly the same disquiet that you have over a number of these things.

I may have sounded somewhat less positive than you would expect, because I kept saying, "We can't be absolutely certain because we don't know what the Supreme Court will finally decide that the 'distinct society' provisions mean." But let me deal with one particular thing with which I have some considerable acquaintance. I mentioned it a little while ago. I refer to the effect on the whole educational system in Quebec, which is a Protestant and a Catholic educational system. The Protestant system is guaranteed by section 93 of the act of 1867.

Well, for more than a dozen years a succession of Quebec governments, and a succession of bills and proposals, have been gunning, as you and I both know, for the Protestant schools. I have some first-hand detailed knowledge of this, and if anybody says, "Oh, this is just somebody from Ontario talking about something he doesn't know anything about," I venture to point out that on Bill 22 in 1974 I worked for seven solid days with the lawyers for the Protestant school commissions. They included the late Frank Scott and Jean Martineau, the then "bâtonnier" of the Quebec Bar. I drew up the petition for the disallowance of the act. I personally presented it in the Privy Council Office. I know something about what went on in connection with Bill 22.

I was repeatedly and deeply involved in connection with Bill 101, being consulted by the Protestant school commissions and various organizations representing the English-speaking Protestant community, writing articles, and making speeches in Quebec on the subject. I have a certificate of honorary membership in the Quebec Association of Protestant School Boards as a reward for my efforts.

Well now, so far all of the assaults on the Protestant school system have failed, because they have come smack up against section 93 of the Constitution Act of 1867, and the courts have stopped them cold. But the "distinct society" clause will give the provincial government a new weapon. It will be able to say—and I have not personally the smallest doubt that it will say—"Section 93 is now superseded. The abolition of Protestant schools is required, in our opinion, to preserve and promote our distinct society."

Now, that weapon may break in their hands. The courts may say, "No. Section 93 still holds good." But at the very least the Protestant school commissions may face a series of costly and long drawn-out court cases, and years of uncertainty, during which the government may very well act in many respects as if it had already won the case—and the government indeed might win the case, and that might be the end of the Protestant school system.

Incidentally, that will be the end of the Roman Catholic school system too, because as long as they cannot touch the Protestant school system they daren't touch the Catholic school system. If they could get rid of the Protestant school system, they could get rid of the Catholic school system, and the Catholic commissions are very well aware of this and have been associating themselves with the Protestants in their efforts to preserve the existing system.

Of course, some people say, "Aren't denominational schools completely out of date? Why shouldn't you have just a single public school system divided on linguistic lines?" Well, that's not the point. The point is that the Protestant system until now has been protected by constitutional guarantees, and this has, incidentally, protected the Roman Catholic schools as well.

But the answer to that might be, "Wouldn't linguistic schools be protected by the Canadian Charter of Rights and Freedoms, which guarantees the educational rights of the English-speaking minority?" Well, not altogether. For one thing, it remains to be seen how far the Charter would protect the right of the minority to control English-language schools. They are guaranteed educational facilities provided out of public funds, but not necessarily control of those facilities.

For another, section 23(1)(*a*) of the Charter comes into effect in Quebec under section 59 of the Constitution Act of 1982 only when the government or the legislative assembly of Quebec formally accepts it, which neither has shown any signs of doing; and, for a third, under section 16 of the accord the "distinct society" clause applies to the whole of the Charter except the provisions on multiculturalism and the aborigines,

and the courts might therefore hold that it overrides section 23 of the Charter.

Now, whether I think that is likely or unlikely is, for these purposes, neither here nor there. There is a danger. These are questions which, to say the least, in my judgment, need to be cleared up. They involve a very large number of people who, contrary to a widespread impression outside Quebec, are by no means all rolling in money and therefore well able to protect themselves by private schools. That is a specific answer to your question. There are all sorts of other things. You may easily find that if the Supreme Court of Canada—and I think I said this the last time I appeared here—says that unilingual signs are unconstitutional or contrary to the Charter, it is possible—and I think Monsieur Rémillard has suggested that this would happen—that the legislature would come back and say, "Ah, yes, but that decision was delivered before the Meech Lake Accord. Now we have the distinct society clause. The distinct society clause overrides that provision." Piff! Bang! go the unilingual signs. So I am not confident that the rights of the English-speaking minority, even where they have been upheld by the courts under the existing Constitution, would necessarily be perfectly safe under the Meech Lake Accord if it is adopted. Does that answer your question?

• (1550)

Senator Molson: I think it does. However, in reality it will depend on the definitions that ultimately emerge, which may take a very long time.

Dr. Forsey: And which may, both from your point of view and mine, turn out to be all wrong.

Senator Molson: Right or wrong, in the meantime we have this condition of uncertainty in Quebec which we lived through for some years and which is highly undesirable from the point of view of any citizen of any race, language or creed.

Dr. Forsey: And extremely expensive.

Senator Guay: And minorities elsewhere.

Senator Molson: And elsewhere.

The Chairman: Before Senator Macquarrie speaks, I remind honourable senators that we have agreed to rise at 4:15 o'clock.

Senator Macquarrie: I note that the strictures on time come when I get the floor. However, Dr. Forsey, a certain legislative chamber not long ago expressed itself in a resolution that the best, and I suppose final, solution to the "Senate problem" was its abolition. It seems to me that through the years the one thing which has deterred the reform of this chamber is that our ancestors in their wisdom, having looked at the alternatives, have decided that in comparision the *status quo* was probably better. I am wondering about abolition in terms of the transitional situation. It would seem to me that any province whose representation in the House of Commons is vested on the Senatorial floor, such as Prince Edward Island, where we cannot have fewer people in the elected house than we have in the appointed one, must be careful. Any premier of Prince Edward Island, of whatever age, of whatever party, or of whatever IQ, who agreed to such a thing would be either a damn fool or a kamikaze pilot for his own destruction. Am I right in the assumption that if a premier agreed to the abolition of the Senate—and he or she would certainly be consulted and involved—he or she might, therefore, endanger the representation of his province in the lower house, as we sometimes call it here? That being the case, is it not very likely that one option—namely, abolition—is highly unrealistic?

Dr. Forsey: I think so. Of course, to get abolition even under the present Constitution would require unanimous consent. I quite agree that it is fantastic to suppose that unanimous consent would be forthcoming, particularly in light of the point Senator Macquarrie has just made which, I confess, had not occurred to me before. It seems to me quite clear that the premier of the Island and probably the premiers of Nova Scotia and New Brunswick, having an eye to the possible future decline in their proportion of the total population, might very well say, "Oh, no, not on your life. We have suffered enough from Upper Canada as it is."

Senator LeBlanc (Beauséjour): Hear, hear!

Senator Steuart (Prince Albert-Duck Lake): Dr. Forsey, I want to talk for a minute or two about the transfer of powers from the federal government to the provincial governments. Would you agree that, up until this time, over the years there has been a constant transfer of legislative and real powers through the power of the purse from the federal government to the provinces in Canada?

Dr. Forsey: Yes, I think in general that that is true. Of course, it is largely as a result of the work of the Judicial Committee of the Privy Council before 1949—those old rascals, as my friend, the Honourable C.H. Cahan, used to call them. However, this accord would carry decentralization, it seems to me, far beyond anything that has happened to now. As Mr. Trudeau pointed out in his evidence before the joint committee—which, I am sorry to say, appears to have had no effect on the committee whatever—there has been an ebb and flow in the matter of real power. There have been times when the tide flowed toward the centre and times when it flowed toward the periphery. But on the whole, I think Canada has become a more decentralized federation.

Senator Steuart (Prince Albert-Duck Lake): Would you not agree that since 1949, and especially in the last number of years, there has been a transfer of real power through the cost-shared programs? Although in theory the provinces have allowed the federal government to move into their jurisdiction in the matters of health, education and welfare, in fact, the federal government, to get what it wanted, which in many cases was national programs, has transferred large chunks of its own budget, given up control of its own budget, to the provinces. The biggest step of all was when the federal government gave the provinces block grants, over which the federal government now finds that it has little or no control. Is not the power of the purse real power, regardless of what the legislation says?

Dr. Forsey: Of course, the federal government was not able to invade the jurisdiction of the provinces, but it was able to say, "Look, if you want our money you must meet certain standards." In the case of health it was accessiblitiy, and hence all that rumpus about extra billing in Ontario and, to some extent, elsewhere. On the other hand, the federal government was also able to say, "Look, you can have the money without strings." It did this recently with block grants for post-secondary education, if I remember correctly.

Senator Steuart (Prince Albert-Duck Lake): And health as well.

Dr. Forsey: When they give these unconditional grants, of course, they lose control completely, and the provinces can proceed to spend the money which was given them, for example, for post-secondary education on highways, or you name it. I think that this is unfortunate.

The trouble with this accord as far as shared-cost programs are concerned is that there may be a tendency to go farther in the direction of block grants. Indeed, one of the people who appeared before the joint committee—I think it was Mr. Robertson—said that conditional grants were on the way out. There may be more of a tendency in that regard. There is also the possibility that the provinces will, as Professor Johnson pointed out, apply this attitude to the Trans-Canada Highway and things like that. Other people have pointed out that it might apply to pollution. For instance, with regard to pollution, there might be a national objective to get rid of pollution. Everybody will say, "Oh, yes, that is fine." The government here might say, "We are prepared to make certain grants to the provinces if they adopt certain pollution measures." But the provinces might do a "Reagan", and say, "We have an initiative, a program of our own involving research and incentives." The joint committee suggested that they would all be striving for the same goal in any event. I say, "Oh, yes, in the same sense the Honourable Tom McMillan, the Government of Canada and Mr. Reagan are striving for the same goal on acid rain—ha, ha, ha!"

Senator Steuart (Prince Albert-Duck Lake): Leaving aside the pollution question, do you not find it strange that the former Prime Minister, Mr. Trudeau, and many of his ministers are decrying section 106(*a*), which deals with reasonable compensation for national cost-shared programs, by saying that this could be the end of such things as national medicare, day care, and so on?

• (1600)

I find it strange that you are quoting Professor Johnson and Mr. Robertson, who are, in large part, the architects of these cost-shared programs. They handed over to the provinces a tremendous share of the federal budget and, in my opinion, weakened the federal government to a great extent. These people are now saying that the roof is falling in and the sky is falling in because we propose to take one more step. If the sky is falling in after this one more step, surely it fell in a long time ago over the last 10 or 15 years.

Dr. Forsey: First of all, this applies only to new programs. There is some question there as to whether modifications to existing programs such as medicare would be regarded as new programs. I do not know, but that is a question that has been raised.

In the second place, in a large number of these shared-cost programs, notably medicare, it has been a matter of conditional grants, and the federal government has retained control over what happens. In the case of extra-billing, for example, they said to the provinces, "If you allow extra-billing you will get no money." It then held up the payments, and it was not until Ontario toed the line on that extra-billing policy that it got its money. I think the same thing has also happened in one or two other provinces.

If you refer then to the unconditional block grants, you can say that Trudeau or the government was too easy about those. However, that does not particularly impress me. Supposing that Mr. Trudeau was too easy about it; suppose he made a mistake. It does not follow that just because he made a mistake we must now make bigger mistakes. I am not here to argue that Pierre Trudeau was infallible; that everything he did was correct. But there is certainly a tendency I find sometimes on the part of the Conservative Party, which went around the country during the election campaign saying, "The Liberals are the devil incarnate." Now when they do something and are criticized they are saying, "The Liberals did it so it must be all right. What could possibly be wrong about it if the Liberals did it? We said they were the devil, but, after all, the devil can quote scripture for his own purposes."

I think that you can argue that there are things that Pierre Trudeau did by way of concession to the provinces that he ought not to have done. His reply was that he got something in return, which I think is a point. But even if he did not get enough in return, I do not think that this is an argument for saying, "We must go further and give them more." In my opinion, that is what is happening here, and if it is not happening, why are people in Quebec talking so much about a new federalism, the greatest victory in two centuries, and so on and so forth, Ta-ra-ra-boom-de-ay!

The Chairman: Senators, I wonder if I may interrupt here. We had agreed to rise at 4:15 because there is an important ceremony to be held later this afternoon in this chamber.

I have seven names still on my list. Is it your wish that we invite Dr. Forsey to come again before us?

Hon. Senators: Agreed.

The Chairman: Honourable senators, before I ask for a motion for the committee to rise I would like to recognize a visitor in our gallery, who is one of our ex-colleagues, the Honourable Senator Bird.

Hon. Senators: Hear, hear!

The Chairman: I might recognize, honourable senators, that this is a historic occasion for the Senate. This is the first time that, although not the full Senate, the Committee of the Whole has been televised.

Senator Frith: Mr. Chairman, speaking now to the proceedings of this committee, I take it that this committee will not be sitting next week, because our task force travelling to the Northwest Territories and to the Yukon will be at work.

Having noted that, I move that the committee rise, report progress and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again on Wednesday, November 4, 1987.

Motion agreed to.

PERSONS AWARD

NOTICE OF PRESENTATION CEREMONY

Hon. C. William Doody (Deputy Leader of the Government): I would like to remind all honourable senators of the Persons Award ceremony which will be taking place in this chamber at 5:00 o'clock. Of course, all of the seats of senators are still the seats of senators. There is no change, so that everyone is quite welcome and, indeed, encouraged to attend that ceremony.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1991*)

PATENT ACT

BILL TO AMEND — REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON QUESTION AND MESSAGE FROM HOUSE OF COMMONS

WEDNESDAY, October 21, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

NINETEENTH REPORT

Your Committee, to which was referred the motion of the Honourable Senator Murray, P.C., dated 3rd September 1987 and the Message from the House of Commons dated 31st August 1987 relating to certain amendments to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, passed by the Senate on 13th August 1987, has, in obedience to the Order of Reference dated 3rd September 1987, examined the said motion and Message and now reports as follows:

PART I

Your Committee recommends that a Message be sent to the House of Commons to acquaint that House that, with respect to its Message to the Senate dated 31st August 1987 regarding Bill C-22:

(i) the Senate does not insist upon the following amendments:

Amendments 1(a) and (b), 2(a) and (b), 3, 4(a), 5(a) and (b), 6, 7(a) and (b), 9, 10(b) and (c);

(ii) the Senate concurs with the following amendments made by the House of Commons to the amendments made previously by the Senate:

Amendments 1(c) and 8;

(iii) the Senate does insist upon the following amendment:

Amendment 4(b); and

(iv) in lieu of other amendments to which the House of Commons has disagreed, the Senate adopts the following amendments and requests that they be concurred in by the Commons:

AMENDMENTS

To avoid ambiguity, the following amendments are numbered sequentially from the last amendment referrred to in the Message from the House of Commons:

11. *Pages 11 and 12, clause 15:* Strike out lines 19 to 49 on page 11 and lines 1 and 2 on page 12, and substitute the following:

"(2) The prohibition under subsection (1) expires in respect of a medicine ten years after the date of the notice of compliance that is first issued in respect of the medicine where that notice of compliance is issued after the coming into force of this section."

12. *Page 12, clause 15:* Strike out lines 8 to 14 and substitute the following:

"(4) Subsection (1) does not apply in respect of any licence pertaining to a medicine where on the date of the coming into force of this section, a notice of compliance in respect of the medicine has been issued."

EXPLANATORY NOTES

This amendment establishes a uniform period of exclusivity of ten years with respect to compulsory licences to import, which is to apply only to drugs receiving their first NOC after the coming into force of this section.

This amendment specifies that the new regime for drugs is to apply only to drugs receiving their NOC after the coming into force of this section.

Amendments 11 and 12 effectively eliminate the concept of pipeline drugs.

13. *Page 14, clause 15:*

a) Add, immediately after line 28, the following:

"(3) Notwithstanding anything in subsection (2), where the price of a medicine is deemed to be excessive under subsections (8) or (9), the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of either or both of

(a) the patent for the invention pertaining to the medicine, or

(b) any other patent of the patentee for an invention that pertains to one other medicine, whether granted before or after the coming into force of the order."

This amendment establishes the penalty to be imposed on patentees in the event that the prices of some of their patented medicines increase at a rate faster than the rate of inflation. In this amendment, the Board must remove exclusivity from at least one drug.

b) Strike out line 29 and substitute the following:

"(4) A patentee shall commence compli-"

c) Strike out lines 36 and 37 and substitute the following:

"(5) Where an order is made under paragraph (2)(d) or subsection (3) in respect of a medicine, the"

These amendments are consequential upon amendment 13a). They renumber subsections and provide for an internal reference to new subsection (3).

d) Strike out line 41 and substitute the following:

"(6) For the purposes of this section, in"

14. *Page 15, clause 15:*

a) Strike out lines 16 to 18 and substitute the following:

"(7) Where, after taking into consideration the relevant factors referred to in subsection (6), the Board is unable to"

This is a consequential amendment. It changes the subsection number and the internal reference.

b) Add, immediately after line 29, the following:

"(8) Notwithstanding anything in subsections (6) and (7), where a medicine has been sold in any market in Canada for one year or more, the price for the purposes of this section, shall be deemed to be excessive where:

This amendment establishes an upper limit for drug price increases as the rate of increase in the Consumer Price Index (CPI). This new subsection (8) applies only to drugs which have been on the market for one year or more. It directs the Board to consider price increases over a 12 month period.

(a) the ratio of the price charged by the patentee in any such market, immediately preceding the Board's determination, to the price charged by the patentee in any such market twelve months prior to the determination,

This ratio determines the rate of price increase of the drug in question for the 12 month period, ending immediately before the Board's determination.

exceeds

(b) the ratio of the Consumer Price Index as published by Statistics Canada under the authority of the *Statistics Act* for the most recent month available, to the Consumer Price Index for that same month in the preceding year.

This ratio determines the rate of inflation for a 12 month period, which ends one or two months before the 12 month period in (a) above.

(9) Notwithstanding anything in subsections (6) and (7), where a medicine has been sold in any market in Canada for less than one year, the price for the purposes of this section, shall be deemed to be excessive where:

This amendment establishes an upper limit for drug price increases, as in new subsection (8); but it applies only to drugs which have been on the market for less than one year. It directs the Board to consider price increases over the period since the drug was launched in Canada.

(a) the ratio of the price charged by the patentee in any such market, immediately preceding the Board's determination, to the price at which the medicine was first sold in such market,

This ratio determines the rate of price increase of the drug in question since the drug's launch.

exceeds

(b) the ratio of the Consumer Price Index as published by Statistics Canada under the authority of the *Statistics Act* for the most recent month available, to the Consumer Price Index for either the month prior to the month in which the drug was first sold in any such market in Canada, or the month preceding such prior month, as the case may be."

This ratio determines the rate of inflation over a period of time equal to that used in (a) above. Depending upon the availability of CPI data, the appropriate ratio in (b) will start one or two months prior to the drug's launch in Canada.

c) Strike out line 30 and substitute the following:

"(10) For the purposes of this section, in"

These amendments are consequential upon the above amendments. They renumber subsections.

d) Strike out line 42 and substitute the following:

"(11) The Board shall give notice to the"

15. *Page 16, clause 15:*

a) Strike out lines 3 and 4 and substitute the following:

"(12) Where an order under paragraph (2)(d) or subsection (3) is made by the Board, the Commis-"

This is consequential upon the amendments in 14 above. It renumbers the subsection and makes reference to new subsection (3).

b) Add, immediately after line 9, the following:

"41.15.1(1) Every patentee of an invention pertaining to a medicine which has not been sold previously in Canada, shall provide the Board with

This amendment deals with medicines that are being introduced into Canada for the first time. It instructs patentees to provide the Board with information regarding pricing intentions of the patentee and pricing information in other markets.

(a) in such form and manner and subject to such conditions as are prescribed, and at least sixty days prior to the anticipated initial sale of the medicine in any market in Canada, information and documents identifying the medicine and concerning

The Board is empowered to remove exclusivity granted in subsections 41.11(1) and 41.14(1) if the patentee does not provide sufficient information at the appropriate time, or if the Board deems the expected launch price to be excessive.

(i) the price at which the medicine has been sold, is being sold, or is to be sold in any market outside of Canada,

(ii) the price at which the medicine is to be sold in any market in Canada, and

(iii) the costs of making and marketing the medicine, where such information is available to the patentee in Canada or is within the knowledge or control of the patentee; and

(b) such additional information or documents with respect to the matters referred to in paragraph (a) as the Board may require, within such time as the Board may specify.

(2) Where, after providing every person against whom an order of the Board under this subsection is proposed to be made with a reasonable opportunity to be heard, the Board finds that

(a) a patentee in respect of a medicine has failed to provide information or documents in accordance with subsection (1), or

(b) a medicine pertaining to a patented invention is to be sold in any market in Canada at a price that in the opinion of the Board is excessive,

the Board may, by order,

(c) direct that, effective on the coming into force of the order, subsections 41.11(1) and 41.14(1) do not apply or cease to apply, as the case may be, in respect of the patent for the invention pertaining to the medicine.

(3) Subsections 41.15(6) and (7) and subsections 41.15(10) and (11) apply with such modifications as the circumstances require, in respect of a matter referred to in subsection (2) of this section that comes before the Board under this section.

(4) Where an order under paragraph (2)(c) is made by the Board, the Commissioner shall forthwith inform the holder of each licence granted under section 41 in respect of any invention pertaining to the medicine to which the order relates of the terms of the order."

c) Strike out line 40 and substitute the following:

"order under subsection (4) or (11) in"

This is consequential upon amendment 16a) below which adds a new subsection to 41.16. It renumbers the reference to old subsection (10).

16. *Page 18, clause 15:*

a) Add, immediately after line 17, the following:

"(7) Notwithstanding anything in subsection (6), where the price of a medicine to which this section applies is deemed to be excessive, the Board shall, by order, declare that, effective on the coming into force of the order, the medicine ceases to be a medicine to which this section applies."

This amendment provides the penalty to be imposed on Canadian invented and developed drugs in the event that the Board deems their prices to be excessive. It declares that the special provisions afforded to Canadian drugs no longer apply. This could leave the drug with seven years manufacturing exclusivity and ten years import exclusivity. This penalty appears to be relatively weak, compared to the penalties which can be imposed on other drugs. The patentee, in this case, may retain the normal periods of exclusivity afforded other drugs, even after its price was ruled excessive. However, this price may still be deemed excessive subsequent to the order under 41.16(7) and thus be subject to the same sanctions to which others are subject.

b) Strike out line 18 and substitute the following:

"(8) A patentee shall commence compli-"

This is a consequential amendment which renumbers the subsection.

c) Strike out lines 25 to 30 and substitute the following:

"(9) Subsections 41.15(6) to (11) apply, with such modifications as the circumstances require, in respect of a matter referred to in subsections (6) and (7) of this section that comes before the Board under this section."

This is a consequential amendment. The subsection is renumbered and new subsections are referred to.

d) Strike out line 31 and substitute the following:

"(10) Every patentee of an invention that"

These two amendments renumber the subsections.

e) Strike out line 44 and substitute the following:

"(11) Where, after providing every"

17. *Page 19, clause 15:*

a) Strike out line 4 and substitute the following:

"with subsection (10), the Commissioner"

This amendment changes the reference to a renumbered subsection.

b) Strike out lines 10 to 12 and substitute the following:

"(12) Where an order is made under subsection (4), paragraph (6)(d), subsection (7), or subsection (11), the Commissioner shall forth-"

This amendment renumbers the subsection and makes reference to new subsection (7) and renumbered subsection (11).

18. *Page 25, clause 15*:

a) Add, immediately after line 9, the following:

"(8) Where, for the calendar year 1991 or any year thereafter, the proportion specified in paragraph 41.25(4)(a) for a patentee is less than 0.08, the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of any patent of the patentee for an invention pertaining to medicine, whether granted before or after the coming into force of the order.

This amendment provides for a company-by-company test of research spending, with sanctions to be levied on a company-by-company basis. The Board is empowered to examine the R&D to sales ratio for every patentee. If after 1991, the ratio is less than 8%, the Board shall remove exclusivity from any or all patents of a patentee which have been granted as of the time of the order, or may be granted in the future.

Once the Board removes exclusivity from a drug, that exclusivity cannot be returned to the patentee. It is possible under this amendment for the Board to remove exclusivity from all of a firm's patents, in perpetuity.

(9) Notwithstanding anything in subsection (8), where, for the calendar year 1996 or any year thereafter, the proportion specified in paragraph 41.25(4)(a) for a patentee is less than 0.10, the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of any patent of the patentee for an invention pertaining to medicine, whether granted before or after the coming into force of the order.

Subsection (9) performs the same task as (8) above. It employs the stricter 10% test as of 1996.

(10) Where an order is made under subsections (8) or (9) in respect of a medicine, the prohibition set out in subsection 41.14(1) ceases to apply in respect of the medicine effective on the date of the order.

This amendment assures that the exclusivity with respect to manufacturing is removed whenever the Board removes exclusivity with respect to importation.

(11) Where an order under subsections (8) or (9) is made by the Board, the Commissioner shall forthwith inform the holder of each licence granted under section 41 in respect of any invention pertaining to the medicine to which the order relates of the terms of the order."

This amendment requires the Commissioner of Patents to inform licensees that any restrictions on the use of their licences cease to exist where the Board has made an order under subsections (8) or (9).

b) Strike out line 39 and substitute the following:

"(3) After the expiration of nine years after"

This amendment substitutes the word "after" for the word "on" in subsection 41.26(3) thereby making the French and English interpretations of the subsection uniform.

PART II

Your Committee recommends that a further Message be sent to the House of Commons as follows:

Hereinafter, Bill C-22, as passed by the House of Commons, is referred to as Bill C-22(C) and Bill C-22, as amended and passed by the Senate, is referred to as Bill C-22(S). The amendments contained in Part II reflect only the substantive amendments that the Committee recommends to the Senate. The full text of all amendments is presented above in Part I.

Since the Committee received its order of reference on 3rd September 1987, and after having commenced its study, a connection between Bill C-22 and some negotiations to achieve a trade agreement with the United States has been revealed. The Minister of Consumer and Corporate Affairs, the Honourable Harvie Andre, had assured the Special Committee of the Senate on Bill C-22 that no link between the two existed. Other government ministers have been on the record to the same effect.

It may be that the Canadian government gave assurances during the negotiations that the Bill would be enacted. Furthermore, the Leader of the Government in the Senate stated that a failure to pass the Bill could affect the possibility of Congressional ratification of the agreement in the United States and would be against the spirit of such an agreement.

It is not appropriate to accuse the Minister or the Government of bad faith in this regard; but these recent developments have caused the Committee to question the assurances given in a number of areas such as the commitment to increased research and development expenditures and the control of drug prices. The Committee feels and has felt that the assurances given and referred to elsewhere in this report should be guaranteed by statutory provisions. A connection between Bill C-22 and the trade agreement is therefore not the reason for the Committee's recommendations; however, it has confirmed our resolve to insist upon such statutory guarantees.

ISSUES RELATED TO THE MESSAGE REFERRED TO THE COMMITTEE

In dealing with this reference, the Committee heard testimony from officials of the Department of Consumer and Corporate Affairs; from representatives of the Consumers' Association of Canada (CAC); the Canadian Drug Manufacturers Association (CDMA); the Pharmaceutical Manufacturers Association of Canada (PMAC); the fine chemical manufacturers; from Mr. John Orr; Dr. Pavel Hamet of the Clinical Research Institute of Montreal; and from the Minister of Consumer and Corporate Affairs, the Honourable Harvie Andre. (See Appendix A.)

The House of Commons, in its Message to the Senate, declined to concur in most of the Senate's amendments to Bill C-22. In doing so it rejected the approach to intellectual property protection in the pharmaceutical industry and compulsory licensing proposed by the Senate. It also rejected the measures favoured by the Senate to promote greater research and development, to protect the consumer, and to foster better health care.

Bill C-22(C) and Bill C-22(S) take very different approaches to the principles outlined above.

Protection of Intellectual Property

Bill C-22(C) is designed to protect intellectual property in the field of pharmaceuticals by guaranteeing patent holders longer periods of market exclusivity. The *Patent Act*, as amended in 1969, does not guarantee any period of exclusivity with respect to patents pertaining to medicines. There is, of course, a *de facto* period of exclusivity based upon the regulatory lags faced by generic firms and the delay in the application for regulatory licences and notices which comes about as a result of normal business practice. The length of this period is highly variable, however, and individual patentees face much uncertainty in this regard. This period is also declining, on average, over time. The average of all generic copies coming on the market under compulsory licensing was 11.5 years after the first NOC granted to patentees. More recent generic drugs have been taking about nine years to come on the market.

Bill C-22(S) is designed to protect intellectual property primarily through the payment of royalties by licensees to patentees. It recognizes that the 4% royalty now paid by licensees is inadequate and consequently provides for an increase to 14%. It recognizes the importance of guaranteed periods of exclusivity, by providing four years to patentees. This period, according to the *Report of the Commission of Inquiry on the Pharmaceutical Industry* (the "Eastman Report"), is sufficient to allow patentees to establish their products on the market.

This combination of a short guaranteed period of exclusivity and higher royalty payments by licensees constitutes the Senate's preferred view of how intellectual property should be recognized in this industry.

The Promotion of Research and Development

The approach used in Bill C-22(C) to protect intellectual property is the means by which increased research and development activity is to be promoted. The PMAC has promised that in exchange for the enactment of the Bill, its member

companies will increase research and development (R&D) spending in Canada to a level equal to 10% of annual sales in Canada by 1996. When the Canadian patent regime offered virtually full patent protection prior to the 1969 amendments, the industry's R&D to sales ratio was far below 10%; it was at approximately the same level as today. These promises, then, constitute a *quid pro quo*.

The Senate amendments were designed to encourage greater research spending by creating a royalty fund into which payments by licensees would be deposited and by specifying the rules under which patentees would be able to draw upon the fund. By making disbursements a function of the degree to which individual firms undertake R&D in relation to the industry average, the Senate intended to create a positive inducement to patentees to undertake R&D in Canada. As the degree of compulsory licensing grows in Canada, the size of the fund would grow accordingly, as would the payments to patentees for additional spending on R&D. Under current conditions, the size of the fund, and annual disbursements, would be relatively small.

Pricing and Consumer Protection

Bill C-22(C) introduced a regulatory board, the Patented Medicine Prices Review Board, to provide a measure of consumer protection in the pharmaceutical market. There are two reasons for this. In the first place, the granting of greater periods of exclusivity to brand-name products raises obvious concerns that prices for these new drugs will be higher than they would be if generic competition could come onstream earlier than was proposed in the Bill.

Second, a large proportion of drugs never faces generic competition. Only 7% of all drugs are copied, accounting for 20% of total sales. Although there is evidence to suggest that today more than 20% of total drug sales in Canada are accounted for by multi-source drugs, it is still true that the consumers of many drugs do not enjoy the pricing benefits intended by the 1969 changes. The Board created in Bill C-22(C) would have the power to monitor and affect the prices of these single-source drugs. If the Board found that a drug was priced excessively, it would have the power to remove the exemption from compulsory licensing for both the drug in question and one other patented drug. Thus, the prices of single-source drugs would be influenced by removing the exclusivity for a drug which is likely to attract a generic copy.

Bill C-22(S) does not include a pricing board in its scheme. There are several reasons for this. First, it was not part of the Eastman Report's package of recommendations. Compulsory licences to import were viewed by that report as the means by which pricing in the pharmaceutical market was to be controlled. This is consistent with the rationale for the existing system. The impetus for the

Commission of Inquiry and for the policy review undertaken by the Department of Consumer and Corporate Affairs in 1983 was not the concern about high drug prices. More importantly, however, the Senate's amendments would render largely powerless the operation of such a board. The Board to be established by Bill C-22(C) would have effective power to control prices only because of its ultimate sanction, the removal of market exclusivity. A ten-year period of exclusivity is valuable to patentees; its removal constitutes a strong sanction. The Senate preferred to grant four years of exclusivity. Since this is less than the *de facto* exclusivity patentees have enjoyed for all their patented products, the removal of this guaranteed exclusivity therefore would be a meaningless sanction.

Health Care

There never has been any serious suggestion that the innovative drug companies have been holding drugs off the market in Canada deliberately as a result of the 1969 changes to the *Patent Act*. It is also widely believed that greater periods of exclusivity in Canada will not have a significant impact on the availability of new drug therapies here. Yet despite these two observations, the issue of health care for Canadians is relevant to both versions of the Bill.

Bill C-22(C) aimed to guarantee greater periods of market exclusivity to patentees and thus, to increase significantly the amount of research and development undertaken in Canada by drug companies. It has been argued by supporters of Bill C-22(C) that both will have beneficial effects on health care.

It takes time for the results of clinical research to be translated into the widespread use of a drug therapy by physicians. If they have to rely upon professional journals and pharmaceutical companies' promotional and educational campaigns, this lag can be quite extensive. If, however, a major research effort takes place in Canada, the information regarding new treatments is likely to be disseminated more rapidly here, through more informal methods. The larger the research community, the greater will be the direct contact between that community and practising physicians.

The existing compulsory licensing regime has a widely variable impact on patentees. Some have been seriously hurt by the system; it is possible that some may shut down operations in Canada in the future. If the parent of such a company develops a new drug, there may be no mechanism by which such a drug can be launched quickly in Canada. Entry of new drugs may be delayed until new arrangements have been made to provide a mechanism to offer such drugs to Canadians. Not only would useful treatment to patients be delayed, but it might deprive provincial governments of more effective and more cost-efficient treatments.

Bill C-22(S) also attempted to deal with the issue of health care. The Senate chose to concentrate on the cost of health care and to ensure that drug prices do not contribute to greater strains on provincial health care budgets. By providing for only a four-year period of market exclusivity, no needless delay in the introduction of generic drugs would be created. Many references were made to the cost of pharmacare programs to the provinces and the threat that a decline in generic copying would pose for such plans. Bill C-22(S) ensured that no added financial burdens would be placed on those plans.

Promoting Fine Chemical Manufacture in Canada

Bill C-22(C) provided several incentives for the sourcing of fine chemicals in Canada by generic companies. It provided a "window of opportunity" of three years for new drugs, if generic companies bought the active ingredient for their copies in Canada. Whereas a generic company could only import the active ingredient under compulsory licence after a delay of ten years, they could manufacture that ingredient after a delay of only seven years. In addition, the transitional provisions which grant seven and eight years of exclusivity do not apply if the active ingredient is sourced in Canada by the generic company.

The June 1986 draft of the Bill also provided incentives for the manufacture of fine chemicals in Canada, but that version directed the major incentive towards patentees, not generic companies. If patentees sourced the fine chemicals in Canada after two years, they would earn the full ten years of market exclusivity. If not, then generic copies could come onstream immediately once they had passed the applicable regulatory hurdles.

Bill C-22(S) provides no measures to promote fine chemical manufacture in Canada. The design of the amendments made by the Senate precludes such measures. By eliminating the concept of pipeline drugs, Bill C-22(S) contains no provisions for early entry of generic copies on the basis of a compulsory licence to manufacture. By granting only a four-year period of market exclusivity for new drugs, which is less than the *de facto* period of exclusivity, any notion of a window of opportunity in that context would be meaningless.

POTENTIAL COMPROMISE ON FUNDAMENTAL PRINCIPLES

The Message from the House of Commons rejected all the substantive amendments made by the Senate to Bill C-22(C). This Committee has been charged with the task of seeking a compromise between the two versions of the Bill. Several key witnesses have been heard and certain compromises have been offered with respect to some of the fundamental principles of Bill C-22(C). The Minister of

Consumer and Corporate Affairs made it clear to the Committee that he would not agree to any compromise on matters of principle.

Protection of Intellectual Property

The Consumers' Association of Canada (CAC) noted that many organizations, like the CAC, questioned whether greater protection of intellectual property was needed in this industry. They recommended that a period of market exclusivity, substantially shorter than the ten years provided for in Bill C-22(C), be called for. The CAC also stated its support for higher royalties as a possible compromise in this area.

The Canadian Drug Manufacturers Association (CDMA) offered a compromise of seven years of exclusivity with respect to compulsory licences to import and four years of exclusivity with respect to licences to manufacture. The CDMA also supported the position of the fine chemical industry with respect to the encouragement of such manufacture in Canada. The recommendations of the CDMA, however, maintain the three-year window of opportunity now found in Bill C-22(C).

The PMAC argued that Bill C-22(C) already was a final compromise. That group of companies originally wished to have full patent protection restored for their products. A very extensive and lengthy process of negotiations and compromise had led to Bill C-22(C); they held that no further compromise was necessary. In response to questioning in the Committee, the PMAC representatives refused to offer any compromise against the prospect that Bill C-22(C) will not be enacted.

That association also argued that no compromise was needed since Bill C-22(C) would have had virtually no effect on the average availability of generic products. However, their statistical argument, which indicated that the launch of generic products would not be affected on average, is somewhat misleading. The periods of exclusivity in Bill C-22(C) affect only those generic products which would otherwise have been launched prior to the expiry of exclusivity. A generic drug which took 14.25 years to be introduced when no periods of exclusivity were granted will also take 14.25 years to be introduced when ten years of exclusivity are granted. Bill C-22(C), therefore, would delay the average generic launch in the PMAC's sample by one year.

The Minister of Consumer and Corporate Affairs also contended that Bill C-22(C) already is a compromise among various competing interests. No changes to the periods of exclusivity would be acceptable to the Minister.

The Promotion of Research and Development

The CAC noted before the Committee that both the industry and the government view the promised increase in R&D expenditures as a binding commitment. They saw no reason, therefore, for not putting these commitments in Bill C-22(C) and tying a loss of market exclusivity to the failure to meet these targets. They also recommended that a true sunset clause be included in Bill C-22(C).

The CDMA offered nothing as a recommendation to promote or ensure research expenditures by the PMAC. The proposals of the CDMA are designed to promote the development of the generic sector, which they envisage as eventually becoming a domestically-owned and based pharmaceutical industry, doing a large amount of basic and clinical research in Canada. They cited a study by the Organization for Economic Co-operation and Development (OECD) which noted that a prime ingredient in the establishment of a major pharmaceutical research effort is a strong domestically-owned industry. In their view, compulsory licensing promotes the establishment of such an industry.

The PMAC noted that they expect the Cabinet to react very unfavourably after four years in the event the R&D commitments are not being met. That organization saw no need to include their commitments and the penalties in the law. The Minister adopted much the same view. He said that a strict numerical limit would be inappropriate in that it could not account for differences in the quality of research.

Consumer Protection

Two suggestions were made by the CAC so as to strengthen the powers of the Board: to allow the Board to remove the exclusivity for all patented drugs in the event that a firm is found to be charging excessive prices; and to limit price increases to the rate of increase in the Consumer Price Index (CPI). The CDMA and the CAC both felt that the best way to protect the consumers of medicines is to allow generic copying at the earliest date possible. The CAC also expressed concern about the Board's ability to control entry prices, but offered no direct amendments in this regard.

The PMAC submitted that: "In the future, annual price increases will be limited to the consumer price index and new product prices will be regulated to assure they are not excessive in relation to the established prices of competing products." They noted that these are the rules under which they expect to operate in the future. However, the PMAC did not agree that such a limit should be provided in Bill C-22(C).

The Minister stated that the Board does have the power to affect drug entry prices; he noted that several of the criteria on which prices are to be judged are directly related to entry prices. He also rejected the call for expressly limiting individual price increases to the rate of CPI increases. He insisted that his previous statements in this regard referred to overall price increases, not to the prices of particular products, and to be more a goal which the Board will strive to achieve, rather than a numerical limit. In his view, as expressed to the Committee, the CPI will not be an individual or aggregate ceiling.

Promoting Domestic Fine Chemical Manufacturing

The fine chemical manufacturing industry appeared before the Committee to raise its special concerns over the design of Bill C-22(C) and to offer compromise recommendations. Representatives of Torcan Chemical Ltd. and Delmar Chemicals Inc. indicated that the June 1986 draft Bill provided a better incentive to the domestic industry; but they were willing to accept an increase in the window of opportunity to five years from three years. In their recommendation, the period of exclusivity with respect to compulsory licences to manufacture would be set at five years instead of seven years.

COMPROMISE ON NON-FUNDAMENTAL ISSUES

The Minister told the Committee that he was unwilling to compromise on any of the fundamental principles of Bill C-22(C). However, with respect to matters which do not touch upon these fundamental principles, the Committee is of the view that flexibility is not only possible but absolutely necessary. It is in relation to these matters – controlling drug prices, research and development commitments, the retrospective operation of Bill C-22(C), and certain drafting concerns – that the Committee believes Bill C-22(C) can be improved to enhance the goals espoused by the Minister without derogating from its fundamental principles.

Controlling Drug Prices

One principle upon which Bill C-22(C) is founded is the protection of consumers from higher drug prices. In furtherance of this principle, it provided for the creation of the Patented Medicine Prices Review Board to monitor the prices of patented medicines.

Patentees would be required to provide the Board with information as to the price at which a medicine was sold and the cost of making and marketing the medicine. Should the Board determine that a medicine is being sold at an excessive

price, it could direct the patentee to reduce the price to one that is not excessive or direct that exclusivity would no longer apply to either or both of the drug under review and one other drug of that patentee.

Bill C-22(C) required the Board to take the following factors into consideration when making a determination as to whether a drug is excessively priced:

a) the prices at which the patentee sold the medicine during the previous five years;

b) the prices of other medicines in the same therapeutic class during the previous five years;

c) the prices at which the medicine and others in the same therapeutic class have been sold in other countries during the previous five years; and

d) the consumer price index (CPI).

If, on the basis of the foregoing factors, the Board cannot make a determination, it can consider the costs of making and marketing the medicine and other relevant factors.

There is widespread public concern that restricting the entry of generic drugs on the market will lead to higher drug prices. The Minister has stated that the Bill will not increase drug prices; rather, it will result in a delay in price reductions, thereby allowing prices to remain at a higher level for a longer period of time.

Two aspects of drug prices are of concern. The first is a drug's introductory price — the price charged for a drug when it is first launched on the Canadian market. The second is price fluctuations after introduction. A drug's introductory price is particularly important since it is the basis upon which subsequent price fluctuations will be judged.

When examining the price of a particular drug, the Board is empowered to consider the prices at which drugs in the same therapeutic class have been sold in Canada during the previous five years as well as the price of the medicine and others in the same therapeutic class in other countries during the previous five years. It would appear that these criteria are designed to enable the Board to make judgments upon the entry price of new drugs.

There has been considerable discussion before the Committee regarding the ability of the Board to control introductory prices. Some witnesses, such as the Consumers' Association of Canada, felt that the Board would have a great deal of difficulty in affecting entry prices and questioned whether, in fact, it was empowered to examine such prices. Both the Minister and the PMAC believe that the Board has authority to deal with entry pricing. According to the PMAC, "entry levels will be studied . . . in relation to the basket of products with which it [a drug] competes . . .".

As no explicit mention of entry prices is made in Bill C-22(C), the Committee is concerned that the Board may view such prices as beyond its scope. Since it is the view of the Minister and the PMAC that the Board is empowered to examine entry prices, consideration must be given to making explicit what both the Government and the industry believe Bill C-22(C) is intended to require the Board to do.

Three approaches to an examination of entry prices are possible. One would be to examine a price after a product has been launched on the market. This is the method employed in Bill C-22(C), which deals with the price at which a medicine is "being sold in any market in Canada". Another would be "to approve" the entry price for a drug before it is launched on the market. The third approach is to require a patentee to provide the Board with sufficient information to judge an intended launch price as excessive or not.

Using the post-market-entry approach, it is clear that the current framework of Bill C-22(C) can serve as a basis to ensure that the Board deals with entry prices. This can be accomplished by requiring patentees to supply the Board with information as to the prices charged for new medicines upon entry into the Canadian and other markets and to provide a historical record of pricing changes in those other markets. Paragraph 41.15(1)(a) of the Bill specifies that drug companies must supply the Board with the above-noted information "at such times and subject to such conditions as are prescribed . . .". It is possible, then, to draft the regulations applicable to the operation of the Board in such a way as to ensure that the Board is provided with the relevant information whenever a new drug is launched in Canada and therefore assure that it could decide in a timely manner whether an entry price is excessive. This approach has been rejected by the Committee.

Having the Board approve a drug's entry price before it is introduced on the market is another approach to dealing with a drug's base price. This would ensure that a drug does not enter the market at a price which the Board considers to be excessive and would avoid possible lengthy hearings into excessive pricing during which a drug could continue to be sold. Periods of exclusivity would be held in abeyance until the Board rules a price as not excessive. This approach was also rejected by the Committee.

The Committee chose an approach to controlling entry prices which requires patentees to provide the Board with certain information prior to the introduction of a new drug. This requirement would be set in the legislation. The Board would have the capability, then, to establish what constitutes an excessive price, before a medicine is on the market. To make explicit what the Minister and the PMAC believe to be the case, and to alleviate the fears of groups such as the CAC that entry prices will not be controlled, the Committee recommends that the following amendment be made to Bill C-22(C):

Page 16, clause 15: Add, immediately after line 9, the following:

"41.15.1(1) Every patentee of an invention pertaining to a medicine which has not been sold previously in Canada, shall provide the Board with

(a) in such form and manner and subject to such conditions as are prescribed, and at least sixty days prior to the anticipated initial sale of the medicine in any market in Canada, information and documents identifying the medicine and concerning

(i) the price at which the medicine has been sold, is being sold, or is to be sold in any market outside of Canada,

(ii) the price at which the medicine is to be sold in any market in Canada, and

(iii) the costs of making and marketing the medicine, where such information is available to the patentee in Canada or is within the knowledge or control of the patentee; and

(b) such additional information or documents with respect to the matters referred to in paragraph (a) as the Board may require, within such time as the Board may specify.

(2) Where, after providing every person against whom an order of the Board under this subsection is proposed to be made with a reasonable opportunity to be heard, the Board finds that

(a) a patentee in respect of a medicine has failed to provide information or documents in accordance with subsection (1), or

(b) a medicine pertaining to a patented invention is to be sold in any market in Canada at a price that in the opinion of the Board is excessive,

the Board may, by order,

(c) direct that, effective on the coming into force of the order, subsections 41.11(1) and 41.14(1) do not apply or cease to apply, as the case may be, in respect of the patent for the invention pertaining to the medicine.

(3) Subsections 41.15(6) and (7) and subsections 41.15(10) and (11) apply with such modifications as the circumstances require, in respect of a matter referred to in subsection (2) of this section that comes before the Board under this section.

(4) Where an order under paragraph (2)(c) is made by the Board, the Commissioner shall forthwith inform the holder of each licence granted under section 41 in respect of any invention pertaining to the medicine to which the order relates of the terms of the order."

Under Bill C-22(C), the Board has authority to remove a drug's period of exclusivity if it determines that a price is excessive. The Department of Justice has given its opinion on the constitutional validity of the Board. This opinion is based upon federal jurisdiction over patents. However, there may be some question as to the constitutional validity of empowering the Board to establish entry prices. The Minister is of the view that the Board has no constitutional authority to set the price of a drug. It would appear that if the Board is to deal with entry prices before a drug is actually sold in Canada, it will be necessary to tie such pricing to patent exclusivity and exemptions from compulsory licensing. This is precisely the approach taken in the amendment recommended above.

A second aspect of drug pricing which the Board will consider will be price fluctuations, in particular, price increases. Among the factors that the Board can consider when examining prices is the Consumer Price Index.

The CPI is likely to be a significant factor in an examination of price increases. Indeed, the Committee was told that the Board's mandate is to keep price increases at or below the CPI. Nothing in the Bill, however, limits drug price increases to the CPI. Because the Board may consider the CPI "to the extent that it deems reasonable", its importance and influence as a pricing factor may vary from case to case. Should price increases exceed the CPI, the Board may decide, on the

basis of other factors, that a particular price is not excessive or that some price lower than the current market price but higher than increases in the CPI is acceptable.

The criteria for an examination of prices and the penalties that can be imposed for excessive pricing will be of utmost importance to the Board's ability to deal successfully with excessive prices. In this regard, the weight that the Board is to give to the CPI as a pricing factor could be crucial.

The PMAC made it clear that it views the mandate of the Board as requiring it to limit drug price increases to the rate of change of the Consumer Price Index, or less. That position was taken in its brief to the Committee; it was reiterated in response to questioning.

The Minister stated on a number of occasions that the Board is to keep the rate of drug price increases at or below the change in the CPI. In testimony before the Committee he stated that this would be an overall goal of the Board and not a criterion for limiting the increase in the price of any one drug. In his view, the Board may find that some prices should rise above the CPI while others should be only some fraction of the CPI increase. It should not, therefore, be hampered by rigid numeric limits or tests. The Minister also expressed concern that limiting price increases to the CPI by statute would mean that such increases would automatically be set at the CPI when other conditions might allow for smaller increases.

The Minister's position on drug price increases as expressed to the Committee is not as strong as were his previous statements. His position might be viewed as an implicit instruction to the Board. If the price of every patented drug is to be limited to no more than the increase in the CPI, the aggregate drug price index will almost assuredly increase by less than the rate of inflation in the future. This is because generic drugs tend to cause drug prices to fall over time. They enter the market at a level which is slightly lower than the patentee's price; then the generic price continues to fall as other generic copies are introduced. The average of falling drug prices for some medicines, together with increases in line with the rate of inflation for the rest, would produce aggregate price increases in this industry which would be less than the rate of inflation.

If the Board is only required to keep aggregate price increases at or below the rate of inflation, it would be possible for particular patentees to achieve increases which, on average, were above this rate. Again, this is due to the fact that multi-source drugs tend to fall in price over time. It is important to know whether the Board is to strive to keep patentees' prices in line with inflation on average, or if the Board is to strive to keep <u>all</u> drug prices in line with the rate of inflation.

When the Department of Consumer and Corporate Affairs estimated the impact of the Board, its upper bound estimate was determined by limiting the increase in the Consumer Price Index for Prescribed Medicines (CPIPM) to the rate of inflation. The CPIPM includes multi-source drugs. If it grows at the rate of inflation, the prices of single-source and possibly all brand-name drugs probably would increase at more than the rate of inflation. This would be higher than what was previously stated by the Minister and it would be higher than the PMAC believes would be the case.

The Committee feels that patentees' prices must not be allowed to increase faster than the CPI. The role of the CPI as a factor in an examination of prices must be strengthened. Rather than it being merely one of the factors which the Board may consider, the CPI should be the primary factor against which individual price increases are to be judged. Any price increase which exceeds the CPI increase should be deemed to be excessive, thereby invoking a removal of market exclusivity. The application of such a test would avoid protracted hearings into drug prices and provide assurances that such prices would not increase at rates exceeding the cost of living. Bill C-22(C) then, clearly, would foster the principle of protecting consumers from higher drug prices and would explicitly state the rules to which the PMAC already understands that patentees will be subject. Since the PMAC has implicitly accepted such a limit on their price increases, the Committee does not understand why the Minister should object to a statutory limit on drug price increases. We, therefore, recommend the following amendments:

Page 15, clause 15: Add, immediately after line 29, the following:

"(8) Notwithstanding anything in subsections (6) and (7), where a medicine has been sold in any market in Canada for one year or more, the price for the purposes of this section, shall be deemed to be excessive where:

(a) the ratio of the price charged by the patentee in any such market, immediately preceding the Board's determination, to the price charged by the patentee in any such market twelve months prior to the determination,

exceeds

(b) the ratio of the Consumer Price Index as published by Statistics Canada under the authority of the *Statistics Act* for the most recent month available, to the Consumer Price Index for that same month in the preceding year.

(9) Notwithstanding anything in subsections (6) and (7), where a medicine has been sold in any market in Canada for less than one year, the price for the purposes of this section, shall be deemed to be excessive where:

(a) the ratio of the price charged by the patentee in any such market, immediately preceding the Board's determination, to the price at which the medicine was first sold in such market,

exceeds

(b) the ratio of the Consumer Price Index as published by Statistics Canada under the authority of the *Statistics Act* for the most recent month available, to the Consumer Price Index for either the month prior to the month in which the drug was first sold in any such market in Canada, or the month preceding such prior month, as the case may be."

The above recommended amendment defines the circumstances under which price increases would be deemed excessive. The following recommended amendments require the Board to impose a penalty but give it some discretion as to the severity of the penalty:

Page 14, clause 15: Add, immediately after line 28, the following:

"(3) Notwithstanding anything in subsection (2), where the price of a medicine is deemed to be excessive under subsections (8) or (9), the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of either or both of

(a) the patent for the invention pertaining to the medicine, or

(b) any other patent of the patentee for an invention that pertains to one other medicine, whether granted before or after the coming into force of the order."

Page 18, clause 15: Add, immediately after line 17, the following:

"(7) Notwithstanding anything in subsection (6), where the price of a medicine to which this section applies is deemed to be excessive, the Board shall, by order, declare that, effective on the coming into force of the order, the medicine ceases to be a medicine to which this section applies."

Research and Development Commitments

Two of the underlying principles of Bill C-22(C) are the enhancement of research and development in Canada and the creation of high technology jobs. It proposed to further these principles by guaranteeing periods of market exclusivity to innovative drug companies. In return for exclusivity, the PMAC has publicly committed its members to increase their level of research and development (R&D) expenditures as a percentage of sales from the current level of 4.9% to 8% by 1991, 9% by 1994, and 10% by 1996. According to the PMAC, this will mean an additional investment of $1.4 billion in pharmacological research over a ten-year period and will create 3,000 new jobs; it will also lead to improved health care for Canadians through earlier access to the latest advances in biomedical research.

The PMAC told the Committee that it will honour its commitments. It also believes that Bill C-22(C) contains the necessary safeguards to encourage the industry to meet its investment targets. These safeguards consist of a possible cabinet review of the compulsory licensing regime sometime after the first four years and a parliamentary review after nine years. A member of the research community told the Committee that Canadian scientists would also be closely monitoring the PMAC to ascertain whether or not the research promises were being kept.

Even though it is clear that the PMAC commitment to increase R&D is a *quid pro quo* for guaranteed periods of market exclusivity, Bill C-22(C) does not directly refer to these commitments; nor does it contain any sanctions which are specifically tied to the failure to reach specified levels of R&D. However, it does require patentees to report to the Patented Medicine Prices Review Board their expenditures on R&D and their revenue from sales of medicines in Canada. In its annual report, the Board will publish percentages of R&D to sales on both a company-by-company and an industry-wide basis.

Significant criticism of Bill C-22(C) was based upon the absence from the Bill of direct mechanisms to enforce the PMAC's R&D commitments. There is no explicit link between the cabinet and parliamentary reviews, and levels of R&D; the Board has no power to enforce the commitments. Indeed, it has been suggested that tying market exclusivity to requirements to undertake R&D in Canada may violate certain provisions of the Paris Convention on the Protection of Industrial Property, to which Canada is a signatory.

The fact that the cabinet review is not mandatory and is not required to occur immediately upon the expiration of four years after Bill C-22(C) becomes law has been a concern. The Consumers' Association of Canada is of the view that stronger safeguards are necessary to ensure that the industry's promises regarding R&D and job creation will be kept.

The scope and application of legislative safeguards and the events which trigger their operation are crucial to the effective enforcement of the R&D commitments. Safeguards could operate on a company-by-company or an industry-wide basis. On the one hand, a patentee could be required to earn its exclusivity or it could be penalized (by a removal of exclusivity) if certain statutory requirements are not met. Alternatively, sanctions could be based on industry performance as a whole rather than on the performance of a particular member.

One approach might consist of requiring a patentee to earn its market exclusivity. The draft version of Bill C-22 issued by the Department of Consumer and Corporate Affairs in June of 1986 did this. To maintain exclusivity, a patentee would have to manufacture or source a drug's active ingredients in Canada within two years of receiving a NOC for the drug. Failure to do so would result in a loss of exclusivity in relation to compulsory licences to manufacture. However, this provision was not included in Bill C-22(C).

The review mechanisms found in Bill C-22(C) are industry-oriented. A cabinet review could result in an overall reduction of market exclusivity or the reinstatement of the present compulsory licensing system. This would affect all patentees, regardless of their individual levels of investment, should the overall industry commitments not be achieved. Although levels of R&D investment are not the explicit determinants of the reviews, they are to be important components of the process. In fact, it is the PMAC's understanding that a failure to meet the targetted R&D investment levels after four years "will result in the loss of some or all of the protection afforded by Bill C-22."

Although the PMAC expects that the failure of its members to produce certain industry-wide ratios of R&D to sales by specified dates will result in a loss of patent protection, it is unwilling to have Bill C-22(C) amended to include such a provision. In the PMAC's view, enshrining such commitments in legislation would not make good patent law.

If the industry-wide approach to R&D commitments currently implied by Bill C-22(C) is to be maintained, investment safeguards could be strengthened in a number of ways. One method would be to empower the Board to remove or reduce the periods of exclusivity applicable to all patentees should the PMAC members fail to reach the announced industry investment levels. Since the Board will be collecting R&D information on a regular basis and publishing the data annually in its report, it would have ready access to all the information required to make such a determination.

Even though Bill C-22(C) is premised upon an industry-wide approach to research and development, and the Bill could be readily amended to provide assurances that the industry's commitments would be met, the Committee is of the view that a company-by-company rather than an industry-wide approach to the R&D commitments may be both fairer and more viable. First, by requiring every patentee to achieve the targetted R&D levels, each clearly would be obligated to do something to maintain its market exclusivity. This would alleviate one of the problems identified with Bill C-22(C), namely, that exclusivity is given to all patentees, yet in return, all patentees are not required to enhance their R&D programs. Second, it would allay the concern expressed regarding a possible reluctance on the part of the Cabinet to penalize companies which have exceeded the investment targets simply because the overall industry commitments are not met.

A preferred approach is to make market exclusivity available to all patentees, but require each patentee to do something to maintain it. If this approach were to be adopted, the continuance of market exclusivity could be tied to how much R&D a patentee undertakes in Canada. The failure of a patentee to reach the targets announced by the PMAC (8% by 1991, 9% by 1994 and 10% by 1996) would result in a loss of market exclusivity. In such a case, the Board could be given authority to remove the exclusivity pertaining to some or all of a company's drug patents. Dealing with patentees on an individual basis would ensure that only those who fail to reach the statutory requirements would be penalized. It also would alleviate the concern that has been expressed about the fact that it is an unincorporated organization without assets which has made the commitments.

The Minister was of the opinion that enforcing research targets on a company-by-company basis may not be appropriate and would not necessarily alleviate the problems associated with penalizing an entire industry for the failure of a few to meet these targets. Penalizing individual companies that have had to reduce research because generic competition has significantly decreased sales would be, according to the Minister, unfair.

The Minister also opposed the establishment of a numerical target for R&D in Bill C-22(C). He preferred a "judgmental" test which would give government the opportunity to "ask questions about quality of research" and felt that a numeric test would become a maximum as opposed to a minimum. He would prefer the Government to be in a position to "exercise moral suasion in terms of meeting a test than to have a pure numeric test, the passage or failure of which would ultimately be decided by a judge as opposed to parliamentarians or a minister."

Contrary to the Minister' s position, a company-by-company R&D test will not impose particular hardship on patentees with declining sales. The test is not on

total research spending but on such spending relative to sales. The Committee feels that every firm failing to meet individual R&D goals in any year should be subject to some sanction. By directing the Board to apply these penalties we would provide for some discretion as to the severity of the sanctions and allow for them to be imposed on an individual basis.

The Committee wishes to enhance the ability of Bill C-22(C) to satisfy the concerns of the research community that the R&D commitments are to be met and to make clear to the PMAC what the new rules are to be in this regard. We again see no legitimate reason for the Minister to object to a statutory provision for assuring that additional research spending is undertaken. The following recommendation outlines an amendment to Bill C-22(C) which would accomplish this task:

Page 25, clause 15: Add, immediately after line 9, the following:

"(8) Where, for the calendar year 1991 or any year thereafter, the proportion specified in paragraph 41.25(4)(a) for a patentee is less than 0.08, the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of any patent of the patentee for an invention pertaining to medicine, whether granted before or after the coming into force of the order.

(9) Notwithstanding anything in subsection (8), where, for the calendar year 1996 or any year thereafter, the proportion specified in paragraph 41.25(4)(a) for a patentee is less than 0.10, the Board shall, by order, direct that, effective on the coming into force of the order, subsection 41.11(1) ceases to apply in respect of any patent of the patentee for an invention pertaining to medicine, whether granted before or after the coming into force of the order.

(10) Where an order is made under subsections (8) or (9) in respect of a medicine, the prohibition set out in subsection 41.14(1) ceases to apply in respect of the medicine effective on the date of the order.

(11) Where an order under subsections (8) or (9) is made by the Board, the Commissioner shall forthwith inform the holder of each licence granted under section 41 in respect of any invention pertaining to the medicine to which the order relates of the terms of the order."

The Retrospective Operation of Bill C-22(C)

Retrospective laws are, no doubt, *prima facie* of questionable policy, and contrary to the general principle that legislation by

> which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the then existing law.[1]

Changes to the compulsory licensing provisions of the *Patent Act* have been some time in the making. In 1983 the Department of Consumer and Corporate Affairs issued a discussion paper on the subject in which it was suggested that a rebalancing of the 1969 policy was required. The paper set out the following three approaches for changing the *Patent Act*: (1) variable royalty rates; (2) market exclusivity with respect to compulsory licences to import; and (3) company-specific exemptions from compulsory licences. Following this, a Commission of Inquiry on the Pharmaceutical Industry was established in 1984. In its report, that Commission recommended, among other things, that patent holders be given a four-year period of exclusivity with respect to both compulsory licences to manufacture and compulsory licences to import and that licence royalty rates be increased, paid into a fund, and distributed to patent holders on the basis of the amount of research and development carried out in Canada.

On June 27, 1986 the Department of Consumer and Corporate Affairs issued proposed changes to the *Patent Act* which, among other things, would have established guaranteed periods of market exclusivity to patent holders. These proposals would have guaranteed patent holders seven, eight or ten years of market exclusivity against compulsory licences to import. The seven and eight-year periods were based upon the degree to which generic companies had, as of June 27, 1986, completed the regulatory requirements essential to marketing a drug. Patentees receiving a Notice of Compliance after June 27, 1986 were entitled to ten years of exclusivity with respect to compulsory licences to import regardless of the regulatory steps a generic company may have completed on that date.

In order to obtain exclusivity with respect to compulsory licences to manufacture, the June scheme required a patentee to source a drug's active ingredients in Canada within two years after receipt of a NOC for a drug. If a patentee met this requirement, it would receive ten years of market exclusivity. If, on the other hand, a patentee failed to manufacture the active ingredients in Canada, a generic company could obtain a compulsory licence to manufacture at any time after the two-year period.

Bill C-22(C) contains the same provisions as the June 1986 version with respect to compulsory licences to import. Like the June proposal, the Bill affects the

---

1 *Phillips v. Eyre*, (1870) L.R.6.Q.B. at p. 23 as quoted in Elmer Driedger, *Construction of Statutes*, (Butterworths, 1983) p. 185.

ability of generic firms to market their products on the basis of the extent to which they had, on June 27, 1986, completed certain regulatory requirements. If a patentee has received a Notice of Compliance by that date, the drug is placed in one category and is granted zero, seven or eight years of exemption from compulsory licences to import. If, for this category of drugs, a generic company has received its NOC and compulsory licence by the June date, the patentee has no exclusivity with respect to that generic firm. Where a generic company has completed one of the regulatory steps, the patentee is granted a seven-year exclusivity with respect to a licence to import. If a generic company has completed none of the regulatory steps, then the patentee is given an eight-year exemption from compulsory licences to import.

A patentee receiving a Notice of Compliance after June 27, 1986, receives a ten-year period of exclusivity against compulsory licences to import regardless of the regulatory steps a generic company may have completed as of that date.

Bill C-22(C), however, substantially changed the provisions of the June 1986 proposals with regard to manufacturing exclusivity. There was no longer a requirement for patentees to source active ingredients in Canada in order to obtain exclusivity against compulsory licences to manufacture. It shifted the manufacturing onus away from patentees to generic firms by providing that for all drugs for which NOCs are issued after June 27, 1986, the period of exclusivity would be seven years if a generic company manufactures or sources the active ingredients in Canada.

Bill C-22(C)'s guiding characteristics for the classification of drugs and the designation of the appropriate periods of exclusivity are the requirements for entry into the market. In most instances, however, firms have little control over the length of time the process takes. The Committee heard that it takes approximately 15 months after service of a licence application on a patentee for the Commissioner of Patents to issue a compulsory licence, while the Department of National Health and Welfare takes about two years to issue a NOC to a generic firm and approximately four years to issue one to a patentee.

It is difficult to account for all the factors that a firm takes into consideration when making its business decisions. An important consideration in the pharmaceutical industry is the regulatory environment that firms face or expect to face. At present, generic firms start the process of applying for compulsory licences and NOCs in the belief that they will be able to market their products once these steps are completed. Since both procedures require the expenditure of time, effort, and financial resources, they constitute economic transactions with the Government. Generic firms enter into these transactions in good faith, but Bill C-22(C) would alter their consequences.

The Minister has argued, on a number of occasions, that the seven and eight-year restrictions on the so-called "pipeline drugs" were necessary because of the large numbers of applications for compulsory licences made by generic producers in anticipation of a legislative change. This stated rationale for their inclusion in the Bill ignores the possibility that many applications may have been made in the normal course of business and in anticipation of substantial increases in the licence application fees that occurred in 1985. The restrictions on the pipeline group of drugs do not take into account the factors which may have motivated a person to apply for a compulsory licence.

Regardless of the rationale for these restrictions, the basic issue of whether those who enter a regulatory process on the basis of existing law should be entitled to complete the process without restriction cannot be ignored.

The Committee has heard concerns about the retrospective operation of the periods of exclusivity contained in Bill C-22(C). In the CDMA's view, the Bill confiscates rights where a generic company had not commenced selling a product on June 27, 1986. This was of particular concern with regard to products for which they had carried out their research and development, and had obtained a compulsory licence prior to the June date. According to the CDMA, a number of products would be affected, such as Ranitidine, Nifedipine, Diltiazem, and Atenolol.

In the Minister's opinion, Bill C-22(C) is not retroactive. The publication of a draft bill in June 1986 put the parties on notice as to the rule changes. The fact that Bill C-22, when introduced in November of 1986, used June 27, 1986 as the operative date for the transition from the old to the new compulsory licensing regime is, in the Minister's view, fair, since the new rules had been announced some four months prior to the introduction of the Bill in Parliament.

It is clear that Bill C-22(C) does not prevent generic companies that have entered the regulatory process required to market a drug in Canada from completing that process. Nothing in the Bill empowers the Commissioner of Patents to discontinue the issuance of compulsory licences, both with respect to applications made prior to June 27, 1986 and those made after that date. Compulsory licences continue to be a statutory right. However, it does restrict the scope and operation of certain licences issued both before and after June 27, 1986 by proscribing the use of such licences in the Canadian market. For many of those who applied for a compulsory licence to import prior to June 27, 1986 expecting to receive a licence which conferred rights to supply the Canadian market, the situation has changed materially.

It has been suggested that Bill C-22(C) does not operate in a retrospective manner so as to take away already-acquired rights. This argument is based upon the fact that the seven and eight-year restrictions on compulsory licences to import apply, respectively, to generic firms having either a compulsory licence to import or a NOC, or those having neither of these. As a consequence, these firms could not have brought a drug on the market in Canada on that date. Accordingly, if rights are acquired only when both the NOC and compulsory licence have been granted, Bill C-22(C) does not in any way remove or derogate from these rights.

If one accepts that a compulsory licence and a NOC are inseparable and interdependent components of one right and only one right – to market a drug in Canada – then the foregoing argument has merit. However, if a compulsory licence and a NOC, in fact, confer separate and distinct rights, then the argument is not persuasive.

The granting of a compulsory licence confers certain rights on a licensee to use a patented invention pertaining to a medicine. A NOC authorizes the marketing of a drug on the basis of the drug's safety and efficacy. Although a generic company cannot market a drug for consumption in Canada without both a compulsory licence and a NOC, it is clear that each confers separate and distinct rights. The absence of a NOC does not derogate from the rights acquired under a compulsory licence, and *vice versa*.

Bill C-22(C) has a significant impact on the rights of licensees under compulsory licences to import. The Bill's treatment of such licensees is not uniform. The rights of certain licensees are impaired while those of others are not. In particular, a licensee having both a compulsory licence to import and a NOC on June 27, 1986 is not subject to restriction, while a licensee who had a licence to import on that date but not a NOC is subject to a seven-year restriction. In this latter situation, the licensee's right to use the invention in Canada, a right conferred by the granting of the licence, is impaired by the mere absence of a NOC. Thus, two compulsory licensees having had compulsory licences issued on the same date with identical rights conferred by the licences would be afforded different treatment by the Bill. It is the impairment of rights under licences granted on or before June 27, 1986 which contributes to the retrospective effect of Bill C-22(C).

The retrospective operation of the Bill is contemplated and highlighted by a statutory bar against actions or proceedings against the Crown as a result of Bill C-22(C)'s restrictions on compulsory licences to import and to manufacture (subsection 41.26(4)). Licensees whose rights have been adversely affected by the Bill would be prohibited from seeking legal redress against the Crown.

The Senate recognized that Bill C-22(C) had a retrospective impact on certain generic firms and proposed to deal with this by eliminating the seven and eight-year periods of market exclusivity relating to the pipeline drugs and by making a four-year period of market exclusivity applicable only to patented medicines which had their NOCs issued after the date that the Bill would be proclaimed in force. The division between the new regime and the existing one was to be based solely on the receipt of a NOC by a patentee after that date. No transition provisions apply in Bill C-22(S): drugs would be classified clearly as old, receiving no periods of exclusivity; and new, receiving four years of exclusivity. Bill C-22(S) eliminates the possibility that a generic drug currently on the market would be affected in any way by the Bill.

This Committee is concerned with the retrospective operation of Bill C-22(C). In particular, we object to the use of June 27, 1986 as the operative date for the transition to the new compulsory licensing regime and the restrictions placed on compulsory licences to import pertaining to the pipeline products. We note that the general amendments to the *Patent Act* proposed in Bill C-22(C) do not have an operative date other than dates to be fixed by proclamation. The Committee is of the view that the use of the June 27, 1986 operative date impairs the rights of certain licensees and of those who have applied for but have not yet been granted compulsory licences. The rights of those who have entered the regulatory process to bring a generic drug to market merit protection. The dividing line between the old and the new regime for compulsory licensing, therefore, should be the date on which the Bill is proclaimed into force and the criterion governing the transition from the old to the new regime should be whether a brand-name drug has received its NOC on that date. This single criterion would effectively eliminate the restrictions on the pipeline drugs and ensure that any generic drugs which have come to market since June 27, 1986 would not be removed from the market by the enactment of Bill C-22(C). Accordingly, the Committee insists upon Senate amendment 4(b) and recommends the following amendments:

Pages 11 and 12, clause 15: Strike out lines 19 to 49 on page 11 and lines 1 and 2 on page 12, and substitute the following:

"(2) The prohibition under subsection (1) expires in respect of a medicine ten years after the date of the notice of compliance that is first issued in respect of the medicine where that notice of compliance is issued after the coming into force of this section."

Page 12, clause 15: Strike out lines 8 to 14 and substitute the following:

"(4) Subsection (1) does not apply in respect of any licence pertaining to a medicine where on the date of the coming into force of this section, a notice of compliance in respect of the medicine has been issued."

Drafting Concerns

In the course of its examination of the Message and the motion, a number of concerns relating to the drafting of Bill C-22(C) have arisen.

One of these relates to section 41.26 of Bill C-22(C). Subsection 41.26(1) provides that "after the expiration of four years" the Governor in Council may reduce the periods of exclusivity or return to the current compulsory licensing system. This is the so-called cabinet review provision. Another review by Parliament will occur "on the expiration of nine years".

The PMAC views the cabinet review as a safeguard to ensure that its R&D commitments will be met and assumes that a review will occur on the expiration of four years.

The Committee notes that the French version of subsections 41.26(1) and 41.26(3) uses the word "après" to mean both "on" and "after". On the basis of the French version of Bill C-22(C), both subsections would have the same meaning. If this is the intention, then the English version of these two subsections should use identical words to reflect a uniform interpretation. This would also ensure that the flexibility which the Minister states is necessary for the review process to work effectively, is maintained. Therefore, the Committee recommends the following amendment:

Page 25, clause 15: Strike out line 39 and substitute the following:

"(3) After the expiration of nine years after"

Subsection 41.26(1) of Bill C-22(C) empowers the Governor in Council to repeal sections 41.1 to 41.25 of the Bill if it is in the public interest to do so. This confers significant powers on the Governor in Council. While there is precedent for vesting such authority in the Governor in Council, the Committee is of the view that it should be used sparingly so as not to usurp the powers of Parliament.

Dissenting Opinion

This report represents the views of a majority of the Committee. The members who support the Government are in disagreement with the report.

APPENDIX A

List of Witnesses

Thursday, September 24, 1987: (Issue No. 34)

From Delmar Chemicals Inc.:
Mr. Jean-Guy Legault, President;

From Torcan Chemical Ltd.:
Dr. Rudolf Kubela, President;
Dr. Jan Oudenes, Vice-President.

From ACIC (Canada) Inc.:
Mr. Luciano Calenti, President.

From the Consumers' Association of Canada:
Dr. Robert Kerton, Co-Chairman, National Economic Issues Committee; Economist, University of Waterloo;
Ms. Marilyn Lister, Member of the National Executive;
Mr. Andrew Cohen, Director-General;
Mr. Robert Best, Senior Policy Research Officer.

Tuesday, September 29, 1987: (Issue No. 35)

From the Department of Consumer and Corporate Affairs:
Mr. Mel Cappe, Assistant Deputy Minister, Bureau of Policy Coordination;
Mr. Tom Brogan, Chief, Intellectual Property;
Mr. Peter J. Davies, Patent Office.

Wednesday, September 30, 1987: (Issue No. 36)

From the Canadian Drug Manufacturers' Association:
Mr. Jack Kay, Chairman;
Dr. Barry Sherman, Member; President, Apotex Inc.;
Mr. Leslie L. Dan, Novopharm Ltd.

From TechNovation Consultants:
Mr. John L. Orr, P.Eng., President.

Thursday, October 1, 1987: (Issue No. 36)

From the Pharmaceutical Manufacturers Association of Canada:
Mrs. Judy Erola, P.C., President;
Dr. John L. Zabriskie, Chairman, Patent Committee; President, Merck, Frosst Inc;
Mr. Pierre Fortin, Director, Government Liaison.

Friday, October 2, 1987: (Issue No. 37)

Dr. Pavel Hamet, M.D., Ph.D., Clinical Research Institute of Montreal; Director of Laboratory of Physiopathology of Hormone Action; Chief of Endocrinology; Professor of Medecine, Hôtel-Dieu of Montreal Hospital; Executive Board, Canadian Hypertension Society.

Appearing:
The Honourable Harvie Andre, P.C., M.P., Minister of Consumer and Corporate Affairs.

From the Department of Consumer and Corporate Affairs:
Mr. Mel Cappe, Assistant Deputy Minister, Bureau of Policy Coordination;
Mr. André Gariépy, Commissioner of Patents.

APPENDIX B

The Committee received written material (articles, briefs, reports or letters) from the following groups and individuals):

ANTOINE, A.M.
Scarborough, Ontario

APOTEX INC.
Weston, Ontario

BEATTY, Don
Toronto, Ontario

BENNETT, Clive V.
Richmond Hill, Ontario

BENTLEY, Judy
Don Mills, Ontario

BICHNIC, Mirko
Agincourt, Ontario

BRITISH COLUMBIA MEDICAL ASSOCIATION
Vancouver, B.C.

THE CANADIAN DRUG MANUFACTURERS ASSOCIATION
Toronto, Ontario

CHURCHILL, H.A.
King City, Ontario

COLBORNE, THRESSA AND GORDON
Unionville, Ontario

CONSUMERS' ASSOCIATION OF CANADA (ONTARIO)
Kitchener-Waterloo, Ontario

CONSUMERS' ASSOCIATION OF CANADA (ONTARIO)
Toronto, Ontario

CONSUMER AND CORPORATE AFFAIRS CANADA
Ottawa, Ontario

CRABTREE, Dawn
Portage La Prairie, Manitoba

DELMAR CHEMICALS INC.
Montreal, Quebec

ELLIS, Terry
Mississauga, Ontario

GAMBLE-JURGENEIT, Margie
Agincourt, Ontario

GARVIN, Robert T.
Toronto, Ontario

GAUDET, Cindy
Newmarket, Ontario

GAUDRY, Roger
(see Nordic Laboratories Inc.)

GOLAN, Ron
Thornhill, Ontario

HALL, S.B.
Edmonton, Alberta

HANSEN, Brad
Richmond Hill, Ontario

HOOPER, Andy
Richmond Hill, Ontario

HARMAN, Kevin
Holland Landing, Ontario

HARRIS, Michael
Rexdale, Ontario

HARRYPERSAD, Radha
Toronto, Ontario

LATER, Russell
Toronto, Ontario

MacDONALD, Mavis A.
Port Coquitlam, B.C.

McEWEN, Gavin J.
Ottawa, Ontario

McPHEE, Pat M.
Pickering, Ontario

MORGAN, Patrick J.
Scarborough, Ontario

MORIN, Raymond
Islington, Ontario

MUNOZ, P.
Scarborough, Ontario

MUSIAL, Andrew S. & TACIUK, Jerry K.
Etobicoke & Islington, Ontario

NORDIC LABORATORIES INC.
Montreal, Quebec

PHILIPPON, Azarias
Mississauga, Ontario

POLLOCK, Michael R.
Mississauga, Ontario

RAMPERSAND, G.
Toronto, Ontario

RAK, Deborah
Kettleby, Ontario

REYNOLDS, M.
Toronto, Ontario

RIDPOTT, Ann
Aurora, Ontario

SASKATOON COMMUNITY CLINIC
Saskatoon, Saskatchewan

SCHOLHUIS, Susan
Bradford, Ontario

SOVIG, Graham R.
Unionville, Ontario

SLATE, Vera F.
Maple Creek, Saskatchewan

STOCKLEY, G.W.
Port Credit, Ontario

TAN, C.
Richmond Hill, Ontario

TORCAN CHEMICAL LTD.
Aurora, Ontario

TRIPP, Keith
Scarborough, Ontario

WHYNOT, Jean
Scarborough, Ontario

WEBB, B.
Willowdale, Ontario

ZIRIMO, B.
Richmond Hill, Ontario

Respectfully submitted,

IAN SINCLAIR
Chairman

MEMBERSHIP OF THE COMMITTEE

The Honourable Ian Sinclair, *Chairman*
The Honourable Finlay MacDonald (*Halifax*), *Deputy Chairman*

and

The Honourable Senators:

Barrow		Lucier
Buckwold	*	MacEachen, P.C. (or Frith)
David	*	Murray, P.C. (or Doody)
Flynn, P.C.		Roblin, P.C.
Haidasz, P.C.		Stewart (*Antigonish-Guysborough*)
Kelly		Turner

* *ex officio* Members

Note: The Honourable Senators Anderson, Asselin, P.C., Barootes, Bonnell, Bosa, Cogger, Doyle, Kirby, LeBlanc, P.C. (*Beauséjour*), Leblanc (*Saurel*), Olson, P.C., Perrault, P.C., Phillips, Riel, P.C., Thériault and Tremblay also served on the Committee at various stages.

Research Staff (from the Research Branch, Library of Parliament):
Mr. Basil Zafiriou, Senior Analyst, Economics Division;
Ms. Margaret Smith, Research Officer, Law and Government Division;
Mr. Marion Wrobel, Research Officer, Economics Division;
Mr. Anthony Chapman, Research Officer, Economics Division.

Timothy Ross Wilson

Clerk of the Committee

THE SENATE

Thursday, October 22, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

IMMIGRATION ACT, 1976

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-55, to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave, later this day.

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

Hon. Senators: Agreed.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, it has not been usual for us to abridge the time required for the legislative steps of a bill. Indeed, in my opinion, it should only be for special reasons that we do so. However, in the case of Bill C-55, in my view, there are special reasons. The Standing Senate Committee on Legal and Constitutional Affairs is presently studying Bill C-84, the refugee bill, and when I have been present at that committee and, according to my colleagues, since then there have been frequent references to Bill C-55 while the provisions of Bill C-84 were being considered. In fact, it seems to be almost impossible to talk about Bill C-84 without referring to Bill C-55.

Therefore, honourable senators, although I know there are some honourable senators who wish to speak to this bill, it would be useful to accelerate the process to give us all an early exposé of the government's position and to facilitate the referral of Bill C-55 to the Standing Senate Committee on Legal and Constitutional Affairs, which I assume is the committee to which it will be referred. Although immigration finds itself in another committee's mandate, clearly it is the legal and constitutional dimension that is appropriate in this case, and we feel it is fitting that these two bills should be dealt with together.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I appreciate the points made by the Honourable Deputy Leader of the Opposition, and I appreciate the desire and disposition of the members of the Standing Senate Committee on Legal and Constitutional Affairs to try to deal with these matters at the same time, because some of the testimony being heard touches on both bills.

However, I do draw to the attention of the Senate that it is the government's position that Bill C-84 is a necessary piece of legislation that stands on its own merits. We would very much want to see that bill emerge from the committee and be dealt with by the Senate regardless of the hearings on and the disposition of Bill C-55.

Motion agreed to and bill placed on the Orders of the Day for second reading later this day.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

REVISED THIRTY-FIRST REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, October 22, 1987

The Standing Senate Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRTY-FIRST REPORT
(Revised)

Your Committee has examined and approved the following salary scales for Senators' secretaries including the secretary to the Leader of the Opposition effective April 1, 1987:

$26,185 $27,725 $29,265 $30,805

Your Committee has examined and approved the following salary scales for secretaries in the office of the Speaker pro tempore, the Deputy Leader of the Government, the Government Whip and the Opposition Whip, effective April 1, 1987:

$27,725 $29,265 $30,805 $32,616

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Frith: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be taken into consideration now and adopted.

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

Hon. Senators: Agreed.

Motion agreed to and revised report adopted.

ORIGINAL THIRTY-FIRST REPORT OF COMMITTEE WITHDRAWN

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in view of the adoption of the revised thirty-first report, may I have leave of the Senate to withdraw the unrevised thirty-first report?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to and original report withdrawn.

ORIGINAL THIRTY-FIRST REPORT OF COMMITTEE—MOTION WITHDRAWN

Leave having been given to proceed to Motion No. 3:

> That the Thirty-First Report of the Standing Committee on Internal Economy, Budgets and Administration, respecting approved salary increases for Senators' secretaries, tabled in the Senate on October 9th, 1987, be referred back to the Committee with instructions that the Committee consider the impact such increases will have on negotiations with represented employees, and on the Hay formula of classification and salary levels for non-represented employees.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask leave of the Senate to withdraw Motion No. 3 standing in my name.

The subject matter of the motion has been resolved to the satisfaction of everyone concerned. I would like to congratulate the members of the committee, particularly members of the subcommittee who brought forward the original plan. I thank all members for their courtesies to me in this particular respect.

Motion withdrawn.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—NOTICE OF MOTION

Hon. Jack Marshall: Honourable senators, I give notice that on Tuesday next, October 27, 1987, I will call the attention of the Senate to the response of Canadians to a petition mailed out calling upon Parliament to urge the government to act on the motion dealing with the production of the National Film Board film "The Kid Who Couldn't Miss."

[*Translation*]

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

REDUCTION OF QUORUM

Hon. Gildas L. Molgat: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the quorum of the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and Northwest Territories be reduced to three members.

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

Hon. Senators: Agreed.

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators are aware that the government side of the house has relatively few members on that committee, as is the case with most committees, proportionate to the total number of members. If the quorum is reduced to three members, does that mean that there need not be any representation from the government side for the work of the committee to go ahead, or is it the intention of the Senate that the task force activities be carried on in the absence of a government member?

Senator Molgat: Honourable senators, the committee as structured has eight members—three members from the government side and five members from the opposition side of the house. According to the rules of the Senate, there must be five members present to have a quorum.

I understand there are difficulties on the government side to have members present at the hearings in the Northwest Territories and the Yukon. At present there are only two members available for those hearings. Because of that difficulty there was a proposal to reduce the quorum from five to three members. It has always been my practice in committee meetings that unless there is at least one member of the government present I have not proceeded with the meeting if a decision had to be made. At times we have listened to witnesses when there was only one member of the government present.

Motion agreed to.

ADJOURNMENT

Hon. Finlay MacDonald, with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, October 27, 1987, at 2 o'clock in the afternoon.

Motion agreed to.

THE SENATE

MR. DALE M. JARVIS—FELICITATIONS ON COMPLETION OF 25 YEARS' SERVICE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just before Question Period I want to draw the attention of the Senate to the fact that one of our most senior employees joined the Senate exactly 25 years ago today. That person is our Director of Personnel, Mr. Dale M. Jarvis.

Hon. Senators: Hear, hear!

Senator Frith: I thought it useful to do so because he and some of his colleagues in senior levels of our administration represent a principle that all senators encourage, namely, that our staff can have a full and lifetime career with the Senate and, whenever possible, can achieve promotions.

Senator Flynn: Like that of the senators!

Senator Frith: Not in comparison with senators, as Senator Flynn is suggesting, but it is appropriate in that context.

Mr. Jarvis started as a committee clerk exactly 25 years ago. That is how he represents something we encourage, that promotions, where possible, come from within the Senate, and the Senate provides that kind of full, lifetime career.

Senator Guay, the chairman of the Subcommittee on Classifications and Salaries, who works quite closely with Mr. Jarvis, might want to add something.

Hon. Joseph-Philippe Guay: Thank you, Senator Frith.

Honourable senators, I also rise today to pay tribute to Mr. Dale Jarvis, the Senate Director of Personnel, who today, as mentioned before, celebrates 25 years' service in the Senate.

Mr. Jarvis was employed by the Senate on October 22, 1962, as committee clerk, was appointed Assistant Chief of Administration and Personnel, and then in 1985 became Director of Personnel. From December 1986 to July 1987 he served as Acting Director of Finance. We must acknowledge our appreciation of the dual job that he performed during that period of time.

Without going into all aspects of the job description of the Director of Personnel of the Senate we must point out that he attends all subcommittee and committee meetings, over and above the work that he is called upon to do as Director of Personnel.

We are proud to have a man of such distinction as the head of our personnel, and I wish to reiterate to Mr. Jarvis my personal good wishes along with those of the Senate for a job well done and continued good health so that we may have him with us performing his heavy responsibilities for a long time to come.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would like to take a moment to add the good wishes from this side of the chamber to those expressed by our colleagues opposite.

We also appreciate very much the loyalty and good service of Mr. Jarvis over the years. We particularly admire his patience. It is difficult enough for an administrator to work for one boss, but when an administrator has to work for 100 bosses, it makes the job that much more difficult. We admire his competence and ability. We appreciate his patience and thank him for his service. We hope that he will be with us for many years to come.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

BINDING DISPUTE-SETTLEMENT MECHANISM—FINDINGS OF BI-NATIONAL PANEL AND TRADE COMMISSION—RIGHT OF RETALIATORY ACTION BY INJURED PARTY

Hon. Philippe Deane Gigantès: Honourable senators, this is a question to which I have not had an answer. The previous time I asked this question I was told that there was difficulty resulting from my moving from one part of a government text to another. This time I have written it all down, and I will read it. I hope the Honourable Leader of the Government will read these passages in the order in which I shall dictate them shortly. If he would be kind enough to give me an answer to this question at his earliest convenience, I would be most grateful.

● (1410)

Given the fact that on April 2, 1987, the Right Honourable the Prime Minister told the *New York Times* that in the Free Trade Agreement we then sought with the U.S., and I quote, ". . . the trade-remedy laws cannot apply to Canada, period."; and given also the fact that the Leader of the Government in the Senate keeps referring to the existence of a binding dispute-settlement mechanism, will the Honourable Leader of the Government in the Senate please explain, preferably at the next sitting of the Senate, how the position of the Prime Minister quoted above and the statements of the Honourable Senator Murray himself on a binding dispute-settlement mechanism accord with the following extracts from the government document entitled "Preliminary Transcript—Canada-U.S. Free Trade Agreement—Elements of the Agreement"? I now read the extracts, identified by page number and line.

On page 5, at lines 7 to 12, it states:

> The free trade agreement shall provide that each Party reserves fully its right to change its domestic antidumping and countervailing duty laws, provided that:
>
> no future changes in such laws can be applied to the other Party . . . ;
>
> it notified such proposed changes to the other Party and entered into prior consultation with the other Party upon request;

On page 6, at lines 1 to 3, it states:

> A panel . . .

That is, a bi-national panel—

. . . may issue declaratory opinions with respect to changes by a Party to its anti-dumping or countervailing duty statutes after entry into force of the FTA . . .

That is, the Free Trade Agreement.

I further quote from page 7, lines 15 to 18, as follows:

The decision of a panel shall be binding on the Parties and their investigating authorities. The panel may uphold or remand . . .

POINT OF ORDER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I rise on a point of order. This is Oral Question Period. I fully appreciate the honourable senator's hunger and thirst for knowledge in this particular area. I know it is a matter of great importance.

I would be obliged if Senator Gigantès would take his seat, since I have risen on a point of order.

Hon. Philippe Deane Gigantès: I apologize.

Senator Doody: I simply want to point out that rule 20A states:

(1) A question . . .

(*a*) that seeks statistical or other information not readily available . . . shall be sent in writing to the Clerk of the Senate to be placed on the Order Paper until answered.

Honourable senators, this is clearly a case where this particular rule should be taken into account. How anybody could be expected to remember the detail and answer coherently—whether it be today or tomorrow—the question that is now being placed before us by the honourable senator is completely beyond comprehension.

I sincerely ask senators to support me on this. This is not really what Oral Question Period was designed to be used for, and if we do not get some semblance of order in Question Period it is going to escape us and it will not be effective for anyone.

I simply ask the honourable senator to please place that particularly involved and complex question on the order paper. Then I am sure that all steps will be taken to get an answer for him as quickly as possible.

Senator Gigantès: I should like to respond to the Honourable Deputy Leader of the Government. He referred to a part of the rules of the Senate which states that if we are seeking statistical information we should place the question on the order paper.

Senator Doody: No, excuse me, I said, "statistical or other information not readily available."

Senator Gigantès: The point is that the paper on the Free Trade Agreement was introduced to this chamber by the Honourable Leader of the Government in the Senate. Moreover, he is a member of the cabinet, where this was discussed. He is also the Minister of State for Federal-Provincial Relations. The Free Trade Agreement will, undoubtedly, affect the provinces, and I am sure he is perfectly cognizant of every detail and implication of this agreement.

Therefore, I am asking him to explain, first, how this agreement as worded can possibly be construed to mean that we achieved some relief from trade remedy laws, and, second, how its provisions can remotely be described as including a binding dispute-settlement mechanism. I want to set down the words so that they will be at the disposal not only of the government leader but of the house as a whole so that all honourable senators will know what I am talking about.

Senator Doody: Honourable senators, I have raised a point of order and I would like to have a ruling on it, please.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I think that rule 20A is clear, and I shall read it:

(1) A question described in paragraph 20(1)(*a*) or (*b*)

(*a*) that seeks statistical or other information not readily available, or

(*b*) to which an answer in writing is desired,

shall be sent in writing to the Clerk of the Senate to be placed on the Order Paper until answered.

It seems to me that the question before us seeks statistical or other information not readily available and that it should be sent in writing to the Clerk of the Senate.

Hon. Philippe Deane Gigantès: Honourable senators, I bow to this ruling, although I must say that I cannot see how this is in any way a statistical question, since I have not asked for a single figure. I will, however, send this question to the staff so that it can be placed on the order paper.

The Hon. the Speaker: I must say to the honourable senator that the rule applies to questions seeking "statistical or other information not readily available."

TRADE

IMBALANCE BETWEEN CANADA AND U.S.S.R.—UNITED STATES EXPORT ENHANCEMENT PROGRAM—SUGGESTED CANADA-U.S.S.R. COMPREHENSIVE TRADE AGREEMENT

Hon. Hazen Argue: Honourable senators, I wonder if I might ask the Leader of the Government in the Senate if he has an answer to the question I put to him last Tuesday as to whether or not the government has given any indication to the Soviet Union that Canada will try to purchase substantial quantities of Soviet goods over the next three-year period. The second part of the same question had to do with whether the Canadian government, in its purchasing program, is making any endeavour to include the purchase of Soviet goods where that seems appropriate.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I had a brief conversation on this subject with my colleague, the Minister for Grains and Oilseeds, who reminded me that he has twice been to the Soviet Union. In an unprece-

dented step, he has taken Canadians on a trade mission with a view to purchasing goods from rather than selling goods to that country. He gave me some other information which I cannot find in my notes at the moment, but I will retrieve it and communicate it to my honourable friend.

Senator Argue: I would appreciate that, because I think this is a matter of great importance. I am pleased that the minister took this initiative. I can recall vividly that when I put forward in the House of Commons the notion that because of our trade relationship with the Soviet Union Canadians might consider the purchase of some Soviet tractors and some Soviet cars, members of the Conservative Party threw up their hands in holy horror, and there was a demand that I be fired from the cabinet for such an intemperate suggestion.

Hon. Jacques Flynn: They probably had their reasons!

Senator Argue: Well, Senator Flynn, as a Conservative, would know all about underhanded, underlying reasons. He would be the authority on those. I just took it at face value, as though they really meant what they were saying. Conversion is fine, however; and I am glad they have come around. I hope they make greater efforts in this regard and I wish them every success. I also hope that the answer the government leader is looking for will be satisfactory.

Honourable senators, I notice with a great deal of dismay that the Americans are moving into the Chinese and Indian markets and are making an endeavour to move into the Soviet market. This they are doing even after their apparent approval of a trade agreement that, as part of its objective, would remove subsidies. They are going into the international market and are providing massive subsidies—subsidies of the order of hundreds of millions of dollars—by way of free gifts of wheat to prospective customers. I ask how that squares with the idea of fair trade and the removal of subsidies. I want to know whether or not this government, up to this point, has made a protest. I ask them if they have made or will make a formal diplomatic protest against this absolutely uncalled-for, unconscionable action by the United States.

● (1420)

Senator Perrault: Muster up your courage to do it.

Senator Argue: It puts in jeopardy markets that mean billions of dollars to Canada. It affects not just the grain producers; its effect concerns everyone. I could read quotes from leaders—

Senator Flynn: I am sure you could.

Senator Argue: Well, maybe I should. Here it is—

Senator Flynn: Honourable senators, I rise on a point of order.

Senator Argue: You can rise on anything you like. It's lucky you rise at all.

Senator Flynn: I suggest that the way the honourable senator is putting his question is out of order. He has been making a speech, and now he is going to read from a press report, which is—

[Senator Murray.]

Senator Perrault: It's just a long question.

Senator Flynn: He never puts a short question, in any event. Perhaps we could ask His Honour the Speaker what the rules are concerning no preamble to short questions. Perhaps I will put a question to the chairman of the Rules Committee to see whether we can deal with any abuse.

Senator Argue: I don't agree that there was any abuse. I think that I put the question in a very appropriate manner. I did not make a long-winded speech. I am down to the nitty-gritty. I am wondering whether the government has made any protest; I wonder if the Leader of the Government has any comment to make, since Senator Flynn has raised it, on the statement attributed to a senior official, John Morriss of the Canadian Wheat Board, who, in speaking of the Americans, said:

> They are blanketing the world with their subsidies, and no consideration is being given to our interests.
>
> We feel they are practically targeting our markets. They may be preaching friendship in the free-trade deal, but they are getting worse.

And so it goes, on and on; but I will not quote any more, because they are all the same.

What is this government doing to protest this unconscionable action by the Americans?

An Hon. Senator: Good speech!

Senator Murray: Honourable senators, I presume the honourable senator is referring to the Export Enhancement Program of the United States government which has been in place since 1985, during which time Canada has increased its exports.

I may say that it is my information that there have been no United States offers under the Export Enhancement Program—

Hon. Royce Frith (Deputy Leader of the Opposition): Just say they are over-enhancing their Enhancement Program.

Senator Murray: —to China, the U.S.S.R. or India since the signing of the bilateral trade agreement between Canada and the United States. Nevertheless, we are concerned about reports that such offers may be imminent, and, as the Secretary of State for External Affairs indicated in the other place yesterday, we will be making the necessary representations to the United States administration in this regard.

Some Hon. Senators: Hear, hear!

Senator Argue: Well, it is not a very reassuring answer. Whether they have done it now or whether they are going to do it tomorrow or the next day I suppose does not carry any great significance in itself; but the Secretary of State for External Affairs said in the House of Commons that he is going to meet with Secretary Shultz in Europe, that in the next few days he will visit with him. I am asking if the government has considered a diplomatic protest. Has the government considered having the Prime Minister telephone the President of the United States?

Senator Flynn: Ha, ha!

Senator Argue: You can "Ha, ha!" all you like, but this is a very important question for Canadians.

Senator Flynn: The way you put it is an exaggeration.

Senator Argue: It is not an exaggeration. If you were a representative from the Prairies you would know it is not exaggerated.

Senator Frith: Hazen, they are so timid! I am sure the Prairies are glad that they are in your hands, not theirs!

Senator Argue: Here is a man who likes to follow the rules. Well, there are rules against interruptions. But keep on interrupting! I don't mind if you break the rules! Keep on! You are the best rule-breaker this place has ever produced! You do it every day, so just keep on coming!

Senator Flynn: I was calling you to order!

Senator Argue: Just keep on coming, just keep on coming!

Senator Flynn: Don't you understand what I mean when I say "Order!"?

Senator Argue: Honourable senators, I am wondering if there is more of an answer than what I have been given. Is this the end of the protest? Is there nothing more? Is this not an abrogation of the Free Trade Agreement?

Senator Murray: Honourable senators, the first thing I did was correct the premise of the honourable senator's question. The honourable senator was fulminating—

Senator Perrault: That is an unparliamentary comment!

Senator Murray: —about unconscionable, outrageous and perhaps even sinful actions that have been taken by the United States government. I was advising him that since the signing of the Free Trade Agreement there had been no offers under the Export Enhancement Program by the United States to the customers the honourable senator mentioned—the U.S.S.R., the People's Republic of China and India. We are concerned about reports that such offers may be imminent and therefore we are making representations to the Secretary of State of the United States through our own Secretary of State for External Affairs. It seems to me that this is an appropriate course to follow in the circumstances.

Senator Argue: Honourable senators, I understand, also according to what is in the press, that the Soviet Union is reported to have turned down the offer by the United States—an offer made some time in the past, no doubt—to provide grain to the Soviet Union under the Export Enhancement Program. For instance, the press report says that the Soviet offer would have included subsidies of $200 million. The report goes on to say that the Soviet Union indicated little interest in this offer. I am pleased that the Soviet Union indicated little interest. Our trade relations with the Soviet Union, particularly with regard to grain, has been one of a good working relationship over many years, and it is respected on both sides. Since this trade in grain is so important to Canada, and since there is a great possibility that this kind of trade could be expanded in the future, I suggest and I ask the minister to convey to the Prime Minister the idea that the Prime Minister of this country should invite Secretary Gorbachev to visit Canada, and during that visit he should discuss with Mr. Gorbachev the possibility of a Canadian-Soviet trade agreement of a massive size that would provide for increased purchases by the Soviet Union of our goods and something of a reciprocal—though perhaps not of the same proportion—commitment on our part to assist in the import of their goods into Canada. I put this proposal forward as being a realistic and practical one. Since the Soviets have indicated, according to my information—and it is all public—that they may be interested in larger quantities of grain, I ask: Has such a comprehensive trade agreement been considered or would it be considered?

Senator Murray: Honourable senators, I cannot forbear to observe that my honourable friend seems to be a good deal more enthusiastic about the possibility of such an agreement with the Soviet Union than he is about the Free Trade Agreement—

Senator Argue: One is practical and the other is impractical!

Senator Murray: —that we have signed with our closest neighbour.

Senator Argue: One is a winner and the other is a loser for Canadians!

Senator Murray: Senator Argue's position—I presume that he is speaking for himself—is that a trade agreement with the Soviet Union is a practical matter and a trade agreement with the United States is impractical, that a trade agreement with the Soviet Union is a winner and a trade agreement with the United States is a loser. I leave that on the record for Senator Argue and others to ponder in the days and weeks to come.

Honourable senators, with regard to our trade with the Soviet Union, as I pointed out the other day, we understand the concern of the Soviet authorities over the fact that they have a considerable imbalance in their trade with us. In recognition of the fact that trade is a two-way street, and in recognition of the importance to us of the long-term agreement signed some time ago for 25 million tonnes, we have set up a U.S.S.R. trade task force to provide marketing advice and to ensure that Soviet goods have fair and equal access to the Canadian market.

• (1430)

My friend the Minister of State for Grains and Oil Seeds has told me of the existence of a committee, made up of Soviets and Canadians, to increase our trade on an ongoing basis. We have made it clear to the Soviet Union, however, that we would not engage in countertrade, nor have we entered into specific purchase commitments on behalf of the Government of Canada.

Senator Argue: I wonder if the minister might be a little more clear. Does that mean, then, that there is no such thing as a letter of comfort or no such thing as an indication that Canada would use its best efforts to assist in the possible

importation into this country of as much as $780 million Canadian of Soviet goods over the next three years?

Senator Murray: Honourable senators, "best efforts" is exactly what we have undertaken to deploy, and "best efforts" is what we are deploying on this matter. I do not have any indication from my colleagues that a so-called letter of comfort has been conveyed to the Government of the Soviet Union, but I can inquire on that matter. Neither do I have any indication that a specific dollar commitment has been made to the Soviet Union with regard to the import of goods to Canada from that country.

Senator Argue: Would the Honourable Leader of the Government care to comment on whether or not a leading official in the Department of External Affairs dealing with Soviet-Canadian trade has tendered her resignation and is likely to be leaving that post in a very brief time? I must say at this time that I am not sure whether this is "the" leading official or "a" leading official.

Further, can the Leader of the Government in the Senate tell us whether or not there is a replacement on hand to fill that post who has a comprehensive knowledge of this important and, I think, very intricate field?

Honourable senators, I really do not expect the Leader of the Government to have that kind of information at his fingertips—although he might well have—or if he wishes to say whether or not the person involved is leaving and if there is some suitable person ready to fill that position.

Senator Murray: Honourable senators, I think the honourable senator would need to identify the officer to whom he is referring so that I can make an inquiry on this matter.

Senator Doody: This is not a job application, is it?

Senator Argue: I do not think there is any mystery. It is one of the two people whom the Leader of the Government recently told us about, and reference was made to them on the record in this chamber a short time ago.

Senator Murray: I would have to know who the person is. The honourable senator must be aware that these postings are a moveable feast in External Affairs. I remember some years ago being very impressed by an officer whom I met in Moscow who spoke the Russian language and seemed terribly knowledgeable about affairs in the Soviet Union. The next time I saw him he was on the Commonwealth desk here in Ottawa. However, that is the way of External Affairs.

Senator Argue: Honourable senators, that is really not an answer to my question. The person involved is stationed in Ottawa, as far as I know, and is not a roaming official.

CANADA-UNITED STATES FREE TRADE AGREEMENT

EFFECT ON TWO-PRICE SYSTEM FOR WHEAT

Hon. Hazen Argue: I do not intend to take too much umbrage with what the minister has said about my statement that a deal with the Soviet Union might carry great advantages and that the so-called free trade deal with the United States carries very grave disadvantages. I stand by that statement. Our trade with the United States is very important. They are our biggest customer. However, that does not make this agreement a good free trade agreement and, in my opinion, it is not.

My question is: Why has the government opened up the Canadian domestic market to American wheat, put that market at risk for Canadian producers, and, in my opinion, made it almost impossible to continue a domestic wheat subsidy—and the minister can quarrel with my phrase if he likes? Why have we opened up our domestic milling market to the United States and at the same time failed to write into the agreement something of a concrete nature whereby the Americans would undertake to stop trying to elbow us out of our export markets by using U.S. Treasury subsidies—and by that I mean the enhancement program?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not accept the premise of the honourable senator's question.

Senator Argue: The domestic market has been opened up to American wheat. That comes into Canada and now comes in without licence. If the Leader of the Government does not accept that, then the leader does not know what he is talking about, because that is what is in the agreement. That is what terrifies the Canadian farmers. Grant Devine says that the farmers will lose $280 million. He made that statement in the press; he did not tell me that on the telephone.

I would like to know why Grant Devine knows how bad it is and the Leader of the Government in the Senate here does not know that.

Senator Murray: Honourable senators, I think Senator Argue would not want to misrepresent the position of the Premier and of the Government of Saskatchewan with regard to this Free Trade Agreement with the United States. The Premier and the Government of Saskatchewan are firm supporters of the agreement that was signed between Canada and the United States.

I may say also that if the honourable senator will take the time to read some of the statements made by representatives of the farm communities in the three prairie provinces—indeed, in the four western provinces and even in some of the eastern provinces—he will find, by and large, very enthusiastic support for this agreement and for the positive impact it will have on Canadian agriculture.

If the honourable senator does not believe me, I will undertake to bring in and read into the record one of these days some of the statements from some of those farm leaders.

Senator Argue: I ask the minister once again: Is the Premier of Saskatchewan wrong in saying that the domestic market is in jeopardy and that the two-price system is lost, and because it is lost it will cost western grain producers $280 million? I ask the Leader of the Government in the Senate: Does the

Premier of Saskatchewan know what the Premier of Saskatchewan is talking about?

Senator Murray: Honourable senators, the two-price system for wheat is still in place. If, as and when there is any change in that, the honourable senator will be one of the first to know what that decision is and what steps have been taken.

Senator Argue: It has already been given over.

Senator Murray: The honourable senator is wrong in suggesting that the Premier and the Government of Saskatchewan are anything but firm supporters of the Free Trade Agreement that has been signed between Canada and the United States.

Senator Argue: He wants the $280 million that you have given to Uncle Sam.

PATENT ACT

BILL TO AMEND—ACTION OF SENATE—ATTITUDE OF MINISTER OF CONSUMER AND CORPORATE AFFAIRS—SUGGESTED FREE CONFERENCE—CONSTITUTIONAL RESPONSIBILITY OF SENATE

Hon. Richard J. Stanbury: Honourable senators, in an article in today's *Globe and Mail* with respect to Bill C-22 and yesterday's action of the Standing Senate Committee on Banking, Trade and Commerce, the Honourable Harvie Andre, Minister of Consumer and Corporate Affairs, is quoted as saying:

> I would sooner lose this bill or any one of a number of bills than to acquiesce to the principle that we have a bunch of non-elected Liberals exercising veto power over the elected Government of Canada . . .

● (1440)

> "That principle ought to offend anybody. In South America they have revolutions over things like this," Mr. Andre added.

Could the Leader of the Government tell us if the Government of Canada shares the view of Mr. Andre in this matter?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Senate in recent years has exercised the kind of self-discipline that it should exercise. The Senate in recent years has not defeated legislation coming from the elected house, and it has very rarely amended government legislation in any substantial way. In recent years the Senate has adopted the technique of pre-study under which it is possible to obtain improvements, amendments and changes in government policies and legislation without the necessity of confrontation between our two houses.

It is fair to say that the 19th century rights of the Senate to defeat legislation coming from the elected house have fallen into disuse, and this happily so in a democratic country.

Senator Stanbury: Honourable senators, I do not propose to argue with the Leader of the Government. I would only remark that confrontation requires two sides. There seems to be a desire on one side to accept compromise and to recognize the kind of "garbage," if I may call it that, that we are receiving from the other side. When I say "garbage," I am talking about legislation that is badly drawn and in great need of amendment. This legislation is in a form which reflects a philosophy that needs to be drawn to the attention of the Canadian people.

I wonder if the Leader of the Government and the Government of Canada are aware that our Constitution provides for two chambers in our Parliament, one of which is the Senate. The Constitution provides for the method of appointment, and it has prescribed legislative responsibilities. I wonder if the Leader of the Government is aware that that situation was reconfirmed as recently as 1982 by the Constitution of Canada Act and that the Senate was continued in its present form with the same responsibilities and the same legislative activity expected of it? Is the Leader of the Government now refusing to accept the constitutional function of the Senate, and does he expect to find a way of giving this body either its final rest or reformation so that it will have real influence on the legislative program of government, without being constantly abused by this kind of attitude of ministers and the government?

Senator Murray: Honourable senators, I regret if the honourable senator, or any member of this place, takes offence to statements made by my colleague or any other members of the government in the other place. In their defence, I would simply point out to him that the bill in question has now been here for more than six months. It has been the subject of prolonged study by a special committee which travelled the length and breadth of the country listening to witnesses. This special committee brought in proposed amendments which were later rejected by the elected members of the House of Commons.

Rather than bow to the will of the elected chamber, as has been the custom, the majority in the Senate referred the bill to still another committee—the Standing Senate Committee on Banking, Trade and Commerce.

Hon. Royce Frith (Deputy Leader of the Opposition): No, we did not refer the bill; we referred the message from the House of Commons.

Senator Murray: The Deputy Leader of the Opposition corrects me. The message from the House of Commons was not accepted by the majority in the Senate. It was then referred to the Standing Senate Committee on Banking, Trade and Commerce, with the mandate to seek a compromise among the interested parties.

Far from having achieved a compromise among the interested parties or, indeed, a consensus of the committee, we received a report yesterday recommending another five or six amendments. Once again, we are back in this ping-pong game with the House of Commons.

The Minister of Consumer and Corporate Affairs is responsible for that bill. He has explained it at length in the House of Commons, where it had a very long ride. He has explained it to the committee of the Senate, and he has explained it publicly. I believe he is justified in expecting that the Senate would come to a decision shortly on the matter.

The honourable senator has raised three points in his question. The first point deals with legislation, which he says is badly drawn or in need of amendment. We all know that happens. Sometimes by inadvertence there is bad drafting, or in studying legislation we find that there are effects which the drafters and the government had not intended. If that happens, we take the necessary corrective measures. This was the purpose of the pre-study technique. That technique has worked successfully in this place for a number of years, until very recently when my friends opposite decided not to pursue it further and not to grant pre-study for most legislation.

Senator Frith: Let's not get into that. That was for a very good reason caused by the Leader of the Government.

Senator Murray: The reason they have decided not to grant pre-study is that they want to insist on the formal procedures that are provided for in our rules which, when we decide to amend a bill, leads inevitably and of necessity to confrontation between our two houses.

The second point the honourable senator raised concerned political philosophy behind bills, a political philosophy which he does not accept. That, of course, is his privilege, and it is his privilege and his responsibility to bring these philosophical differences to the attention of the Canadian public, if he wishes to do so. There is ample opportunity in our committee system and in our chamber to do that. Senators on both sides have done it on many occasions.

The third point the honourable senator raises concerns the constitutional role of the Senate. I do not deny the role that was given to the Senate by our Constitution. He says confrontation requires two sides. That is correct. However, surely he does not pretend that in the Canadian democracy of 1987, when the two sides consist of a democratically elected House of Commons and an appointed Senate, that the two sides enjoy equal democratic legitimacy.

Senator Frith: Honourable senators, has the Leader of the Government forgotten, or perhaps misunderstood, the reference that was given to the committee? The reference was not to negotiate a compromise with the government. It was to find a middle ground between the version of Bill C-22 as passed by the House of Commons and the amendments that were adopted in the Senate.

The message that we received was from the House of Commons. The constitutional duty that the Senate performed, as referred to, arises from the same Constitution that gives the minister the right to take the position he does take. To say that we ought to have abandoned our work and our duty because the minister had refused to make any amendments and to say that we ought to, perhaps, continue to abandon our work and our duty because the minister has again refused to make any amendments perhaps answers Senator Stanbury's question, and that is exactly how the government sees the Senate's role. But I am not clear as to what the answer is. As I understood the question, it was: Does the government approve of the position taken by the minister, namely, that the issue is not Bill C-22 but his apparent disapproval of the Constitution of Canada, which imposes certain duties and rights on one of the houses of Parliament?

● (1450)

Senator Murray: Briefly, honourable senators, the Deputy Leader of the Opposition is in a better position than I am to speak as to the intent of Senator MacEachen in moving the motion that he moved to refer the matter to the Standing Senate Committee on Banking, Trade and Commerce. However, my recollection is quite clear as to the spirit in which Senator Sinclair, the chairman of that committee, indicated he was accepting that mandate. My recollection is quite clear that the kind of compromise Senator Sinclar was talking about was a compromise that would be acceptable to the various parts of the pharmaceutical industry as well as to the government. If I understood him correctly, that is the compromise that he said he was seeking.

Senator Frith: He does, and that is exactly what we have done, namely, asked PMAC to put into writing what they have told us is so.

Senator Murray: I am telling the honourable senator and the Senate that the committee may have sought that compromise, but they did not find it. The compromise is not there.

Senator Frith: No, because he is too busy Senate bashing to read the report.

Senator Murray: Well, I beg your pardon. The amendments that are suggested in the report do not represent a compromise that is acceptable to the various interested parties, including the government. I have no hesitation in saying that.

With regard to the second part of the question, it is clear that for a great many people in this country the matter has become a constitutional issue as to whether the majority in the Senate in the year 1987 intends to exercise to the full the right of vetoing legislation that comes from the elected house. This is a right that the Senate has not exercised for many decades.

I believe that after more than six months of delay on this matter—

Senator Frith: Delay? You mean study. Why is it "delay"? When we take our time to study something it is always characterized as "delay."

Senator Argue: It has not been vetoed.

Senator Barootes: Maybe the word is "stalling"!

Senator Frith: That word is just as inappropriate.

Senator Murray: Perhaps my friends could indicate to me a bill that has taken the opposition longer to dispose of than this one has. After six months of delay it is natural, I think—in fact, normal and quite understandable—that the issue would become a constitutional one as to whether the majority in the Senate intends to exercise to the full the undoubted right that it has in theory in the Constitution.

Senator Frith: The Leader of the Government says that for a great many people it has become a constitutional issue. The government has been trying for six months to make this a

constitutional issue. For a great many people it is not a constitutional issue, it is an issue of drug prices.

Senator Argue: Hear, hear!

Senator Frith: It is an issue of protecting the consumers. However, we are getting into the debate, and I am sure that we can expand on that next week. But I do not think that I should let that comment go by, because by the many ways of measuring what people are thinking it seems to me that many more are concerned about drug prices than are concerned about the constitutional issue.

Senator Argue: They do not want Ronald Reagan ruling this country!

Hon. John B. Stewart: Honourable senators, I would like to ask the Leader of the Government a specific question. I know he realizes that the history of our country shows that every time when there has been a sudden change in the political complexion of the other House after the other party has been in power for a long time there has been a period of friction, and perhaps even conflict, between the House of Commons and the Senate. There is nothing new, in short, in what he regards as the present difficult situation.

I am sure he also realizes that every time these periods have set in there have been attempts to achieve a compromise between the two houses. The standard technique by which the Senate and the House of Commons have sought to reconcile their differences every time they have happened in the situations that I have described has been by a free conference.

My question to the Leader of the Government in the Senate is this: Does he dismiss a free conference as part of the 19th century tradition of the Constitution Act, 1867 to which he referred just a moment ago?

Senator Hicks: As recently as 1947.

Senator Stewart: No. I wanted the Leader of the Government to answer the question; I did not ask Senator Hicks!

Senator Hicks: I apologize.

Senator Murray: Honourable senators, far be it from me to intervene in this discussion—

Senator Frith: "A thousand ages in Thy sight are like an evening gone"!

Senator Murray: —between two distinguished academics from two great Nova Scotia universities.

I think that Senator Stewart's reading of history is not that recent. He says that every time there has been a change in the complexion of the other House—

Senator Stewart: A major change.

Senator Murray: —a major change in the political complexion of the other place after a government has been in power for a long time there has been a period of friction and conflict between the two houses.

I will not refer to the brief nine or ten months that the Clark government was in power in 1979-80, but there was a period between 1957 and 1963 when the Diefenbaker government was in power. While there may have been—

Senator Stewart: What about the Coyne affair?

Senator Murray: My friend mentions the Coyne affair. That is an interesting example. Does my friend recall exactly what happened in the Coyne affair?

Senator Stewart: Boy, do we!

Senator Murray: Let me put it on the record. What happened was that a Senate committee insisted on doing something that a House of Commons committee had declined to do, which was to give Mr. Coyne an opportunity to appear before the committee and state his case. He undertook that if he was given that opportunity he would resign rather than be dismissed by legislation, which is exactly what happened.

But apart from the famous Coyne affair, there was no major confrontation that I recall between the two chambers during that period. As for the so-called "free conference," there was one in 1947, as Senator Hicks has reminded us, but this was not during a time when there had been a change of government. As a matter of fact, the majority in both houses was Liberal, and the confrontation concerned some differences over a number of amendments to the Criminal Code.

I do not think that a free conference would avail us of anything whatsoever. Minds are made up on this matter, and the honourable senator knows as well as I do what will be the fate of the report brought in by the Standing Senate Committee on Banking, Trade and Commerce yesterday. He knows as well as I do what its fate will be on the other side. I put it to honourable senators that as soon as possible thereafter they should decide what they want to do about Bill C-22.

Senator Frith: Maybe accept the minister's invitation!

Senator Murray: So be it.

Senator Stewart: Honourable senators, the Leader of the Government in the Senate has forgotten the Nowlan tariff legislation which was turned back by the Senate. That did involve public legislation directly. He does not mention anything that happened in the 1935 instance nor, indeed, after the change of government in 1911.

He dismisses the free conferences as if it were a 19th century institution. Let me remind him that the free conference is entirely a 20th century institution. It was never used in the 19th century. It is the constitutional technique for attempting to resolve these kinds of differences, which are perfectly understandable when we have the kind of dramatic political change that we saw in 1984.

● (1500)

Senator Murray: What the honourable senator is asserting is that this institution has a democratic legitimacy that is equal to that of the other place.

Senator Stewart: No, I am not asserting that at all.

Senator Murray: In 1987 that is not the case.

The honourable senator says that I dismiss free conferences. I do not dismiss free conferences. I do say that a free conference with regard to Bill C-22 would avail us nothing, and I think I am on pretty solid ground on the basis of the experience of the last six months.

Senator Frith: Stubbornness!

Senator Stewart: Am I to understand, honourable senators, that the Leader of the Government in the Senate is saying that this government turns its back upon the free conference technique, which has been the conventional method by which difficulties between the two houses have been resolved in every major instance in which they have occurred in this century?

Senator Murray: I tried to answer that question a moment ago. I do not turn my back on the technique of free conference. I do say that a free conference on the matter of Bill C-22 would avail us nothing.

I am slightly surprised that the honourable senator would raise the question now, because he is anticipating events that are to come, but that is his privilege, as it is my responsibility to give him the answer.

Senator Frith: You are anticipating. You are saying that they won't move.

Senator Stewart: Honourable senators, since I have been accused of anticipating events, what was the Leader of the Government in the Senate doing just now when he said that we all knew what the ultimate outcome would be and that there was no point in even considering a free conference? Is that not anticipating?

Senator Frith: He said that the conference would be of no avail, because they have already made up their minds that they will not talk.

Senator Murray: Honourable senators, I am a member of the government.

Senator Stewart: Your minds are closed.

Senator Murray: I support Bill C-22. I trust that is obvious. I support it, quite apart from the fact that it is a correct constitutional position. I support the bill enthusiastically.

I agree with those people who say that it is very important to research and development, job creation and health care in this country.

Senator Frith: Put it in the bill. That is all we are asking.

Senator Murray: I support the bill enthusiastically.

Senator Frith: Put your support in the bill.

Senator Murray: I am saying to honourable senators that one would have to be deaf, dumb and blind not to have observed in the past six months that minds are made up on this matter.

Senator Frith: Yours are.

Senator Murray: In my humble submission, the only question before honourable senators—and it will be before senators in due course, perhaps in a week or two—is the constitutional one. It is whether senators are going to assert their undoubted constitutional right to defeat legislation coming from the elected chamber.

Senator Frith: Deaf, dumb, blind and stubborn!

Senator Stanbury: Honourable senators, I should like to say, as quietly as I can, that the reason the Leader of the Government is able to say so certainly that any free conference will be useless is because his government has taken that attitude on every piece of legislation. It has refused to discuss amendments or any changes, including any to the Meech Lake accord. That is the attitude that comes across every time he stands up in this house.

Senator Murray: We accepted amendments on Bill C-22.

Senator Stanbury: Every time he stands up in this house it is to say that there will be no amendment to anything.

What concerns me is that Mr. Andre says that he is offended by the principle that the Senate should carry out its constitutional responsibilities. I tell you, and I hope you will convey to him, that I am offended, as a senator, that any minister of the Crown, living and working under the Constitution of Canada, should indicate that he believes that the Senate should not act in accordance with its constitutional responsibility.

Senator Frith: He is offended by it.

Senator Murray: It is the view of Mr. Andre, as it is my view, as it is the view of, I think, most people who think about these matters in this country, that it is inappropriate in 1987 for this appointed body to exercise to the full the constitutional rights which I grant you are there in the Constitution—

Senator Stanbury: An amendment—that is not exercising to the full—

Senator Murray: —to defeat or amend substantially government legislation. It is inaccurate, as my honourable friend will acknowledge if he thinks about it for a moment, to say that we have refused to accept amendments. We accepted one on Bill C-22 from the Senate. The two transport bills, Bills C-18 and C-19, were amended. In my time in the Standing Senate Committee on Banking, Trade and Commerce undertakings were certainly given by the government as to changes in policy and legislation. This kind of thing has gone on all the time. It is in that kind of constructive atmosphere that the Senate is at its best and that is when the system works at its best. The system is at its worst in a climate of confrontation between the two houses—a confrontation in which the Senate can only lose. If it does not lose in the relationship with the House of Commons, it will certainly lose in the court of public opinion.

Senator Frith: Constructive suggestions are exactly what we are making.

Hon. Stanley Haidasz: Honourable senators, the Minister of Consumer and Corporate Affairs last night and this morning on television and on previous occasions, as well as the Leader of the Government in the Senate this afternoon, stated that the government met with the multinational pharmaceutical com-

panies, made a deal with them, and came up with some compromises—namely, Bill C-22.

I should like the Leader of the Government in the Senate to tell us why this government is proposing legislation to please the already rich multinational pharmaceutical companies and is abandoning its responsibilities to look after the welfare of consumers, especially those disadvantaged Canadian patients who do not have drug insurance plans.

Senator Murray: Honourable senators, I think my friend has stumbled upon notes of a previous question that he asked and which was answered in this place.

Senator Haidasz: I would very much appreciate it if the Leader of the Government would answer my question this afternoon.

Senator LeBlanc: Arrogant!

Hon. Sidney L. Buckwold: Honourable senators, I am reluctant in a way to become involved in this, and yet I cannot resist speaking on what I think is a rather historic occasion. We heard the Leader of the Government in the Senate indicating that there is really no legislative role for this body to play.

Senator Murray: That is not what I said at all.

Senator Buckwold: That is exactly what he said. He has said that we can go through the motions; we can do the studies; we can make our suggestions, but whatever the government says is right. That is what we have heard today.

Senator Murray: No, no.

Senator Buckwold: I have to wonder whether there is any real reason for our studying this bill at all. Indeed, that may be the attitude that is taken in terms of the Meech Lake Accord, which I will deal with in my question. We now have Senator Murray not only in his capacity as the the Leader of the Government in the Senate announcing our constitutional demise but, also as an architect of the Meech Lake Accord, he is perpetuating this type of role for the Senate.

Has the Leader of the Government in the Senate used his influence with the government to try to change the opinion of Mr. Andre who, from the very beginning, has been absolutely negative? My colleagues will remember Mr. Andre standing outside the committee room and saying that the committee was "Liberal, late and lazy." He had been talking about the triple-E Senate when he made his comment about the triple-L committee. That is the kind of attitude we have met.

As a member of that committee and of the Special Committee on Bill C-22, I have been and am one who has been emotionally involved in this whole deal and have sincerely tried to improve the legislation by making it workable. The goal of the committee has not been to reject the bill. At the request of the government, I think a compromise has come forward in terms of agreeing to the principle of the bill. I am coming to the point of asking the Leader of the Government to state his position.

The government is getting its ten years' exclusivity with respect to drug patents. That is the principle of the bill—it may be too much, but that is there and that is what the government wanted. The government wanted drug prices to be controlled; we said, "Make it more effective," and our amendments do that. The government wanted increased research and development; we said, "Put it in the bill and make sure it takes place." We have backed the government in every way. It could be argued that we should not have eliminated the retroactivity aspect, but we did that because retroactivity is not normally the way in which we carry out legislation in this country.

• (1510)

Having said that, I ask the Leader of the Government: Is there no role for the Senate in improving outstandingly bad, egregious legislation that is revolting to the majority of Canadians? Is that not the purpose of this body? Can we not, when we become so aroused at the enormity of the crime committed by the government in this bill, try to make it workable and acceptable? Is there not a responsibility on the part of the Leader of the Government in the Senate to convince his colleagues that this should be acceptable to them? Is he correct in saying that the Senate is taking advantage of its constitutional position to embarrass the government when the Senate is really doing everything it can, under the amendments that have been brought forward, to support the government and to make the bill more workable?

I would appreciate a response from the Leader of the Government—a man whom we all respect, but one who has really worried me very much about why we are here at all. Why do we keep coming, leaving our families, if it is all to no avail? There is really some sacrifice in doing that despite the fact that the public thinks we are well paid. Surely there must be a role for the Senate when legislation which cries out for improvement comes to this body. But we are told that we just do not have the right to make any changes.

Senator Frith: We are being told to accept the bill or reject it, nothing in between.

Senator Buckwold: Surely in the mind of the Leader of the Government in the Senate there must be more we can do to let this institution play its rightful role and to make it more meaningful to the people of Canada. Otherwise, why would we have moved into the Meech Lake agreement? It does nothing to change the constitutional responsibilities of the Senate. It transfers the power of appointment to the provinces in such a way that, in the opinion of most of us, this chamber will be placed in a locked-in position and will be even more difficult to control in years to come.

Senator Murray: Honourable senators, with great respect, Senator Buckwold is debating the report of the Standing Senate Committee on Banking, Trade and Commerce. He is putting forward its recommendations in the best possible light and according to his own interpretation of them. The Minister of Consumer and Corporate Affairs has already responded on behalf of the government to that report. We will have the debate on that report on Tuesday.

If the honourable senator reads carefully what I have said today he will see that I have referred not once but several

times to the important, useful role the Senate has played in modern times through its committees, through the technique of pre-study, and through other means, to make significant improvements to public policy and to bring about significant changes in legislation, all without provoking confrontation with the other place.

On the matter of Bill C-22, I make the point again that it had a long, long ride in the House of Commons. Notice of our intention was given in 1984 or very early in 1985. The bill had a very long ride in the Senate. I think that if the honourable senator will reflect he will agree that the duly elected government of the country is within its rights in asking that the matter be disposed of one way or another in this place as soon as possible.

Again, I am getting somewhat ahead of myself. The report will be debated here on Tuesday. I have no doubt as to its fate in this place—why should I? I know where honourable senators stand on the matter. I have no doubt as to its fate in the other place either. The minister who speaks for the government—which does have a majority in the other place—has stated the position of the government. In due course it appears that we will have the bill back before us and that honourable senators will have to decide. They know what their responsibility is and they will exercise it according to their own lights, as I will according to mine.

Hon. Finlay MacDonald: Honourable senators, I have been trying to think of a point of order on which I could rise to make a couple of remarks. Senators will excuse me if I cannot quite put my finger on the particular one I had in mind.

Last November the members of the Standing Senate Committee on Banking, Trade and Commerce fully expected the referral of Bill C-22 to that committee. We were curious to know why this was not done, and I suppose that we became suspicious as to why it was being held up despite the informal conversations taking place between the Leader of the Government and the Leader of the Opposition. I suppose it is possible that some of these matters might have been resolved with some degree of compromise, and that compromise would have had to influence not just the government but the various parties involved—

Senator Stewart: What parties?

Senator MacDonald: The four major players.

Senator Stewart: Do they include the Americans?

Senator MacDonald: I am talking about the pharmaceutical manufacturers, the fine chemical manufacturers, and so on. Let us say that a compromise might have been possible, I do not know that, but the fact is that it took until April for the Liberal senators to decide to refer this matter not to the Banking Committee but to a special committee. Apart from what was done in the other place to examine this bill, that committee, under Senator Bonnell, travelled the length and breadth of this land, spent a certain amount of money, and brought in a report which was duly considered, after which a message was sent to the House of Commons. Most of the recommendations of that committee were rejected.

[Senator Murray.]

Senator MacEachen, in this chamber on September 3, recommended, in an effort to achieve some kind of compromise or further accommodation, that since the special committee on Bill C-22 was no longer in existence the bill ought to be referred to the Banking Committee. The members of that committee did not ever know what was expected of us. We did not know whether we were to be negotiators or diplomats. We played what really turned out to be a quixotic role in a totally quixotic operation.

Senator Frith: Who did?

Senator MacDonald: The members of the Senate Banking Committee, and we were used.

Senator Frith: Speak for yourself!

Senator MacDonald: We were all used.

Senator Stewart: By whom?

Senator MacDonald: We were used by the motion that gave to us some form of stalling device, when we knew that at that stage of the game it would be the interpretation of the Liberal senators of that committee as to what were the principles of the bill and what were not. That interpretation was left to the chairman and members. They decided. As a matter of fact, I was amazed how little input the Liberal senators had on that committee. That committee report was almost totally dictated by the chairman.

• (1520)

An Hon. Senator: What?

Senator MacDonald: It was a quixotic attempt to come up with some form of compromise, which was totally opposed to the evidence given by the minister *ad nauseam*—

Senator Frith: Not true.

Senator MacDonald: —and the letters from the four major players who could have been part of that compromise.

Senator Frith: His evidence was a bit nauseating, I agree. Perhaps I should have had a good patented drug to take care of it.

Senator MacDonald: "Wearying" is the only word that can now be ascribed to the performance that we are going through. Let the eleventh hour come. Let this burden come off our backs.

DISTINGUISHED VISITOR IN GALLERY

HEATHER ROBERTSON

Hon. Mira Spivak: Honourable senators, perhaps I might distract your attention from Question Period. I would like to direct the attention of this assembly to the presence in the gallery of a distinguished Canadian writer, Heather Robertson, now of Toronto but, if I may say so, originally and always from Winnipeg and the west.

As honourable senators are aware, Heather Robertson has had a long and distinguished career in journalism, having

written for a number of newspapers and for most of the country's leading periodicals. Moreover, she is the author of a series of notable and best-selling non-fiction novels including *Reservations are for Indians*, *Grass Roots*, *Salt of the Earth*, *A Gentleman's Adventurer* and *I Fought Riel*. Ms. Robertson also edited some years ago a book called *A Terrible Beauty: The Art of Canada at War*.

Some honourable senators will know that recently Ms. Robertson has been engaged in the writing of an extended trilogy centred largely on Canadian politics and society during the life and career of Mackenzie King. I understand that the concluding volume of the trilogy is now in process, and it may well be that Ms. Robertson's presence here today is part of her ongoing research on the denizens of Ottawa. Even if that makes some honourable senators cautious, I know that they will nonetheless welcome Ms. Robertson warmly to our deliberations.

Hon. Senators: Hear, hear!

PERSONS AWARD

INCLUSION OF CEREMONY IN *DEBATES OF THE SENATE*

Hon. Heath Macquarrie: Honourable senators, before we reach Orders of the Day, may I rise on a point of orderly procedure, particularly in reference to our written record, which is a very important part of our procedure?

Yesterday afternoon the session closed with a gracious invitation by the Deputy Leader of the Government for all honourable senators to attend the Persons Award ceremony in this chamber. Many of us were here and saw the granddaughter of Nellie McClung, as master of ceremonies, and our own Speaker perform with his usual grace and aplomb on that very historic and agreeable occasion. It was the first time that the ceremony had been held in the Senate chamber, and it may be the last for a long time.

Had I not been so absorbed with what was going on today I would have noticed that in today's *Hansard* there is no record of that procedure. I think that we must find in this electronic age some way to overcome that omission of yesterday. Perhaps the Senate people were not here at 5:00 o'clock, but in this electronic age surely it is possible to capture the exact and precise wording, because I believe we were actually televised. I was here. I have not yet had any fan mail about that event, but perhaps the postal service has not yet been fully restored.

I suggest that we find a way to record in our documents that very important occasion when five of the great ladies of this country were honoured by the government, by the Senate and by the country.

Hon. Royce Frith (Deputy Leader of the Opposition): Maybe you have just done so!

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Stollery*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have received information from Senator Stollery's office that he does not propose to speak on this order. If no other senator wishes to speak—and I am not aware of any—then it would be appropriate for Senator Bélisle to close the debate on second reading.

Since Senator Bélisle is not in the chamber today I will move the adjournment of the debate in my name, making it clear that I do not intend to speak to it. That will give any other honourable senator who wishes to speak at least until Tuesday; and if at that time no honourable senator is prepared to speak, I believe that we should give Senator Bélisle the opportunity to close the debate.

Hon. Senators: Agreed.

Order stands in name of Senator Frith.

• (1520)

[*Translation*]

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jean-Maurice Simard moved the second reading of Bill C-55, to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.

He said: Honourable senators, I am pleased today to speak in favour of the adoption of Bill C-55. It has been described as a controversial bill. I think that, first and foremost, it is a measure which will signal the beginning of the implementation of a new refugee status determination process in Canada.

The new process will guarantee that the case of people seeking to gain entry into Canada as refugees will be dealt with fairly and quickly. It will also replace the current system which is both outdated and altogether unable to cope with the ever increasing number of claims, particularly the great number of false claims.

We are considering today a bill which will simplify the refugee status determination process and which will protect the system against abuse and make it accessible only to genuine refugees. In my judgment, it is with pride and confidence that we must support this bill and deal with it without delay.

Since it was first introduced in May, it has been the subject of debates, and the bill has been improved and amended. The government has listened carefully to the concerns of Members

of Parliament and the public in general. Petitions were sent, public meetings were held and Members of Parliament carefully scrutinized every clause of the bill. The government has welcomed this vigorous scrutiny. The result has been a stronger bill that will guarantee the integrity of the refugee determination process.

In other words, the bill is now more specific in clarifying its intent. It is also more effective in affirming its safeguards for refugees and it is stronger in its commitment to the genuine refugee.

For years, abuse of the process has proliferated with impunity, so that the present process was gradually submerged under a steadily increasing number of claims. Immigration officials, private citizens, groups concerned about the critical situation of genuine refugees, and the government all agreed that the process was in a deplorable state and that certain measures had to be taken. The government responded by drafting this bill and asking us to give the matter serious consideration, so that the question could be resolved once and for all.

By doing so, honourable senators, the government has given us a chance to remedy this untenable situation and get rid of the abuse, and thus reaffirm Canada's long-standing commitment to refugees the world over.

I think we should not overlook the fact that the main purpose of this bill is to safeguard and reaffirm Canada's traditional humanitarian attitude to refugees. It is a tradition of which we are proud, for three reasons.

First of all, in 1987, Canada will resettle 12,000 refugees. Since 1945, we have resettled a total of 500,000.

In addition, we provide over $115 million a year in federal funds for the successful resettlement here in Canada of federally sponsored refugees and for the training of those refugees sponsored by private groups in the community. We give $16 million a year in food aid for refugees in camps abroad.

Our financial contributions to international relief agencies including the Red Cross and the United Nations High Commission for Refugees are the fifth highest of all nations.

Our total financial contributions to international relief on a per capita basis are second only in the world to the United States.

Finally, Canada protects genuine refugees who seek admission to this country. Dear colleagues, we now have the opportunity to establish a new refugee determination process which will allow us both to maintain this tradition and to protect ourselves against abuses.

Bill C-55 provides for the creation of an independent Immigration and Refugee Board as well as a Convention Refugee Determination Division, whose only function will be to process refugee claims. The first Chairman of the Commission will be Mr. Gordon Fairweather. In my opinion and in that of many others, this is an enlightened appointment.

Mr. Fairweather is a well-known New Brunswicker of unparallelled commitment and compassion for the politically oppressed and persecuted.

[Senator Simard.]

His integrity, his indisputable honesty and courage should be a source of inspiration for all Canadians.

An Hon. Senator: Hear, hear!

Senator Simard: These qualities should also convince Canadians that when the government promises a refugee determination system and personnel of exceptional quality and calibre, it delivers.

Under the new refugee determination system entrusted to Mr. Fairweather, everyone, and I emphasize the word "everyone", who claims refugee status on his arrival in Canada will have to follow very specific steps.

First, the claimant will be questioned by a panel made up of a member of the Refugee Division and an immigration adjudicator. Claimants who have a credible basis for their claim will be referred to the Convention Refugee Determination Division for a hearing. On the other hand, claimants who do not have a credible basis for their claim, who have already obtained refugee status in another country or who have had the opportunity to present a credible claim elsewhere, will be refused admission to Canada and will have to make an immigration application from outside the country.

Indeed, dear colleagues, each of these stages includes a great many details which have been arrived at over the past five months. I suggest that the resulting legislation will solve the current situation and serve as a guarantee for the future of Canadians and refugees.

The changes which have been made to Bill C-55 have reinforced it.

For instance, the bill states clearly that the facts presented to the two-member panel, in support of the claim, are not limited in any way and that each claimant has the right to testify on his own behalf.

The bill explains what the expression "in transit" means and indicates clearly that people "in transit" are not affected by the safe third country provisions.

It defines also what a safe third country is, meaning a country which will not turn back refugees, as provided for under the Geneva Convention.

The presence of a representative of the United Nations High Commissioner for Refugees at the enquiry and hearing stages is now authorized, with the claimant's consent.

Whenever the federal government will have to provide the services of a counsel, the bill states now that he will have to be a lawyer.

Moreover, the amendments provide for other safeguards against those who would cheat the new refugee status determination process, but whose application does not deserve consideration.

Honourable senators, these amendments will reconcile these new legislative provisions of Bill C-71 while ensuring that war criminals will be treated in the same way as claimants who prove to be security threats. Moreover, the persons suspected of being war criminals will not be authorized to use that

process, so that they cannot delay their deportation or court proceedings.

Finally, some of the amendments were made in order that people who are denied entry are not sent back to a country where they would actually be endangered.

During the drafting of the legislation and various amendments, the government has always paid special attention to maintaining the rights of genuine refugees. Therefore, those provisions never will be a threat to a claimant, whether his claim is justified or not. However, the legislation will make it possible to root out false claims.

In my view, we must tackle the problems of refugee status claims. As you and most Canadians will admit, the situation is critical.

During this year alone, we can expect to receive in Canada some 30,000 claims for refugee status.

The vast majority of those 30,000 will be spurious claims. The fact is that 70 per cent of claimants are not considered to be genuine refugees. And among the others, a large number already enjoy protection elsewhere or have already had an opportunity to ask for the protection of another country.

Honourable senators, we cannot let those abuses go unchecked. Clearly, we have an obligation to provide Canadians with a Refugee Act that is both fair and just, without neglecting our obligations to the oppressed.

Canadians are a compassionate people. Exactly 12 months ago, we received the Nansen Award in recognition of our continuing help to refugees from all over the world. We can be proud of the reception we have always extended to refugees. In fact, many of us are refugees or descendants of refugees.

However, we must ensure that our laws and procedures are respected. At the present time, our refugee status determination process is completely disorganized and unscrupulous individuals are arrogantly breaking our laws.

In conclusion, honourable senators, that bill allows us to fulfil our obligations under the United Nations Convention, to respect the provisions of the Canadian Charter of Rights and Freedoms and to preserve our humanitarian tradition. It also provides for a procedure that will allow for a much easier acceptance of genuine refugees.

Canada needs such legislation. The sooner the legislation is passed, the sooner we will have at our disposal a process to help those who really need assistance. Thank you.

On motion of Senator Frith for Senator Grafstein, debate adjourned.

The Senate adjourned until Tuesday, October 27, 1987, at 2 p.m.

THE SENATE

Tuesday, October 27, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

CLERK'S ACCOUNTS

STATEMENT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk of the Senate has laid on the Table a detailed statement of his receipts and disbursements for the fiscal year 1986-87.

REFERRED TO COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government) moved:

That the Clerk's Accounts be referred to the Standing Committee on Internal Economy, Budgets and Administration.

Motion agreed to.

SUPREME COURT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-53, to amend the Supreme Court Act and to amend various other acts in consequence thereof.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*Translation*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

NOTICE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Thursday next, October 29, 1987, I will call the attention of the Senate to the Canada-United States Free Trade Agreement.

[*English*]

THE SENATE

TEMPUS FUGIT

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I was a little delayed entering the chamber, but I do not think I was as delayed as the clock indicates. It is still on daylight saving time, which should be drawn to the attention of someone.

Senator Doody: We should have stopped the clock an hour ago!

Senator MacDonald (Halifax): It looks pretty good to me!

The Hon. the Speaker: We are on fast track!

Senator Marshall: That is Newfoundland time.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have to inform the Senate that Senator Murray is detained elsewhere on public business today and will not be able to join us.

PATENT ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON QUESTION AND MESSAGE FROM COMMONS—ORDER STANDS

On the Order:

Consideration of the Nineteenth Report of the Standing Senate Committee on Banking, Trade and Commerce (Motion and Message relating to certain amendments to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto), presented in the Senate on 21st October, 1987—(*Honourable Senator Sinclair*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I want to raise a point of order on this item, which is not intended to delay the proceedings this afternoon. I have raised similar points of order on other occasions, namely, that the evidence which bears upon this motion is not completely available. The evidence from the committee hearings of September 30 and October 1, which includes the appearance before the committee of the PMAC, has not been made available. I understand that it will be ready

tomorrow, and it might be a good idea to wait until we have that evidence before we proceed with this item.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I was assured that these reports and the translation thereof were being dealt with expeditiously and that we would have them in ample time. Obviously, there has been another delay. I would like to call to the attention of the Senate the fact that I have requested that the Standing Committee on Internal Economy, Budgets and Administration call as witnesses the people responsible for translation in the Department of the Secretary of State and the people responsible for the printing of these documents so that they can give the committee an explanation of why these delays keep recurring, despite the assurances that they are being corrected.

I am really at a loss to give the chamber an explanation of these delays, because this is not really my responsibility. However, the government's business is directly affected by it, so, although I do not have the responsibility, I have to carry the can for it. Therefore, I ask the Senate management to look into this matter with a view to trying to correct this situation.

This is not a serious delay at this point, since we have seen this bill delayed several times up to now, so I do not think this extra day's delay will be catastrophic. However, in the interests of the proper procedure of business in this place, I honestly feel that the Standing Committee on Internal Economy, Budgets and Administration should apply itself to finding a solution to this recurring problem.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in case there is a can that Senator Doody is carrying, I would like to take the opportunity to lift that can from his shoulders—or wherever else it might be attached—because we certainly do not blame him. We have raised this question before. We know he has taken this problem seriously and has tried to solve it, as evidenced by his intervention today.

However, I think in this case it is worthwhile underlining that it is more than a formal protest, because, as honourable senators will recall, the report of the committee proposes certain amendments that are all based on evidence given by either the government or the PMAC. In effect, the committee is simply asking that the assurances with regard to research, et cetera, given by the PMAC be included in the legislation. There are other amendments, but that is the one that relates to the PMAC. That is why in this case the delay is more important than it otherwise might be, although I think even if that were not the case the formal objection would still stand on its own merits.

Therefore, although we do not blame Senator Doody for this delay, I emphasize that the early availability of the transcript of the proceedings does have a little more importance in this case than it might otherwise have.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Bélisle, seconded by the Honourable Senator Nurgitz, for the second reading of the Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I moved the adjournment on this order last day because Senator Bélisle, who is the sponsor of this bill, had asked that the matter be dealt with and sent to committee.

Senator Stollery, in whose name the order had been adjourned, sent word that he did not intend to speak on the matter. I knew that Senator Bélisle was ready to close the debate, but since he was not present last day I simply took the adjournment in order to give him an opportunity to do so.

• (1410)

Unless another senator would like to speak before Senator Bélisle closes the debate, I would like to say this: Certain of my colleagues do not agree with the principle of this bill. Therefore, I expect that the vote to send the bill to committee will be on division.

Hon. Rhéal Bélisle: Honourable senators—

The Hon. the Speaker: I wish to inform honourable senators that if the Honourable Senator Bélisle speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Bélisle: Honourable senators, I would like to thank the Deputy Leader of the Opposition for adjourning this debate. I would also like to thank my honourable colleagues for having taken part in the debate on Bill S-7, an act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei.

I believe that enough has been said in this chamber, and other information will be made available in committee. Both the legal counsel of the Senate and the parliamentary library will be invited to come to the committee meetings. We expect that legal counsel for Opus Dei and the Right Reverend Gregory Haddock and others will answer all questions to the satisfaction of the committee members.

Having said that, I recommend that honourable senators give this bill second reading and that they refer it to the Standing Senate Committee on Legal and Constitutional Affairs for further scrutiny.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Bélisle, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—DEBATE ADJOURNED

Hon. Jack Marshall rose pursuant to notice of Thursday, October 22, 1987:

> That he will call the attention of the Senate to the response of Canadians to a petition mailed out, calling upon Parliament to urge the government to act on the motion dealing with production of the NFB film "The Kid Who Couldn't Miss".

He said: Honourable senators, I should like to bring to the attention of the Senate the response of Canadians to a petition which calls upon Parliament to urge the government to act on the motion dealing with the production of the National Film Board film "The Kid Who Couldn't Miss." I should like to put on the record the petition itself, which reads as follows:

> WHEREAS the National Film Board of Canada, a body created and financed by an Act of Parliament and presently responsible to the Minister of Communications, has caused to be made and distributed in Canada and abroad a film entitled "The Kid Who Couldn't Miss", and
>
> WHEREAS a Committee of Your House found this film to be full of historical errors, to be a highly dramatized and one-sided account of the life and exploits of Air Marshal William Avery Bishop, VC, DSO and Bar, MC, DFC and, by the use of questionable film techniques, to give a false and misleading authority to rumour and unpublished speculation, and
>
> WHEREAS the film has done grievous damage to the reputation of Air Marshal Bishop, caused grief to the surviving members of his family, and demeaned Canada as a nation and the sacrifice and heroism of Canadian Veterans everywhere.
>
> WHEREFORE the undersigned, your petitioners, humbly pray and call upon Parliament to urge the Government that the Minister of Communications instruct the National Film Board
>
> 1. To add after the titles of the film, the following disclaimer: "This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.
>
>   Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne."
>
> 2. To take action to eliminate from the film the unproven allegations, charges and innuendoes against the integrity of Billy Bishop.

Honourable senators are aware that the same petition was contained in the motion that I put and was also contained in the motion Senator Molson put when the Senate originally debated this matter.

The immediate response to my petition, honourable senators, was relatively modest at first, but snowballed as time went on and after the postal strike was over.

There are many executive members or officials with signing authority in various associations and groups who have represented to me 49,650 names, but as honourable senators are aware, a proper petition must have the name, address and signature of the petitioner. There are 12,617 individuals who signed the petition as at October 22; the names are rolling in at the rate of several hundred daily. Interesting letters or notes have been included. Honourable senators should keep in mind that this subject is still of interest many years after Billy Bishop set his records.

As an example, let me read a portion of one letter I received. It states:

> My father flew with the Royal Flying Corps until very badly injured in the crash of an aircraft. Is it possible that he and others may also be defamed by an agency of the Canadian government?

Another gentleman wrote:

> The young people of Canada should be given facts, not fiction and fantasy, in relation to the past.

Respecting the youth of Canada, honourable senators, last Tuesday I spoke at the Terry Fox Centre and referred, as I have done each year, to Canada and the wars it has gone through. This year I used as my theme the Billy Bishop story. Many of those young people realize what the Senate is doing and what is going on across the country as far as Billy Bishop is concerned. I was amazed at their knowledge of the issue.

I have another letter from Flight Lieutenant E.W. Desbarats of Georgeville, Quebec, who served in France with the Royal Naval Air Service in 1917. This is one of the extracts, which states:

• (1420)

> The worst of it is that the film is unquestionably accepted as a true documentary.

How about this comment from William M. McGill of Victoria, who states:

> I consider the NFB's film . . . is a disgraceful attempt to manipulate 70-year old history.

He added:

> I apologize for my very poor script . . . I am three weeks short of my 97th birthday.

Honourable senators, if Canadian citizens and veterans at that age are still interested and demanding that we take action, it tells a story.

Before I conclude, I want to read portions of a letter that tell a tale about Bishop's air mechanic, referred to in the film as Walter Bourne. This letter was written to a friend in Thunder Bay, Wesley Rogers, in 1952—35 years ago. It was written on exercise papers and was quite a lengthy letter. Strangely enough, a letter written in 1952 surfaced just about a month ago. You will be surprised that the writer's real name was not Walter Bourne, it was Freddie Bourne. That tells

something about the story and about the factual items in it. Freddie Bourne says:

> He is the mightiest Pilot living today. There has been no one to touch his score not even in the last war . . . In 1930 I received a 72 worded telegram from him as he was in England. He wanted me to go and see him . . . .He thought the world of me and would never leave for a scrap if I was not there to see him off. I was the only one to service his engine, and no one was allowed to touch his guns, only me . . . He wanted me to go out to Canada with him and service his (Tiger) Moth . . .

Honourable senators, I repeat, that is Freddie Bourne, Bishop's air mechanic. There obviously was a strong bond between them. This is the same air mechanic that the film's producer uses to suggest that Bishop was dishonest in reporting claims of victories.

Honourable senators, I will have a further update on the situation tomorrow. Therefore, I adjourn the debate in my name.

Hon. Senators: Hear, hear!

On motion of Senator Marshall, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, October 28, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

DISTINGUISHED VISITORS IN GALLERY

MEMBERS OF SENATE OF ISLAMIC REPUBLIC OF PAKISTAN

The Hon. the Speaker: Honourable senators, I would like to draw your attention to the presence in our gallery of a delegation of members of the Senate of the Islamic Republic of Pakistan.

Hon. Senators: Hear, hear!

STATUTE LAW AMENDMENT PROPOSALS

REFERRED TO LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move that the document entitled "Proposals to correct certain anomalies, inconsistencies, archaisms and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada", tabled in the Senate on June 30, 1987, Sessional Paper No. 332-486, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

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

Hon. Senators: Agreed.

Senator Frith: "Non-controversial and uncomplicated"—famous last words!

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

Motion agreed to.

QUESTION PERIOD

[*English*]

BANKING

ACQUISITION OF BANK OF BRITISH COLUMBIA—AVOIDANCE OF INCOME TAX ON DEPOSIT INSURANCE PAYMENT

Hon. Ian Sinclair: Honourable senators, I have a question for the Leader of the Government in the Senate. Last November the Banking, Trade and Commerce Committee considered legislation arising out of problems experienced by the Bank of British Columbia and the acquisition of that bank by the Hongkong and Shanghai subsidiary registered here in Canada. At that time we were told that a number of groups had evidenced interest in the acquisition of the Bank of British Columbia, and that these were given consideration by the management of that bank and by government officials.

My question is this: Arising out of the information made available by the report of the Auditor-General, was the fact that the government was prepared to assist in laundering the $200 million through the Bahamas made available to all participants who were involved in the acquisition?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there is a rather colourful assertion in that question that I do not accept as stated.

Senator Frith: I found it very restrained.

Senator Perrault: Under the circumstances, very restrained.

Senator Sinclair: Were the participants told that government officials would so structure the matter that the $200 million would not attract tax in Canada?

Senator Murray: Honourable senators, questions on this matter have been replied to as recently as yesterday in the House of Commons by the minister responsible, Mr. Hockin. As the honourable senator has noted, the Standing Senate Committee on Banking, Trade and Commerce had an opportunity to question ministers and other witnesses at the time the legislation was going through the house. If there are further enquiries that they wish to address to the minister or the government on that matter, they are free to do so.

However, I do not think much purpose is served by asking highly coloured and argumentative questions on a piecemeal basis during the Question Period of the Senate.

Senator Frith: He was only asking for a fact.

Senator Sinclair: Honourable senators, does the Standing Senate Committee on Banking, Trade and Commerce have to assume that any payments made by this government are in some way structured so as not to attract tax? Is that an assumption we should make?

Senator Murray: Honourable senators, the honourable senator, who is chairman of that committee, has had an opportunity to ask questions of the minister and has that same opportunity now and will have in the future. The honourable senator is not seeking information today. What he is seeking to do is to place his own highly coloured and prejudiced version and interpretation of events on the record.

Senator Perrault: That is an unfair comment.

Senator Sinclair: Honourable senators, I am not seeking to place an interpretation on the record. I am trying to find out if every interested group, when they applied to be taken into consideration by the government and by the bank, had been furnished with the same type of information with regard to the actions the government was prepared to take to assist them.

Senator Perrault: Yes or no.

Senator Frith: And if you do not know, will you find out?

Senator Murray: There are a great many assumptions in all three questions that have been put by the honourable senator. I do not accept those assumptions.

I will see if there is further information that can be brought to the attention of the Senate on this matter. Again, I remind the honourable senator that this was thoroughly canvassed in the House of Commons yesterday. Questions were replied to by the minister responsible, Mr. Hockin.

Senator Frith: And therefore should not be raised here?

Senator Sinclair: I am concerned about the testimony before the committee of this house, not what goes on somewhere else. I can assure the honourable senator that I have no recollection whatsoever of that information being available to our committee.

Hon. H.A. Olson: Honourable senators, I would like to ask a supplementary question. Is the Leader of the Government telling us now that he assumes that senators have been apprised of what went on in the other place and therefore, if an answer has been given there either today or some other day, he does not have any obligation to obtain answers for questions that are raised in this house?

Senator Murray: Not at all, honourable senators. Perhaps there are some honourable senators who have not read yesterday's House of Commons *Hansard* because they are waiting for an executive summary. I was simply drawing the attention of those honourable senators to the questions put and the answers given yesterday on this matter.

If the honourable senator wants further information, I can undertake to obtain it from the minister responsible.

RESPONSIBILITY OF GOVERNMENT LEADER TO PROVIDE ANSWERS—QUESTION OF PRIVILEGE

Hon. H.A. Olson: Honourable senators, I rise on a question of privilege. I believe it is a very important question of privilege.

It is wrong for the Leader of the Government to abdicate his responsibility to answer legitimate questions that have been put to him, on the assumption that someone in the other place asked about it at some other time. Honourable senators, we should know from the Leader of the Government whether or not he intends to come into this chamber to accept questions and give answers or take notice and give an undertaking to seek replies to questions that are put. This has been the practice established long before I came here. Even Senator Flynn did that!

• (1410)

An Hon. Senator: And what about you?

Senator Olson: I did that, too.

It seems to me that there has been a serious deterioration in the office of the Leader of the Government in the Senate if he is now telling us that he is not even going to bother taking notice of questions in order to seek replies, and that we should look at *House of Commons Debates* to find the answers to our questions because they were asked in the other place.

Senator Guay: He does not even read *House of Commons Debates*!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the Leader of the Government in the Senate seemed to—

Hon. Jacques Flynn: Are you rising on the question of privilege?

Senator Frith: No, I am asking a supplementary question to that asked by Senator Sinclair.

Senator Flynn: Senator Frith does not think that Senator Olson has raised a valid question of privilege?

Senator Frith: The Leader of the Government in the Senate, in replying to an earlier question, showed some diffidence or reluctance to obtain information.

Senator Murray: How?

Senator Frith: The leader said that there were some assumptions he did not agree with.

Can the leader tell us what the objectionable assumptions were so that the question—which asked for information—can be framed in such a way that it will not include offensive assumptions?

Senator Guay: He does not know!

Senator Murray: Honourable senators, my friend has only to read in tomorrow's *Hansard* the questions that were asked and the premises and assumptions contained therein to see why I was reluctant to reply on the spot today.

Senator Frith: I get the picture! No answer. No information.

CANADA-UNITED STATES FREE TRADE AGREEMENT

CONCERNS OF MEMBERS OF GOVERNMENT—GOVERNMENT LEADER'S POSITION

Hon. Raymond J. Perrault: Honourable senators, the national dialogue on the subject of free trade with the United States has started. I was in British Columbia last weekend and noticed that the proponents of free trade are being heard, as are the opponents.

In a further quest for information, I should like to ask the Leader of the Government in the Senate whether or not the following statements are well based. The first statement reads as follows:

> Unrestrained free trade with the United States raises the possibility that thousands of jobs could be lost in such critical industries as textiles, furniture and footwear. Before we jump on the bandwagon of continentalism, we should strengthen our industrial structure so that we are more competitive.

A further statement that has been made is:

> It's silly. Canada must improve relations and trade with the United States, of course. But our natural destiny is to become a global leader, not America's weak sister.

Another statement is:

> Canadians rejected free trade with the United States in 1911. They would do so again . . . Canada must increase its share of total world trade, which has dropped by 33 per cent in the past two decades.

And the final statement is:

> Bilateral free trade with the United States is simplistic and naive. It would only serve to further diminish our ability to compete internationally.

May I ask the Leader of the Government for his views on each of the concerns raised in those statements, representing, as they do, the fears of some Canadians? I want the leader to be as forthright as he thinks he must be in the circumstances.

Hon. Robert Muir: Honourable senators, I rise on a point of order. I am not quite sure what the practice is in this chamber, but having spent 22 years in the other place, I know that when a member quotes from a document the source of the quotation must be given. I wonder if that practice applies in the Senate.

Senator Perrault: I certainly do not object to that. The honourable senator has acquired a vast knowledge of the practices of the other place in his ceaseless quest for democracy. These statements are contained in *Maclean's* magazine, and have been quoted beyond their original publication in *Maclean's* magazine.

Senator Muir: I just wondered which one it was, that's all.

Senator Perrault: It is page 16 for June 30, 1983. Let me read the first quote again. It states:

> Unrestrained free trade with the United States raises the possibility that thousands of jobs could be lost in such critical industries as textiles, furniture and footwear. Before we jump on the bandwagon of continentalism, we should strengthen our industrial structure so that we are more competitive.

That was a statement by the Honourable Joe Clark.

Let me quote the second one. It states:

> It's silly.—

Senator Walker: Who said that?

Senator Perrault:

> Canada must improve relations and trade with the United States, of course. But our natural destiny is to become a global leader, not America's weak sister.

That was the Honourable David Crombie.

[Senator Perrault.]

Senator Flynn: Order!

Senator Muir: What are the dates?

Senator Perrault: Listen to this one; listen closely.

Senator Flynn: Order!

Senator Perrault: It states:

> Bilateral free trade with the United States is simplistic and naive. It would only serve to further diminish our ability to compete internationally.

That was a statement from Michael Wilson, quoted in *Maclean's* magazine on June 30, 1983.

Senator Frith: Whatever happened to good, old Mike?

Senator Perrault: My friends, the pièce de resistance:

> Canadians rejected free trade with the United States in 1911. They would do so again in 1983. Canada must increase its share of total world trade, which has dropped by 33 per cent in the past two decades.

That was the Right Honourable Brian Mulroney.

Senator Frith: Hear, hear! He knew something in those days, too!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the one thing that I can say—

Senator Perrault: Where do you stand?

Senator Muir: Yes or no?

Senator Murray: —for my friend, Senator Perrault, is that he has been right from the start. I know that he signed with enthusiasm the report of the Standing Senate Committee on Foreign Affairs, under Senator van Roggen's chairmanship, that pointed out all of the advantages for Canada in a free trade arrangement with the United States.

Some Hon. Senators: Hear, hear!

Senator Murray: I congratulate him on that.

Senator Frith: Now, there is a good answer! That is coming to grips with the question.

Senator Perrault: I was an *ex officio* member of the committee when I was the Leader of the Government in the Senate. I suggest to the Leader of the Government in the Senate that, using precisely the same standard of judgment, you are also a signatory to the Senate committee on drug costs and prices because you are also an *ex officio* member of that committee.

Senator Frith: Yes; hear, hear!

Senator Murray: No, it is a special committee.

Senator Perrault: You have an *ex officio* position on all of the committees.

Senator Flynn: No, no. That is unfair. You have a position on it.

Senator Argue: Do not tell Brian that.

Senator Perrault: Putting that aside—

Senator Flynn: You might as well!

Senator Perrault: —what are the leader's deeply held convictions on free trade in view of these statements made by members of the Privy Council who presently direct the affairs of the Government of Canada? Certainly, it suggests that this is the greatest conversion since Paul was converted on the road to Damascus.

Senator Argue: He has no convictions—deeply held or otherwise.

Hon. George van Roggen: Honourable senators—

Senator Flynn: Order!

Senator van Roggen: —in view of the fact that the Leader of the Government in the Senate was kind enough to refer to my committee's report, I thought that for the record I might note that while I appreciate the nice things that he said about me and my committee on more than one occasion and the work that we have done, that particular report—and I do not say this to condemn the present agreement out of hand—said that agriculture should not be included. That particular report did not suggest for a minute that we deal with the continental energy policy.

Senator Flynn: If you want to debate that—

Senator Frith: Hear, hear!

Senator Flynn: You have your opinion. Order!

Senator Frith: He brought it up.

Senator van Roggen: That report did not suggest that we have free trade in services. The—

Senator Frith: He raised it; not us.

Senator van Roggen: The Leader of the Government raised it.

Senator Flynn: Order!

An Hon. Senator: He is the defence counsel today.

• (1420)

Senator Flynn: This is not the occasion to make a speech.

Some Hon. Senators: Oh, oh!

Hon. Jacques Flynn: I challenge any senator to point to an occasion when I have made a speech when posing a question. I have never done it. I do not look like Senator Argue; I do not act like Senator van Roggen; and I do not act like Senator Perrault. I would like Senator van Roggen to debate the issue, but not at this point.

Senator Perrault: The report was different from the agreement.

Senator Frith: Unfortunately, he does not need your approval.

Senator van Roggen: If Senator Flynn had not prolonged this debate this particular matter would have been over. I hope that Senator Flynn would credit me with the wit not to have turned that all into a long-winded question. I thought I would save the time of the chamber by simply responding to the remarks of the Leader of the Government, and those are the three points I wanted to make.

Senator Flynn: Oh, oh!

Senator van Roggen: I will do it all over again as a quote, if you like.

Senator Murray: Honourable senators, I recall the three volumes of that report. I was a member of the committee for, at least, the preparation of the third volume, and I well recall that the report of the committee did not recommend that agriculture be included, because they did not think it was possible to strike an agreement on agriculture. That is why. They threw up their hands at the impossibility of it all.

Senator Argue: And you sold out agriculture.

Senator Murray: I hope that my friends would agree—

Senator Argue: The domestic market for wheat is the American market now.

Senator Flynn: Why don't you make a speech?

Senator Murray: As I was saying, I hope that my friends would agree, as I think people in the agricultural, the energy and in the service sectors agree, that the inclusion of those sectors in the Free Trade Agreement has been a real plus for Canada.

Senator Argue: The farmers do not agree with that.

Senator Murray: Honourable senators, since we have been tossing quotations across the floor, some of them of quite an ancient vintage today, let me draw to Senator van Roggen's attention, as well as to Senator Perrault's, some of the things that have been said by people in British Columbia about this Free Trade Agreement.

On energy, for example, which was one of the matters brought up a moment ago by Senator van Roggen, we have Mr. Mike Phelps, Executive Vice President of Westcoast Transmission Co. Ltd., saying:

> We've been fighting for many months to reduce U.S. regulatory barriers against Canadian gas exports and this should help increase Canada's and British Columbia's gas exports.

Mr. Bob Lamond, President of Czar Resources Ltd. in British Columbia, believes that it will make it easier for long-range planning, and I quote him as follows:

> Investor confidence in the Canadian energy industry was destroyed by the NEP and we are now seeing it being rebuilt.

Senator Frith: Why don't you call a point of order?

Senator Perrault: Point of order!

Senator Murray: Finally, I draw to my friend's attention the statement by Mr. Bob Kadlec, the President of Inland National Gas Co. Ltd.

Senator Perrault: I rise on a point of order. I hope the Leader of the Government is hearing properly. I enter no

objection to the process of reading these quotations, unattributed as far as written sources are concerned, because I also entered some quotations.

My point is that here we had leaders of the government condemning in the most formidable terms any aspect of free trade, and now the position has totally changed. That was the nature of my comment. I have not commented on the Free Trade Agreement as such. I think that it may not be beyond salvation in terms of an arrangement of some kind.

What led to the massive change in view on the part of the government? Why is the Prime Minister, who in 1983 said that this deal was no good, it would not work, and that we should move to world trade rather than continentalism, now changing his view? Mr. Wilson's view has changed. This is the nature of my question. We are not debating free trade here. I will contribute to that debate when the time comes.

Senator Murray: Honourable senators, that is something to look forward to.

I did want to bring to the attention of honourable senators the statement by Mr. Kadlec, the President of Inland National Gas Co. Ltd., who said:

> I think it has to be positive for the resource industries in general and anything that's positive for resources is positive for British Columbia . . . Inland is getting into the production side of the business so it's definitely positive for Inland.

Senator Perrault: Does the Leader of the Government have no ideas of his own? He does nothing but quote other people.

Senator Frith: Let us have your own personal natural gas!

Senator Roblin: How dare you make us laugh like that!

Senator Murray: Honourable senators, virtually every study that has been done, whether by the Donald Macdonald Royal Commission, the C.D. Howe Institute or for the Economic Council of Canada, points out that there would be important increases in income, output, employment and living standards in every region of this country under free trade with the United States. It was on that basis that on September 25, 1985, the Right Honourable the Prime Minister announced in the other place that this government would attempt to negotiate a free trade agreement with the United States, within certain parameters which he stated in the House of Commons at that time.

With regard to world trade, I could point out what I believe must be obvious to my honourable friends, that if Canada can compete effectively with the United States and in the United States market, it will be a great help in terms of our becoming world competitive, which is the ambition and the policy of this government.

Senator Argue: The U.S. has a dying economy. The government has hooked on to a dying economy.

Senator Murray: Senator Argue the other day reminded us that a trade agreement with the United States, in his view, would be a loser whereas a trade agreement with the Soviet Union would be a winner. There is Senator Argue's economic and trade policy on the record for the second time, and I am glad he has given me this opportunity to draw attention to it.

Senator Argue: Honourable senators, without making a speech, I think I could be allowed to reply to that wild assertion. The Soviet Union, on balance, in terms of percentages, is probably the best customer we have. I think that if the government—

Senator Doody: Is this a question?

Senator Argue: —put a little initiative into the effort—

Senator Doody: Question!

Senator Argue: —our sales to the Soviet Union could be expanded. I believe that, and the farmers are going to need it—

Senator Murray: You put that proposal forward as an alternative to the agreement with the United States!

Senator Argue: —since the government has handed over to the United States the domestic wheat market and has destroyed the two-price system. That is what follows from the Free Trade Agreement.

On my own outlook as to markets, I say this: I think the country was going in the right direction when it set up and supported Expo '86. I think we would be far better working up trade agreements—

Senator Walker: Question!

Senator Argue: —and trade expansion—

Senator Walker: Question!

Senator Argue: —in the strong, growing economies of the Pacific Rim instead of tying ourselves to a nation that used to be a creditor nation, has now become a debtor nation, has increased its national debt three times over in the last eight years—

Senator Doody: Question!

Senator Argue: —and, in the opinion of all experts, that weak economy is the main reason for the collapse of financial markets all over the world. This government has tied Canada to a dying economy.

THE ENVIRONMENT

REPORT OF NATIONAL TASK FORCE ON ENVIRONMENT AND ECONOMY—GOVERNMENT ACTION ON RECOMMENDATIONS

Hon. Mira Spivak: Honourable senators, I have a question for the Leader of the Government in the Senate. I was fortunate to be present at the United Nations General Assembly this week when the Prime Minister of Norway, Mrs. Gro Brundtland, presented to that assembly the report of the World Commission on Environment and Development. Many world leaders responded, among them the Honourable Thomas McMillan, Canadian Minister of the Environment, who gave a forceful, practical and eloquent address.

Senator Buckwold: Naturally!

Senator Spivak: My question relates to the Government of Canada's timetable in response to the recommendations of the Brundtland report, as outlined in a recent report of the Canadian National Task Force on Environment and Economy, which was formed as a direct follow-up to the visit to Canada, in May 1986, of the World Commission on Environment and Development.

• (1430)

Specifically, I would like to know what action has been or will be taken on recommendation 2.1 of the task force report, which asks that First Ministers assume leadership and demonstrate commitment to economy integration by directing that cabinet documents and major government economic development documents demonstrate that they are economically and environmentally sound and, therefore, sustainable; also that environment-economy integration be discussed at First Ministers' conferences. Further, I would like to know what action has been taken on recommendation 3.2, which requests the formation of a national round table on environment and economy, with a chairperson to be appointed by and to report to the Prime Minister.

Senator Frith: Aren't we polite!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will undertake to obtain from my colleagues a prepared reply to that question and bring it in as soon as possible.

STATISTICS CANADA

RESTORATION OF FUNDING FOR CENSUS PUBLIC-USE SAMPLE TAPE—EFFECT ON CANADIAN STUDENTS OF NECESSITY TO USE U.S. DATA

Hon. Lorna Marsden: Honourable senators, I hope that the Leader of the Government and others have had an opportunity to read the article in the "Report on Business" which appeared in the *Globe and Mail* on Monday and which praised Dr. Ivan Fellegi, the Chief Statistician of Canada, for his work in harmonizing our trade statistics with those of the United States.

I hope that the article has been read and noted, with its praise for Statistics Canada and the previous DBS, because, as honourable senators will recall, this government attempted first to cancel the 1986 census, and then, when it was restored, demanded that Statistics Canada reduce its budget to the equivalent amount of the census.

The consequence of this is that students in Canadian universities are unable to have access to recent census data, and many students are being forced to use U.S. data, because Statistics Canada is not producing a public-use sample tape of the 1986 census.

I should like to ask the Leader of the Government whether the government is planning to restore sufficient funding to Statistics Canada so that a public-use sample tape can be produced for the use of researchers and students in Canadian universities this year.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will have to consider the honourable senator's question in more detail and ask the appropriate minister to prepare a reply for her.

Senator Marsden: I thank the Leader of the Government, because the government has received representations on this question for at least six months from universities and researchers across the country. When looking at the answer to that question, perhaps the Leader of the Government will also give us the views of the government on the influence on Canadian students of being tested on and forced to use American data, rather than Canadian data, in studying our economy and our society.

POST-SECONDARY EDUCATION

NATIONAL FORUM—REQUEST FOR CONCLUSIONS

Hon. John B. Stewart: Honourable senators, at the risk of being accused of anticipation, may I ask the Leader of the Government if he will ask his colleague, the Secretary of State of Canada, to prepare a report for him on the conclusions of the National Forum on Post-Secondary Education now in progress?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will be glad to do that.

FINANCE

SALE OF SHARES OF BRITISH PETROLEUM—REPORTED REQUEST OF CANADIAN GOVERNMENT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder whether the Leader of the Government could find out whether the Minister of Finance actually made representations to the British Chancellor of the Exchequer with respect to the sale of the shares of British Petroleum. It has been reported that there was a conversation in which the Canadian government requested that the sale of shares be not proceeded with at this time because of the market situation. I wonder whether or not that is correct. It is just a factual question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that report is substantially correct.

PATENT ACT

BILL TO AMEND—R&D COMMITMENT OF PHARMACEUTICAL COMPANIES—STATEMENT BY MINISTER OF CONSUMER AND CORPORATE AFFAIRS

Hon. Charles McElman: Honourable senators, a short while ago, in response to Senator Sinclair, the Leader of the Govern-

ment suggested that it would be useful to read comments by ministers in the other place. I would now like to do that. There was a letter published this morning in the *Globe and Mail* over the signature of the Honourable Harvie Andre, the Minister of Consumer and Corporate Affairs, in which he elaborates on the tremendous amount of research and development that will be done if Bill C-22 should pass. In it he states:

> Under Bill C-22, the pharmaceutical industry is committed to increasing the percentage of its revenues invested in research and development to 10 per cent by 1995.

Could the Leader of the Government tell us under what clause of Bill C-22 that commitment is given?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators—

Senator Flynn: Come on!

Senator Murray: —the honourable senator knows the answer to that question as well as I do.

Senator Flynn: Be serious!

Senator Murray: That commitment is not contained in the legislation, and for very good reason.

Senator Flynn: You have known that for a long time!

Senator Frith: He is quoting the minister. Are you saying, Jacques, that you cannot quote him seriously?

Senator Flynn: It is silly!

Senator McElman: Honourable senators, to the Leader of the Government I would simply say—

Senator Flynn: The bill has been before us for months!

Senator McElman: —is this not misleading to the public, that a minister—

Senator Flynn: You are being misleading!

Senator Denis: Cut it down!

Senator Flynn: Shut up yourself!

Senator McElman: I take it that this is an example of the courtesy the honourable senator was speaking of a little while ago!

Senator Flynn: I was replying to Senator Denis. He told me to shut up, and I said, "Shut up yourself!"

Senator McElman: And I said that is an example of the courtesy you were speaking of a little while ago.

Senator Flynn: I wanted to hear what you had to say.

Senator McElman: Good.

Would the Leader of the Government not agree with me that—I am sure that it is not intentional—this quotation, which is a direct letter from Harvie Andre, the minister, says, "Under Bill C-22, . . ." Those words can have only one interpretation, that Bill C-22 requires—

Senator Perrault: It is a provision of the bill.

[Senator McElman.]

Senator McElman: —that there is a commitment by the industry. Would the Leader of the Government perhaps consider asking his colleague to correct his public statement so it will not be misleading to the public at large?

Senator Murray: Honourable senators, for all those who are interested in the subject, it is well known that the minister and the government have, again, for very good reason, resisted attempts by my friends opposite to have these commitments written into the legislation. When my colleague, Mr. Andre, says, "Under Bill C-22," he is referring to the fact, which is also very well known by honourable senators and all those interested in the subject, that the industry has made certain very definite commitments about research and development expenditures, conditional upon having the régime provided for with the passage of Bill C-22. So in that sense "Under Bill C-22" or with passage of Bill C-22—

Senator Frith: It says, "Under".

Senator Murray: —we will have these R&D expenditures in this field. I think there would be no doubt in the mind of anybody who has been following this issue as to what the minister meant in his short letter to the *Globe and Mail*.

Senator Frith: No doubt at all! I'll say there isn't!

Senator McElman: Honourable senators, I have a supplementary question. I take it, then, that the Honourable Leader of the Government in the Senate is not prepared to take this matter up with his colleague?

Senator Perrault: He is afraid to!

Senator Murray: Honourable senators, as always, I am prepared to convey my honourable friend's representations to Mr. Andre, and I shall do so.

NEW BRUNSWICK

CONGRATULATIONS TO HON. ALDÉA LANDRY ON CABINET APPOINTMENT

Hon. Charles McElman: Honourable senators, I have just one further question. Is the Honourable Leader of the Government in the Senate aware that the new Premier of New Brunswick, the Honourable Frank McKenna, yesterday, made much more pleasant the leader's future discussions on intergovermental affairs with the appointment of the Honourable Aldéa Landry as minister?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I thank my honourable friend for the opportunity of congratulating both Premier McKenna and his new ministers on their accession to office yesterday and to express the hope and the expectation that the relations between that government and the Government of Canada will be productive, useful, constructive and in the interests of New Brunswick and of Canada.

● (1440)

It so happens that I know my new vis-à-vis in New Brunswick personally, and have known her for some years. I have

great respect for her competence and experience and look forward to working with her.

THE SENATE

ROLE OF SENATOR FLYNN IN QUESTION PERIOD

Hon. Azellus Denis: Honourable senators, I have a question for the Leader of the Government in the Senate. As we have all noticed, our good friend, Senator Flynn, is always interrupting, and on any subject. I would like to know if Senator Flynn does that on the instructions of the Leader of the Government in the Senate.

Hon. Jacques Flynn: Honourable senators—

Senator Frith: It is a question to the leader!

Senator Flynn: No, I rise on a question of privilege. It is the same type of privilege as was raised by Senator Olson. I do not follow instructions from Senator Murray in this respect. However, I must say to Senator Denis that instead of complaining of my interruption he should sometimes intervene, especially with regard to Bill C-22. He has been asked by all of his friends in the Quebec legislature to say something about that bill, but he has kept quiet and numbed.

Senator Denis: That is another proof that he is still interrupting.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, perhaps I could ask a supplementary question of the Leader of the Government in the Senate. Since Senator Flynn has made it very clear on a point of privilege that he does not accept instructions from you, leading to the behaviour referred to, can we assume that he is then going against your instructions?

Senator Flynn: Let me say—

Senator Denis: You keep on interrupting.

The Hon. the Speaker: Order, order!

PATENT ACT

BILL TO AMEND—COMMITMENTS OF PHARMACEUTICAL COMPANIES

Hon. Stanley Haidasz: Honourable senators, I do not know on whose instructions Senator Flynn is wearing a red tie, or what the implications are of that! However, I would like to ask the Leader of the Government in the Senate if he would do us the courtesy of expounding upon those very good reasons why the government did not include in Bill C-22 the commitments of the already profitable multinational pharmaceutical companies.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator was a member of the committee—or, at any rate, attended the committee hearings—and heard the Minister of Consumer and Corporate Affairs elaborate on those reasons.

As to the invitation that he has extended to me to do so, I will consider doing that at the appropriate time; that is to say, when the matter is before us for debate.

Hon. Philippe Deane Gigantès: Honourable senators, could the Leader of the Government in the Senate let us know whether those undertakings by the pharmaceutical companies were oral or in writing? If they were in writing, would he please table them in this chamber?

An Hon. Senator: In invisible ink!

Senator Murray: Honourable senators, in many cases the commitments have been made in the form of announcements by the various drug companies. Also, if I am not mistaken, various witnesses from the industry have reaffirmed or reiterated those commitments before the House of Commons committee and before the Special Senate Committee. Therefore, they are very definitely on the public record.

Senator Gigantès: Do you and your government, then, consider them to be binding? Perhaps I could have an answer from the Leader of the Government as to whether he considers those undertakings to be binding.

Senator Murray: Honourable senators, I am not prepared—as my honourable friend appears to be—to question the good faith of people in the industry, who have given me and the government no reason to question their good faith.

Senator Gigantès: Honourable senators, there have been other promises by various people in the past who did not keep them. These people were industrialists, among other things.

Senator Guay: And governments.

Senator Gigantès: Yes, and governments, if you like. What happens if these promises are not kept? This is what we would like to know.

Senator Murray: There is a provision to review the bill in four years, as the honourable senator knows. In any event, these are matters that will be before us for debate this very day, if I am not mistaken, when the report of the Standing Senate Committee on Banking, Trade and Commerce is presented. My honourable friend can express his reservations, make his representations, and ask his questions at that time.

DELAYED ANSWER TO ORAL QUESTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DISPUTE-SETTLEMENT MECHANISM—EFFECT OF ESTABLISHMENT OF BI-NATIONAL TRIBUNAL—ADJUDICATION OF APPLICATION OF CANADIAN LAW

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the answer to a question raised in the Senate by Senator MacEachen on October 14,

1987, regarding the Canada-United States Free Trade Agreement—Dispute-Settlement Mechanism. I can ask that that answer be printed in the usual fashion or I can read it now, if the honourable senator so wishes.

Senator MacEachen: Having it printed is acceptable.

(*The answer follows:*)

The new dispute settlement procedure is unique in establishing a mechanism that will:

—replace judicial review in both countries

—have representation from both countries

—operate according to strict deadlines

—review the case on the basis of the law of the country in whose jurisdiction the Anti-dumping/Counter-vailing Duty (AD/CVD) proceeding was launched

—apply the standard of judicial review of the country in whose jurisdiction the AD/CVD proceeding was launched

—provide a final decision which will either end the proceeding or require action, not inconsistent with its decision, by the administrative body, whose determination is the subject of review.

The intention is to replace existing judicial review in both countries with a new bi-national dispute settlement mechanism, not to eliminate judicial review.

SUPREME COURT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Nathan Nurgitz moved the second reading of Bill C-53, to amend the Supreme Court Act and to amend various other acts in consequence thereof.

He said: Honourable senators, I hope to be reasonably brief in speaking to Bill C-53, which is a bill to amend the Supreme Court Act and to amend various other acts in consequence thereof. Honourable senators, I am sure, will have read the *House of Commons Debates* where a considerable amount of time was taken up with tributes to the court and to the contribution it has made, not just in constitutional matters but in other matters.

I think it suffices in this place to say that all honourable senators are aware of the outstanding contributions of the men and women who serve on the highest court in our land, and who render outstanding judgments. In my opinion our Supreme Court compares well with any Supreme Court in any country.

Senator Frith: It is only recently that you could say "women" in the plural.

Senator Nurgitz: Yes, only recently, but I am now proud to say there are two women on the Supreme Court bench.

The purpose of this bill, while simply stated, is of considerable importance to the administration of justice in our country. That purpose is to make amendments to the procedures for appeals to the Supreme Court of Canada in order to ensure that the court retains its capacity to deal efficiently with, and to respond in a timely fashion to, questions of fundamental national importance.

The dramatic increase in recent years in the demands on the court's time, and in particular the increase in appeals as a result of the Canadian Charter of Rights and Freedoms, serves to highlight the fact that the court's time is a limited resource. A summary review of the national newspapers on any given day illustrates the fundamental and important questions that the court is continually being called upon to decide. The changes proposed in this bill are necessary if the court is to continue to deal efficiently with its ever-increasing workload. Without changes of this nature the court may well be in danger of becoming inaccessible for consideration of some of the important legal and constitutional questions of our time.

Honourable senators, I propose to deal with Bill C-53 by simply outlining the five basic amendments which are contained in the bill. First, the bill provides that applications for leave to appeal to the Supreme Court of Canada, in both civil and criminal matters, may be determined by the court solely on the written submissions of the parties, if it is clear from the written submissions that an oral hearing is not warranted. This amendment is designed to allow the court to decide applications for leave, without oral hearings, in those cases where it is clear from the written submissions that leave to appeal should be granted, and in those cases where it is also clear from the written submissions that leave ought not to be granted.

● (1450)

Honourable senators, there are many applications which come before the Supreme Court of Canada on the question asked by the presiding judge, "Is there anything further to be added to the written submission?", and counsel has on many occasions said, "Nothing further." The court felt that it was unneccesary to bring counsel some considerable distance in some cases to add nothing further to the written submission.

Second, in order to allow the Supreme Court to better control its own process, the bill provides that the court may deliver judgments either in open court or by depositing them with the registrar. This amendment will give to the court the same discretion to deliver judgment by deposit that the provincial courts of appeal already enjoy.

The question of convening a full court and pronouncing judgment is becoming somewhat outdated and time consuming.

Third, this bill will extend to the Supreme Court the legislative authority to assign counsel to unrepresented accused. Under the amendment, the litigating attorney general will assume the cost if legal aid is not granted. Further, counsel's fee will be subject to the scrutiny of the Registrar of the Supreme Court of Canada.

Honourable senators, there are an increasing number of instances where accused persons are appearing without counsel. In fact, the court has placed the onus of explaining the accused's position on some crown attorneys. It has been felt by

the court that in many of these instances that is not how justice ought to appear. This is a right that is currently given to provincial courts of appeal under the Criminal Code of Canada. The provincial attorney general must bear the cost of an appeal, subject to review of the bill.

Fourth, the bill provides that an appellant who is in custody and is represented by counsel will not be entitled, as a right, to be present at an appeal or any preliminary or incidental proceedings. Provision is made for the rules of the court to allow attendance by inmates, and for the court, or a judge thereof, to grant leave to attend.

Honourable senators, at present the provisions make it absolutely necessary for an accused person to be present. In a civil matter a litigating person may not be able to afford to attend the proceedings and follow his lawyer to the capital city to hear his matter argued. The same would now apply in criminal cases. It is expected that if it were not difficult or dangerous, for security reasons, to get an accused person there an accused person would attend. However, it is not necessary to bring a very dangerous inmate, for example, from as far away as British Columbia at great expense to taxpayers.

Finally, in order to remedy current difficulties with the time periods for bringing appeals, the bill proposes amendments that will provide more reasonable and practicable time limits for bringing appeals and applications for leave to appeal.

Honourable senators, these amendments are motivated by a concern about the dramatic increase in recent years in the demands on the court's time. The amendments proposed in this bill are designed to provide the court with the tools necessary to manage its heavy workload. At the same time, the amendments speak to concerns of fairness, security, and the need for a more workable appeal process.

In short, honourable senators, these changes are necessary to ensure the continued and efficient operation of the Supreme Court and, hence, are of the highest priority to the administration of justice in this country. I, therefore, urge all honourable senators to give support to this measure.

On motion of Senator Frith, debate adjourned.

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Macquarrie, for the second reading of the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.—(*Honourable Senator Grafstein*).

Hon. Jerahmiel S. Grafstein: Honourable senators, Bill C-55 is the government's proposal to reform and modernize the processing of refugees in this country by establishing a new and fairer refugee status-determination system.

At the outset, honourable senators, it might be useful, as a question of public policy, to differentiate between our immigration process and our refugee process. One can trace the separation between these two elements of our public policy to the liberalization of our foreign policy shortly after World War II, as Canada moved from isolationism to an activist, internationalist stance. As our foreign policy became more liberal, more activist, more internationalist, so our refugee policy emerged as a separate and distinct element in our overall public immigration policy.

Professors David DeWitt and John Kirton, in their book, an interesting analysis of our foreign policy, entitled *Canada As A Principal Power*, concluded:

> The evolution of Canada's position on refugees has been both dramatic and ad hoc.

Prior to World War II we simply did not have a refugee policy. For example, between 1923 and 1947 less than 24 people of Chinese origin were admitted to Canada—less than one person of Chinese origin a year in that period. In the aftermath of World War II the King government reluctantly began to differentiate between refugees and the traditional, restrictive, narrow cast of our immigration policy. Changing public attitudes following World War II, both within and without Parliament, led to separate, special criteria evolving for displaced persons—the so-called refugees of the day—and refugees. In 1947 Prime Minister King reluctantly announced a shift in public policy on this question.

However, it was the Senate that played a crucial role in the evolution of a radical change in that policy. The separation of the criteria between immigrants and the special case refugees can be traced to the Standing Senate Committee on Immigration and Labour in 1946. Under the inspiration of the late and great Senator Arthur Roebuck, in a critical Senate report tabled over 40 years ago, that Senate committee's recommendations and findings led to a clear differentiation between the status and the treatment of refugees and immigrants.

Louis St. Laurent and Lester Pearson wanted Canada to play a much more activist foreign policy role by developing a new world order with a crucial role for new multilateral institutions. They wanted Canada to be a middle power; they wanted Canada to be a quiet broker. They wanted multilateral organizations to play a much larger role. Within those multilateral organizations Canada could have greater leverage. It was this new approach to foreign policy that pushed and compelled Canada's domestic policy attitudes towards refugees to evolve into a more liberal attitude. Canada's support for multilateral institutions, such as the United Nations Relief and Rehabilitation Association and the International Refugee Organization, which were predecessors of the office of the United Nations High Commissioner for Refugees, caused Canada to take a more liberal attitude towards refugees. But our policies and practices were rooted in King's restrictive approach, which did not welcome refugees who came directly to our shores; rather, the King shift meant a different system under which Canada's immigration officers would go to areas or adjacent countries where there were expected or real refugee problems, and then, in those places, select Canada's refugees, thereby bypassing refugee candidates based on age,

infirmities, handicaps, or even political ideology. The tradition of restrictive practices by Canada's highly bureaucratic methodology was slowly wiped away and worn down by Canada's positive foreign policy, led by successive Prime Ministers, from St. Laurent to Pearson to Diefenbaker to Trudeau and Clark.

● (1500)

In Canada's collective desire to establish a new liberal order, we slowly caused our bureaucrats' and our internal attitudes regarding refugees to change so that today Canada's refugee policy is indeed part and parcel of our foreign policy; today we have a more liberal, internationalist, activist foreign policy. That is paralleled by our high support for multilateral arrangements to coordinate our public policy responsibilities. In other words, as we push for multilateral obligations we increase our humane attitude towards refugees, yet our activist foreign policy was always constrained by the belief that we had a redneck domestic political attitude towards refugees. Unfortunately, honourable senators, that remains the case to this day.

Although special immigration arrangements were made for refugees after World War II, Canada's way of dealing with special surges of refugees was not to have a special category for refugees but merely to relax immigration standards by order in council, by political decision. That was coupled with Canada's historic selective process, which could only be overcome during times of crisis. In other words, we selected the best refugee candidates abroad, until an emergency arose which attracted public attention. Canada did not encourage refugees to come to its shores.

The Hungarian revolution of 1956 was the first major post-war example of that. Our desire to select refugee candidates abroad was overcome by events at home. Within months, because of public opinion, order in council criteria were relaxed, and over 35,000 refugees arrived in Canada in a short period of time. Our foreign policy voice begat responsibility for those unfortunate victims who suffered from obvious repression in their homeland. But our harsh, so-called, domestic environment continued to constrain our attitudes towards refugees—irrespective of the source of those refugees.

The next refugee surge came in 1968-69 with the Czechoslovakian crisis. Once again, the Senate Committee on Manpower and Immigration led the way towards reform. Its findings led to the establishment of the Department of Manpower and Immigration. That Senate committee pointed out the flaws in the white paper of the day on immigration policy. It pointed out the lack of specific provisions for accepting refugees. In 1968-69 Canada had not yet acceded to the UN Convention on Protocol and Refugees. It was Canada's active role in foreign policy, Canada's active role through NATO in its multilateral response to the Czech crisis, where Canada played a crucial role within NATO, that led to Canada applying its full participation and undertaking its full responsibility by assisting sister European countries that had been safe havens, places of first asylum, for those refugees. Again, our foreign policy transformed our domestic practice, and cabinet directed Canada's immigration officers to relax procedures.

[Senator Grafstein.]

In 1968 the then Secretary of State for External Affairs, the Honourable Mitchell Sharp, announced that Canada would take all Czech refugees who wished to come to Canada. That was the first example of an open-door policy on refugees, but it was less generous than it appeared. Indeed, there was little risk of domestic backlash, because there was wide public acceptance of the Czech crisis, and Canada's humane instincts were led by strong leadership on the question. There was little risk of aggravation of a backlash, because the vast majority of Czechs were technically skilled or professionals. However, it was the then Minister of Manpower and Immigration, the now Leader of the Opposition in the Senate, the Honourable Allan MacEachen, who first provided an activist refugee policy to seek out positively those refugees, not only to seek them out but to provide resettlement assistance upon their arrival in Canada. We made the landing easy. It was during that period that our refugee policy evolved into a much more modern context.

In 1972 Canada was confronted by the Ugandan-Asian refugee crisis when there were Asians living in Uganda who, because of the actions of Idi Amin, were given an immediate expulsion order. Canada, again, showed public leadership and led public opinion; over 7,000 Asians were accepted by Canada as refugees, more than by all other countries except Great Britain. Again, Canada did that by relaxing its immigration procedures and by Canada's forceful public leadership. By that leadership we reduced the domestic backlash, notwithstanding the sub-texture of the time, that these were Asians, perhaps there was an ethnic problem, perhaps there was a colour problem. Because of Canada's strong leadership it overcame those internal voices.

In 1972-73 the Chilean military coup led to more modern difficulties associated with refugee surges. Then Canada lagged behind in its public responsibility and its stated foreign policy, unlike its stance in previous refugee crises. Only after lengthy pressure from the public, from church groups and other public-minded citizens, did Canada move for on-site inspections, and set up personnel in adjacent Central American and South American countries in order to assist the Chilean refugee process.

Between 1974 and 1978 Canada was criticized, and properly criticized, for its slow, laggard approach to inhumane practices, as were clearly articulated by the UN High Commissioner for Refugees. Public support for a more restricted response was evident, and may have caused the government to refuse to lead because of so-called domestic concerns. Chilean refugees, perhaps, had some ideological problems, we were told. Perhaps they did not believe in some of the principles that Canadians believed in; perhaps they had a different set of problems. Again, it was that subliminal, subjective argument that caused the government to stem the flow of refugees rather than to open the doors.

In 1975 the new Immigration Act codified, for the first time within Canada's domestic legislation, its international commitment to assist and protect refugees. It was now well over 20

years since the Convention was passed in 1951 protecting refugees.

Our institutional reorganization within our bureaucracy combined with the then Bill C-24 to make refugees and immigration streams separate streams, separate processes, and a separate calculus within our overall immigration policy. The 1978 act did not only codify our humane refugee policy but introduced for the first time a refugee quota allotment as part of our overall immigration quota policy, and allowed for the first time a designated class whereby refugee groups could be designated as refugees so that we could accelerate the process, when required.

In 1978 we were confronted by the Vietnamese boat people, the Indo-Chinese refugee surge. Here, government practices and policies were inconsistent. Concerned by the overwhelming surge, concerned by the fact that we might be overrun by the Indo-Chinese, the government, in establishing limits, increased the levels, yet established caps, and opened the door by an indirect method. It said to the Canadian public, "If the Canadian public will match, by sponsoring refugees privately, there will be a separate quota above and beyond the government's own quota." The government did this, because it feared the backlash, and this was one way to diminish that backlash. But here, the Canadian public surprised the politicians and led the way. Private groups came forward and far exceeded the government's expectation by the vast numbers of private sponsorships that were made available to help these poor, unfortunate refugees. Canada had matured. Canada's politicians' concern about backlash was more media speculation than a reality. Canadians wanted to help. So, honourable senators, what two lessons can we learn from this cursory, abbreviated, stilted history of our refugee policy?

● (1510)

First, when the government takes the lead in public opinion, the so-called redneck, domestic backlash is reduced or becomes non-existent. Second, Canadians are much more humane and much more desirous of doing good than our politicians give them credit for, which, honourable senators, brings me to Bill C-55 itself.

All parties, all sides, all special interests, all vested interests and the Canadian public all agree that we need a reformed, modern, fair refugee status determination system. As senators, I believe that we must ensure that the processes in Bill C-55 meet our international obligations, our constitutional obligations under the Charter, and our obligations under the Convention and protocol respecting refugees to which Canada is a signatory. Hence, when we turn to Bill C-55 we see some apparent problems. I say "apparent problems," honourable senators, because it is important that we get evidence on this bill from many independent bodies in order to determine fairly if these apparent problems are real problems, because the bill is a complex bill, and there are some dramatic changes in public policy.

The questions that I might raise as apparent problems are these: First, is the new regulatory model which has been created in Bill C-55 more politicized, less judicial, and, ultimately, less fair? Will it put greater pressure on the political system, as opposed to sustaining and maintaining an independent refugee process? Is it, indeed, a reform or a reaction?

Second, by establishing a new screening mechanism and a new refugee board, are we improving the process? Will more genuine refugees be granted fair and expeditious access, or will there be barriers to genuine refugee claimants? For the first time, honourable senators, we will be sending away genuine refugees for only one reason: because they came from a safe country.

Third, does Bill C-55 truly provide an appeal for refugee claims, or is the appeal in the legislation so narrowly cast as either to be unfair or ineffective? We have to look at that question carefully.

Fourth, are the eligibility criteria and the procedures related thereto reasonable in the circumstances, having in mind all of the evidence that we have heard on Bill C-84 respecting the difficult problems that refugees are confronted with when they seek to escape oppression? Is the right to counsel a façade because of the time constraints in that process? We should look at that.

Fifth, if we return genuine refugee claimants to so-called "safe countries" from whence they came to Canada, can we be satisfied that we have fulfilled our humanitarian and international obligations of asylum and protection of refugees?

I will give you an example: An Iranian escapes from the oppression in Iran today—which we all accept—and goes to Turkey, by whatever means; then finds his way to West Germany, a safe country, and then, ultimately, after spending some time there, he comes to Canada. Under this bill, that Iranian would be returned to West Germany, who, in turn, based on their practices, would return him to Turkey, and Turkey, in turn, would return him to Iran. Do we have—I ask this as a question; I do not have the answer—a constitutional or international obligation to protect genuine refugees who come directly to our shores even if that refugee came from a safe country? Do we have to look into the safe country itself to see what practices that country has?

Sixth, are the safeguards for refugees under the bill as we have it better than the original safeguards for return, which appear to have evaporated from Bill C-55 before it reached this house?

Seventh, has the government sought to mitigate the problem of refugees at the source by entering into regional, multilateral, or bilateral agreements with safe countries to anticipate, coordinate and share refugee surges? This whole approach, which I believe was taken up by Mr. McLean when he was the Minister of State for Immigration, appeared in earlier drafts of the government's proposals, and they appear to have been dropped in this proposal. Could the government tell us why? Is there a better way of coordinating a solution to this genuine problem between safe countries?

Eighth, under the new mechanism in Bill C-55, are we developing a fair system, if there is no overall continuum in the initial screening process? In other words, is it possible, under

the new screening process, that we would end up with a more capricious, inconsistent and arbitrary set of decisions, because there is no one person or body to provide an overall mechanism to ensure judicial consistency in all cases?

Finally, honourable senators, do we not really solve the refugee problems, which will occur and recur around the world, by giving much more leadership in our foreign policy, and ensuring that as a pillar of our foreign policy we have an activist approach towards democratic development and a respect for human rights in countries which may be the source of refugee flows in the future? Is that not really the underlying root cause of refugee problems now and in the future?

Honourable senators, these and other questions will have to be addressed as we examine this bill. Our refugee policy is part and parcel of our foreign policy. It is putting our actions at home in line with our words abroad.

Some wise man once said that a country's refugee policy is a barometer of that country's definition of justice. Thus, we should examine the bill with great care and ensure, as the Senate has in the past, that we will not be pushed by public hysteria; that we will not be pushed by emotionalism; that we will examine the bill in the calm, deliberate committee process in order to determine if the minister's words are matched in the legislation so that we can end up with a fairer and sounder refugee system which sends a signal to Canada and to the world that we are prepared to accept our public responsibilities at home in the same way as we voice our concerns abroad.

Honourable senators, do Canadians wish the government to do the least or to do the best? To do the minimum or the maximum?

In the 1951 Convention dealing with the refugee problem at the United Nations, the conference concluded on this note:

> The Conference expresses the hope that the Convention relating to the Status of Refugees will have value as an example exceeding its contractual scope and that all nations will be guided by it in granting so far as possible to persons in their territory as refugees and who would not be covered by the terms of the Convention, the treatment for which it provides.

In other words, we were asked, and we agreed, to go beyond the letter of the law. We said we would match the spirit of the law. I ask the Senate to do no less in regard to this bill.

● (1520)

Hon. Finlay MacDonald: Would Senator Grafstein permit a question?

I congratulate him on his excellent exposition of the problems facing us, but yesterday evening at the meeting of the Standing Senate Committee on Legal and Constitutional Affairs he indicated that when this bill is referred to that committee, there should be a dividing of the examinations of Bill C-55 and Bill C-84. I did not quite understand his explanation as it was given then. Perhaps he could give those reasons again, because it seems to me that both bills are interrelated.

[Senator Grafstein.]

Senator Grafstein: Honourable senators, I can speak only for myself, since this will certainly be a matter for the committee to determine. If you are asking for my own personal view on this, I would be glad to give it. However, I do not want to be premature and, in effect, lead the committee on this question. It will be up to the committee, which will be seized of Bills C-84 and Bill C-55, to make this determination.

My initial reponse is that I think Bill C-84 has some very difficult and intrinsic but patent problems. They are legal, narrow and quite clear. The evidence to date presented in that committee seems to be overwhelmingly that there is a need for modification.

In terms of Bill C-55, we have had the same thrust of public opinion, but the nature of the complaints are different. They do not like the public policy, and I think the bills are different in that sense.

I think it would be appropriate to conclude our evidence on Bill C-84, make our recommendations with respect to that bill, and then follow that with a study of Bill C-55 as the next stage. That is my own personal view. As I have indicated to the chairman of the committee, that is for the committee to decide as a matter of practice.

On motion of Senator Bosa, debate adjourned.

PATENT ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON QUESTION AND MESSAGE FROM COMMONS—DEBATE ADJOURNED

The Senate proceeded to consideration of the Nineteenth Report of the Standing Senate Committee on Banking, Trade and Commerce (Motion and Message relating to certain amendments to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto), which was presented on October 21, 1987.

Hon. Ian Sinclair: Honourable senators, on Wednesday last I had the honour to present—

Hon. Jacques Flynn: What is the honourable senator moving? What is the question?

Senator Sinclair: As I understand it from the order paper, it is consideration of the nineteenth report. It is the third order.

Senator Flynn: Is it only consideration, or adoption?

Senator Sinclair: At some time I will make a motion, but at the present time I am dealing with the order. In due course I will assist the honourable senator.

May I begin, again, by saying that on Wednesday last I had the honour to present to the Senate the Nineteenth Report of the Standing Senate Committee on Banking, Trade and Commerce. That report was pursuant to a reference made to the committee by the Senate requiring the committee to deal with two things, the message from the House of Commons dealing with Bill C-22 and the motion of Senator Murray in relationship to the Senate's amendments to Bill C-22.

Honourable senators, Bill C-22 is merely the optimizing, after many years, of discussions that have gone on in this country concerning questions of patents for pharmaceuticals. Patents for pharmaceuticals are a special class, and are recognized as such, and they have been recognized as such in many countries. You may wonder why some people say that they are no different from anything else. Of course they are. Patents on pharmaceuticals are different because they are vital to the continued well-being and life of the people of this country. Everybody in Canada is involved in pharmaceutical patents, one way or another, and that is why they have always been treated in a very different way.

That is why we in the Senate had to look at this bill with the great care that this issue deserves. I am happy to say that the committee approached its problem with care. It was suggested at times that we should hurry and take shortcuts, but I do not think we did. I think we considered the bill carefully in all its aspects.

Bill C-22 addresses four principles: one, increased intellectual property protection; two, increased research and development in Canada and the resultant creation of jobs; three, improvement of the health care of Canadians; and, four, the protection of consumers from higher drug prices. Those are the principles the government said it was addressing in Bill C-22.

When Bill C-22 was discussed in the House of Commons, they discussed, for instance, the protection of intellectual property in this way: They said, "We are going to increase the protection of intellectual property by extending the period of exclusivity. We are going to say not that you cannot get a compulsory licence, but we are not going to allow you to use that compulsory licence to import and sell in Canada or to manufacture in Canada a drug for which a patent is outstanding for a period of years." They chose a period of ten years for importation and seven years for manufacture. However, they allow compulsory licences to continue to be issued.

The Senate considered the situation regarding the protection of intellectual property. Surely, none of us would denigrate the fact that intellectual property has to be considered, and some concern has to be exercised in relationship to it in the overall context of how it fits in the world. In its consideration the Senate said, "No, we do not believe that intellectual property protection can only be looked after by extending a period of exclusivity to ten years for importation and seven years for manufacture. We, the Special Committee of the Senate on Bill C-22—not the Standing Senate Committee on Banking, Trade and Commerce—think that intellectual property in pharmaceuticals can be protected by a significantly lower period of exclusivity, namely, four years, but that the 4 per cent royalty should be enhanced. Intellectual property should receive more recognition by enhancing the royalty." The Senate amendments suggested a period of four years of exclusivity, and an increase in the royalty from 4 per cent to 14 per cent.

The second principle that the bill addresses relates to the promotion of R&D, that is, an increase in research and development with the consequent jobs. In the text of Bill C-22 you do not find much mention about research and development.

● (1530)

We find that under the old régime, which has been in effect since the 1969 amendments that removed exclusivity, drug companies were spending a little under 5 per cent of their sales on research in Canada. That was done both before and after 1969, so there was a period in which research was conducted, even though there was no guarantee of exclusivity. That is understandable, because a patent is a wasting asset, and a pharmaceutical patent, of course, is also a wasting asset. Some other person can come along and through different formulations change therapeutic values or therapeutic results. Anybody in business, therefore, recognizing that he has a wasting asset, does something to protect it. The way to protect it is to get into research and develop something that is better, new or different. So, the pharmaceutical industry patentholders said, "We would like to have a significant period of exclusivity. What we will do for you is this: We will increase the amount of money we spend on research. We have been spending a little less than 5 per cent, and we will undertake by 1996 to spend 10 per cent of sales on research. We, the industry, say that that is a *quid pro quo*. You give us ten years of exclusivity and we will give you, in ten years, 10 per cent of our sales dedicated to clinical and basic research in the pharmaceutical and medical industries of Canada."

The Special Senate Committee on Bill C-22 did not take the same approach. The amendments said, "We are going to set up a royalty fund. From this royalty fund people in research can secure or draw down moneys that will be spent on research." That was the provision contained in the amendments of the Senate.

The next of the principles was to improve the health care of Canadians. Nobody has ever suggested that pharmaceutical patentholders have denied Canadians the advantages of new drugs just because they did not have a right of exclusivity with regard to their patents. None of the evidence that we saw—and there was a great deal of it—indicated that. However, the government said, "We believe that with the period of exclusivity, pharmaceutical patentholders, by putting more money into research, will find drugs that will alleviate some of the health problems that are bothering Canadians." That may prove to be the case.

The Senate amendments did not deal with it in that way. They maintained that health care of Canadians is best looked after by keeping the costs related to it under control. What the Senate had in mind was this: We will get the best health care by keeping the costs down, thus helping government drug plans, insurance companies and individuals, because they will have to pay less, will spend more, and will look after their health in that way.

Bill C-22 addressed the fine chemical industry, but did so in a strange way. The fine chemical industry of Canada has made the point time without number that nowhere in the world is there a strong pharmaceutical industry, in an innovative or clinical sense, that does not have a strong fine chemical

industry. When this matter was first dealt with in 1986, the projected bill, which was never introduced, indicated that the government would provide a big window of opportunity to the fine chemical industry of Canada. The government said this: "If you are a fine chemical manufacturer and you produce source ingredients for drugs, we will only extend exclusivity beyond two years, if the patentholder will source the drugs in Canada." "Oh," said the pharmaceutical industry, "that is terrible. We are vertically integrated. We have transfer pricing. We have advantages. We make our drugs in India or in Bulgaria or in the United States. We can transfer price and we can take advantage of scale and everything else, so please don't do that. Change it." The government did change it, and along came Bill C-22 late last year. What did it do for the fine chemical industry? It did not put any onus upon the patentholder, it put an onus upon the generic industry. It reversed the onus. Through it the government said, "We will give you exclusivity for ten years. If, however, the generics can prove that they can source in Canada, that exclusivity will cover seven instead of ten years." That constitutes quite a marked change between the bill as it was first proposed and the bill as it was introduced in the House of Commons.

In the sketching of this background senators can see that there is a marked differentiation between the approach of the government and the approach of the Senate, the latter of which, in large measure, reflected the findings of the Eastman Royal Commission. That commission said two things: "We believe, based on the evidence we have heard"—and they heard a great deal of it, too—"that a period of four years of exclusivity will enable a patentholder to establish his innovative drug in the market." Evidence before that royal commission proved that on average R&D would be recovered by a pharmaceutical patentholder in approximately two and a half years. I admit that that is an average, and that obviously some people will not recover their R&D costs in two and a half years. The Commissioner of Patents in Canada came to the conclusion that a reasonable charge for a licence to produce a drug to compete with a patentholder was 4 per cent. I will not say he was wrong, but a lot of people thought he was, and the Special Committee of the Senate felt that some upping of the royalty rate was justified.

● (1540)

In any event, there are these two juxtapositions. Why do we have these juxtapositions? The Senate Banking, Trade and Commerce Committee was fortunate in having synthesized a very great deal of testimony: testimony before commissions, testimony before committees of the House of Commons, arguments in the House of Commons, testimony before the Special Committee of the Senate, and so on. From that synthesis it was obvious that there was a great juxtaposition of understanding and positions.

Atlantic Canada spoke with one voice. The four provinces said, "Bill C-22, as passed by the House of Commons, is bad legislation. Get rid of it." That came from Atlantic Canada, without a dissenting voice. Ontario said—as did Manitoba, British Columbia and the Territories—"This is bad legislation. Bill C-22 is wrong. Change it. Get rid of it."

On the other side, there was Quebec and also two western provinces, namely, Saskatchewan and Alberta. But the large majority of provincial governments in this country were against the bill.

In favour of the bill were the universities, the pharmacology and medical research people. Why were they in favour of it? Because they thought they were going to get some money. All of us know that there are two groups of people who can spend any given amount of money: engineers and researchers. Once you say, "Here is some money," they say, "Give it to us; we can spend it"—and they always say they will spend it wisely. Perhaps they will. I happen to believe that research is a good thing, a necessary thing, and should be encouraged; but I also believe that it has to be controlled.

In any event, along came organized labour, in general—not completely—and they said, "We don't like this bill. Change it. Get rid of it. We are afraid of these pharmaceutical companies. We are afraid they will take advantage of us with prices." That is what they said; that was their evidence.

Coalitions of the elderly and the poor also said, "This is bad legislation. There is no assurance in this legislation to protect us from these pharmaceutical companies. We want protection. We are afraid. We are left to the mercy of multinational corporations." Multinational corporations are no different from national corporations, and by calling them "multinational" means only that some of the profits leave our country—that's all. But their dedication is no different from the dedication of the national companies—and that is to make money and to stay in business. That is what they are there for.

In any event, this juxtaposition was there. The large majority of people who appeared before the committee represented the large majority of Canadians who were against the bill. But the knowledgeable pharmaceutical people said, "We like it, because it is going to assist research. We think that you should pass this kind of legislation. We think, also, that you have to have some certainty." For that reason those people were in favour of a longer period of certainty once a patent was issued.

The committee was asked to see if there was some way to work out reasonable accommodation between those juxtapositions, as they applied to the government bill and the Senate bill: "See if you can come up with a reasonable accommodation, a reasonable compromise." So the committee turned its mind to that task, and there came before it such witnesses as the generic drug people. The committee put to them the question, "Are you prepared to compromise?" They, of course, had said, "There should not be any period of exclusivity. However, we would go along with the Eastman report." We said, "No, we want something else; give us something else." So they said, "Very well, we will offer four years' exclusivity and then sourcing within Canada, and seven years' exclusivity for importation." In other words, they moved the ten years back to seven and the seven years back to four. That was their suggestion.

We asked the Consumers Association of Canada, "Are you prepared to advance some compromise, some accommodation, between these two positions?" They said, "Well, yes, we understand your task, we understand the problem, we understand that some give, some accommodation, would be a reasonable thing; so, we would suggest a shorter period than ten years, but a greater period than the four years put forward by the Senate." They also said, "We would be prepared to consider some additional royalty charge," but they said, "We feel it is essential to put in the bill a sunset clause rather than a review clause."

As honourable senators know, there are review periods set forth in Bill C-22. One is that there will be a cabinet review after four years and a parliamentary review after nine years. The Consumers Association said, "Uh, uh, don't have it as a review, have it as a sunset. Have the legislation come to an end. Make it start again." That is quite a definitive thing. That was their view, anyhow.

The Canadian Cancer Society also believed that it was essential to have a review changed to a sunset clause. It felt that if it were a sunset clause it would give some protection. They did not think that a review clause would do that.

• (1550)

The PMAC, which represents the patent drug industry, said, "No, we are not prepared to compromise." When the PMAC was asked whether it would advance a compromise as an alternative to losing the bill altogether, their position was that they would not answer the question. It is in the evidence. The minister came along and he said that he would not compromise the principles of the bill, and that he would not deal with the period of exclusivity other than in terms of a ten-year period.

Hon. Royce Frith (Deputy Leader of the Opposition): May I interrupt the honourable senator?

Senator Sinclair: Certainly.

Senator Frith: Honourable senators, on behalf of the Senate and the Internal Economy Committee, the Speaker of the Senate has agreed to a request by Her Excellency the Governor General to have the Order of Canada ceremony take place in the Senate chamber. Repairs at Rideau Hall preclude her from holding the proceedings for the next one, two or three occasions this year there. The event will take place at 6 o'clock this evening.

In any event, the result of our agreeing to that request is that Senator Doody and I were informed by Black Rod that to hold the Order of Canada proceedings here will require the removal of some seats as well as other temporary arrangements. Black Rod indicated that he could have the Senate chamber ready for these proceedings if he could begin at 4 o'clock. Obviously, Senator Doody and I made no firm commitment on behalf of the Senate, but we did state that we would try to make it possible for Black Rod to implement the necessary preparations that go with agreeing to the request of Her Excellency.

I mention this to the Senate now. If Senator Sinclair wishes to adjourn his debate and continue tomorrow, fine. If he wishes to continue now, I shall not press him. I can understand that we all want to do our business.

Hon. Jack Marshall: Honourable senators, this creates a problem for me. I am leaving tomorrow to meet a commitment in Halifax. I also have a commitment to the Senate to complete my comments on my inquiry about the Billy Bishop controversy. I shall need five minutes at most, and I would like to complete my remarks. I do not think we should interfere with the business of the chamber.

Senator Sinclair: Honourable senators, I am quite prepared to stand down and adjourn the debate. When the Senate has agreed to a request to make the chamber available, and our leaders have had discussions to that effect, I think it would be rude, if nothing else, if we do not accede to that request. I would be very happy to stand down and start again tomorrow, whenever it is appropriate.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it seems to me that permission through the Speaker and the Internal Economy Committee has indeed been given for the Order of Canada ceremony to take place in this chamber this evening. However, I would hesitate to give the appearance that the government feels that this legislation is sufficiently unimportant to be delayed for another day, another week, another year, or, more accurately, another six months. I realize that we face an exceptional set of circumstances, but I would like to have some reasonable assurance that we will deal with this matter expeditiously tomorrow.

Senator Sinclair: Honourable senators, I shall carry on and try to take the Senate through the events, as I have been doing. I am not a fast speaker, as you know, so I may be a little while.

Hon. Jacques Flynn: Honourable senators, it seems to me that we should get some indication from the opposition as to when it foresees that this debate will be concluded. I am supposed to speak. I do not know whether the Leader of the Opposition intends to speak, but I know that we did not proceed with the debate yesterday to accommodate him, because he was not ready. I would like to know if it is the intention of the opposition to terminate this debate tomorrow and to dispose of the bill one way or another. It seems to me that we should get an assurance or, at least, an indication of what will happen, or perhaps the situation is to remain the same as it has been for the past seven months.

Senator Frith: Honourable senators, if because I drew the attention of the Senate to the fact that the Order of Canada ceremony is taking place here this evening and related it to the length of our sitting today means that I am to give some undertaking as to when the debate on Bill C-22 will finish, I can see no such connection, and I withdraw my comments. If the impression is that the opposition is asking that the debate stop now so that the debate can be delayed, which is not the case, then we can forget it. We can go on. I hope that all senators who wish to speak on the debate will be given an opportunity to speak, and I can tell you that we will not be

searching for senators to speak, and that there will be no filibuster.

Senator Flynn: Huh!

Senator Frith: I am trying to answer Senator Flynn's question, and all I get is a senatorial snort!

Senator Flynn: If only you could come across with some frankness, for once!

Senator Frith: Forget the whole thing!

Senator Doody: Honourable senators, I hope I did not give the impression that I was trying to place some limitations, restrictions or conditions on giving permission for the Senate to vacate the chamber for the ceremony. That was not my intention at all. I simply felt that it would be inapproriate to leave this afternoon without going on record as saying that the government feels that this legislation is important, and that it should be dealt with as expeditiously as possible.

Senator Frith: I do not quarrel with that at all.

Senator Sinclair: Honourable senators, what am I to do now? Am I to continue?

Senator Doody: I think you have done it.

Senator Flynn: On division!

Senator Doody: With regard to Senator Marshall's request, I have no objection to his taking up five or six minutes, if it is all right with the Senate.

The Hon. the Speaker: Honourable senators, there is a motion on the floor by the Honourable Senator Sinclair that the debate be adjourned in his name. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Flynn: On division!

On motion of Senator Sinclair, debate adjourned, on division.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the response of Canadians to a petition mailed out, calling upon Parliament to urge the government to act on the motion dealing with the production of the NFB film "The Kid Who Couldn't Miss".—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, as I indicated, I shall be brief. I want to speak again today on the matter of the National Film Board production "The Kid Who Couldn't Miss". I indicated yesterday in the chamber the number of replies I had received to my petition of late August. There were 12,617 actual signatures from individuals who urged me very strongly to carry on with my examination of this situation. That was as of October 22.

• (1600)

I also indicated that I had signatures from various veterans associations across the country which totalled 49,650, and although I did not count them today, I think that figure is now well over 50,000.

Therefore, as of October 27, the count is now 13,342 signatures, which is an increase of 725.

Today I want to tell you something of the technical considerations of the film's implicit conclusion that instead of carrying out his dawn raid behind enemy lines on June 2, 1917, Billy Bishop landed his aircraft, shot holes in it, and then returned to his home airfield to claim victory over three enemy fighters. I want to examine that possibility, and the reason I want to examine it is because it begs questions. In pursuit of that examination I want to refer to a letter from Mr. R.W. Bradford, the Associate Director of the National Aviation Museum, dated October 15, 1987. Mr. Bradford represents also the National Museums of Canada and the National Museum of Science and Technology. He says, and I quote:

> My main concern is regarding the film's suggestion that Billy Bishop landed his Nieuport 17, removed the Lewis machine gun mounted on the upper wing and fired a number of rounds into the tail assembly of his aircraft . . . I would like to comment on three things:
>
> 1) technicalities of landing this type of aircraft and taking off again without assistance;
>
> 2) the damage suffered by the aircraft as reported by his Flight Commander; and
>
> 3) the question of the missing gun.
>
> On the first point . . . we have flown our Nieuport 17 . . . in Canada over a period of 15 years. The aircraft has an original 110/120 H.P. rotary engine . . . and has no braking system . . . Bishop or any other competent pilot could land the Nieuport 17 on reasonable ground conditions and very quickly bring it to a halt simply by depressing the "blip" switch on the control column (which cuts the electrical circuit to the spark plugs . . . while keeping the control column fully back . . . which causes the tail skid . . . to be held on the ground . . .

Honourable senators, this is technical detail, but it explains a great deal, and shoots holes in the evidence of the producer of the film. Mr. Bradford continues:

> Now, let's look at the real problem . . . the characteristics of all early rotary engines,—they have a high idling speed . . . They simply do not "tick over" . . . in fact . . . they idle at about 45% full engine speed (500 r.p.m. as against 1150 r.p.m. for take-off . . . this compared with the average modern light aircraft . . . idling speed of 600-650 r.p.m. against approx. 2700 r.p.m. at full take-off power!) . . . if the pilot of a rotary engined fighter lands and there is no one to assist . . . Does he:

a) shut down the engine . . . and hope that he can start it . . .

—again—

he must bear in mind that if it should start again, there would be a sudden surge of 45% full power while he frantically tries to run around the wing tip and get into the cockpit before the machine jumps makeshift wheel chocks . . . and gets away or flips over on its nose;

b) does he leave the engine running and . . . get out of the aircraft and hope that . . . the aircraft does not roll ahead and probably stand on its nose breaking the propeller. (Remember . . . there is a good chance that the tail will rise and a nose-over or runaway aircraft in rough ground is quite likely.) The whole idea . . . is, to me, ridiculous.

. . . it was not uncommon for pilots to land an aircraft on suitable ground during WWI, particularly, if they wanted to land near an enemy aircraft they had forced down . . .

There is no question that Hollywood stunt pilots would find a way to do it alone . . . but we are talking about the reality of uncertain terrain in war time conditions.

On the second point, the damage to Billy Bishop's aircraft was . . . 17 bullet holes, trailing edge of lower plane shot away in two bays . . . The fabric just ahead of the trailing edge undoubtedly began to shred after a concentrated burst and, subsequently, began to peel back to the trailing edge of the wing.

There have been suggestions by people who lack knowledge about such things that if the aircraft had been shot up to that extent in the morning, then it could not have been flown by Bishop later that day. This is a totally false statement. Had our own Nieuport 17 suffered such damage, we could have it in the air again within a few hours . . . The technique we would use would be the same as in WWI. The mechanics of the time were used to this kind of problem . . .

On the third point, I am intrigued by the suggestion that any pilot would fire a machine gun into . . . a WWI aircraft before flying it again . . . can you imagine anyone doing that? The chance of severing some vital member is quite real. If he did that, his next take-off would be his last. On the question of the missing Lewis machine gun, there are several possibilities. The Lewis machine gun . . . can be swung down into a muzzle-high position . . . by the simple action of pulling a cable release . . . and pulling the butt downward to put it in a position for the removal of the empty cartridge drum and replacing it with a full drum . . . the gun may have jammed in that position interfering with his vision and . . . being in a useless position causing nothing but aerodynamic drag. It would be a simple matter to loosen the thumb screw on the main clamp, unscrew the Bowden cable and throw the gun overboard . . .

That is the evidence of Mr. Robert Bradford in a letter to me dated October 15, 1987. It certainly puts 17 holes or more into the evidence of Mr. Paul Cowan, the producer of the film, and I think that should be on the record, honourable senators.

On motion of Senator Marshall, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, October 29, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—FIRST READING

Hon. Michel Cogger presented Bill S-14, to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec.

Bill read first time.

The Hon. the Speaker: When shall this bill be read the second time, honourable senators?

On motion of Senator Cogger, bill placed on the Orders of the Day for second reading on Tuesday, November 3, 1987.

[*English*]

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

SIXTH, SEVENTH AND EIGHTH REPORTS OF JOINT COMMITTEE PRESENTED AND PRINTED AS APPENDICES

Hon. Michel Cogger: Honourable senators, on behalf of Senator Nurgitz, joint chairman of the Standing Joint Committee on Regulations and other Statutory Instruments, I have the honour to present the committee's Sixth, Seventh and Eighth Reports.

I ask that these reports be printed as appendices to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and that they form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of Sixth Report, see Appendix "A", p. 2105. For text of Seventh Report, see Appendix "B", p. 2109. For text of Eighth Report, see Appendix "C", p. 2115.*)

The Hon. the Speaker: Honourable senators, when shall these reports be taken into consideration?

On motion of Senator Cogger, for Senator Nurgitz, reports placed on the Orders of the Day for consideration at the next sitting of the Senate.

POST-SECONDARY EDUCATION

FORUM IN SASKATOON, OCTOBER 25-28, 1987—NOTICE OF INQUIRY

Hon. Henry D. Hicks: Honourable senators, I give notice that on Tuesday, November 3, 1987 I shall call the attention of the Senate to the forum on post-secondary education held in Saskatoon, Saskatchewan, from October 25 to October 28, 1987.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, November 3, 1987, at two o'clock in the afternoon.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, in view of the fact that we have been stressing the importance of dealing with Bill C-22, and following discussion with our friends across the way agreement has been reached on trying to move this item forward as quickly as we can. I ask leave to have Order No. 3 dealt with as the first Order of the Day so that the Senate can deal with it as the first item.

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

Hon. Senators: Agreed.

PATENT ACT

BILL TO AMEND—REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON QUESTION AND MESSAGE FROM COMMONS ADOPTED

Leave having been given to proceed to Order No. 3:

Resuming the debate on the consideration of the Nineteenth Report of the Standing Senate Committee on Banking, Trade and Commerce (Motion and Message relating to certain amendments to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto), presented in the Senate on 21st October, 1987.—(*Honourable Senator Sinclair*).

Hon. Ian Sinclair: Honourable senators, when this order was adjourned yesterday I had been talking about the work of the committee in attempting to evolve a compromise from the evidence of witnesses and from material that we had been working with. I had dealt with the question of the length of time of exclusivity, and you will recall that while the Consum-

ers' Association of Canada, the Drug Manufacturers' Association and the Fine Chemical Manufacturers' Association all had some suggestions with respect to compromise, the patent holders, the Pharmaceutical Manufacturers' Association of Canada as they are known, and the minister felt that they would have to hold to the position which they had taken, namely, with ten years' exclusivity against others being given a licence to manufacture and sell generic drugs.

The next issue that the committee looked at was promotion of research and development. With respect to this subject, the Consumers' Association emphasized that the pharmaceutical industry—in other words, the patent holders—believed that they were committed to significantly increasing the amount spent on research, and yesterday I indicated that that would be from 5 to 10 per cent of sales over the period until 1996. The Consumers' Association of Canada said that since the pharmaceutical industry was committed there was no reason why that commitment should not be put in legislative form. In other words, a guarantee by statute. As all of us know, commitments given in good faith are sometimes not honoured, for whatever reasons. So where there is a legislative requirement, coupled with a sanction, the chances of commitments being lived up to are very much greater.

• (1410)

The Consumers' Association even went so far as to say that they believed there should be an absolute sunset clause. I discussed sunset clauses yesterday. The Consumers' Association felt that the undertaking to have a review by cabinet after four years was too wishy-washy and too undefinitive for them to support.

The CDMA, who are the generic drug manufacturers, said that they have no particular compromises to advance with regard to R&D. They do not have to. If we accept their position and support generic drugs, R&D will automatically follow at an enhanced pace. Looking at the studies made by the OECD and other organizations, they have proved that when there was a vibrant fine chemical and generic organization, much research was done.

The PMAC, the pharmaceutical companies, said that they had looked at the bill and after four years—they were not too precise about the meaning of the word "after", but on questioning said "in" four years—they expected cabinet to look at how they had acted as an industry. If they had not done the things they said they were going to do as an industry, they thought they could look forward to very "unfavourable" results. On this point the minister took the same position.

With regard to consumer protection, the Consumers' Association, again looking to see if there was a compromise here, made two suggestions. They felt that it was absolutely essential that some action be taken in this regard. They were rather draconian in their suggestion, I must say. They said that if there was a finding that a company was charging an excessive price for a drug, they should lose their exclusivity for all drugs. That was only a suggestion.

The Consumers' Association did not have a suggestion with regard to entry pricing, but they were concerned about it. They said that the statute was not definitive on price increases.

The PMAC said:

> In the future, annual price increases will be limited to the Consumer Price Index and new product prices will be regulated to assure that they are not excessive in relation to the established prices of competing products.

That is a very definitive statement made by the patent holders' association in their appearance before the Banking Committee.

With regard to entry pricing, the minister said that in his opinion the statute as it was drawn provided for the Drug Prices Review Board to look at prices of new drugs. Of course, he did recognize that that was after the fact; sometime after the drug was being sold in Canada.

Of all the things that bothered the members of the committee and myself, one was the way the minister waffled when it came to the question of dealing with increases in patent drug prices. I will develop that later, because I think it is critical. But instead of the CPI—I will leave this one thought with you—controlling increases in patented drug prices in the future, in the words of the minister, was "only going to be a target."

Senator Frith: Only going to be a what?

Senator Sinclair: A target, and we all know how many times people miss targets.

Senator Doody: Indeed they do.

Senator Sinclair: The members of the committee were impressed with the representatives of the fine chemical producers. It is not only the patented drug people who have Ph.Ds and people with scientific backgrounds working for them, the fine chemical people also do. The representatives of the fine chemical producers who appeared before the committee were learned and impressive. They suggested a compromise in respect of manufacturing the fine ingredients in Canada, which, as honourable senators know, under Bill C-22 as passed by the House of Commons, gives exclusivity for seven years to the patent holder to bring it in from wherever. But there was a window of opportunity there of three years, ten years to seven years. They suggested that that was not enough, that it should be a window of opportunity of five years—in other words, that the measures of exclusivity would move not as they would under Bill C-22 as passed by the House to ten years and seven years but to seven years and five years.

As you can see, honourable senators, we were not making very much gain in coming up with a compromise. Certainly, the Patented Medicine Prices Review Board was looked upon by the minister as being fundamental; ten years for importation exclusivity for patented drugs was looked upon by the minister as being fundamental, as was the seven years in regard to exclusivity to patent holders in regard to freedom from competition from generics that were sourced in Canada.

The minister said that he could not, and would not, recommend to his colleagues that the fundamental principles of Bill C-22 be altered.

The members of the committee, faced with that, turned their minds to another approach, an approach of leaving the fundamentals there, but seeing whether there was flexibility in other areas that would, in part, allay the fears of the people who had expressed them with sincerity in the many submissions made to the Special Committee of the Senate on the Subject Matter of Bill C-22 and to the committee of the other place. It was the view of the committee that some reasonable compromise in these non-fundamentals was not only possible but was absolutely essential. The first of those that I will turn to is the question of drug prices.

● (1420)

Obviously, when a new drug comes on the market and you have a patent and you are exclusive, you are in a monopoly position. I am sure that all of you who have wished at times to be in a monopoly position, when you were in business, and found out that you were not, recognized the restraints that were on you when you were not in a monopoly position.

Nevertheless, here are monopolists who have been granted a monopoly by this government. They say to themselves, "Now, what can I charge for this?" I can tell you what they will charge. All the traffic can bear. That is the standard for every monopolist.

But the minister says, "Do not worry. If you look at the bill, the Drug Prices Review Board has a right to look at those prices and come to a conclusion that they might be excessive. And if the review board comes to a conclusion that that entry price is excessive, they can take action. I say that it is implicit in the bill that entry prices are within the ambit of control of the Drug Prices Review Board." The committee says, "Fine, Mr. Minister. If it is implicit, as you say, then in order to allay fears let us make it explicit." We have turned our mind to taking what was implicit and making it into something explicit.

Why were we so concerned about making it explicit that the Drug Prices Review Board had the mandate and the power to deal with entry prices? Because, obviously, if you can have an entry price that is high, then you do not have to worry about any restriction on increases for a considerable period of time. In other words, if I come in high enough, I do not have to increase for a number of years, and I can say, "Look at me. I am a patent holder of "X" drug, and I have not increased my prices in five years. I am a good boy; I am helping everyone." But I am sitting on a gold stool all of the time.

An Hon. Senator: Explain!

Senator Sinclair: The honourable senator asks me to explain "sitting on a gold stool." He has done it, so I do not have to explain it again.

So, in the committee we decided to look at various ways that we could deal with entry pricing. We came to the conclusion that because of constitutional law we were dealing with a delicate area and great care had to be exercised. The minister highlighted that when he said, "I don't think you can give authority to a review board to fix prices." Obviously, we know that price reviews, price-fixing, is a matter within provincial jurisdiction. However, you can deal with this in a different way by coupling what you are doing to something that is within your jurisdiction. In other words, deal with something that is clearly within federal jurisdiction, namely, patents.

The committee decided that they would accept the opinion of the Department of Justice. It was decided that to deal with this we would tie entry pricing to patent exclusivity and the exemptions from the impact within Canada of the compulsory licence. That is precisely what our amendments do in regard to this issue.

With these amendments we have met the constitutional challenge. We have assisted the minister by giving him a bill that would let him have explicit authority to allow his creature, this review board, to do explicitly what he had only given it implicitly.

We next turned our attention to the point of increases in drug prices during the period of exclusivity. Although I could recite many quotations, perhaps it is appropriate at this time to quote to you, honourable senators, two statements made by the honourable minister. On August 21, 1987, at page 8277 of the *House of Commons Debates*, he stated:

> This package, Bill C-22, provides consumer protection . . . It provides that drugs will not increase more than the cost of living.

Later on the same day, at page 8282 of the *House of Commons Debates*, he said:

> Under our scheme the Drug Prices Review Board will be examining those drugs . . .

That is, the patent drugs—

> . . . and keeping the price increases of them at less than the cost of living.

He made further similar statements, but when he appeared before the committee he said, "Well, really, what I had in mind was not that I was going to deal with patent drugs individually, I was going to deal with averages." He went out of his way, by looking at what had happened over the last number of years, to say, "If my legislation were in effect, the people of Canada would have saved some hundreds of millions of dollars," and he quoted a figure. We decided to consider how he arrived at that figure. Would you be surprised if I told you that that figure was not based on patent drugs? That figure was based on prescribed drugs, both single source and multi-source. Obviously, honourable senators, with generic drugs, over time, selling at 50 per cent of the value of the price of patent drugs he was going to come out with a lower figure.

I am not saying that the minister—and I am not going to say "deliberately"—tried to mislead us with that statistical work. I will say that whoever was giving him information did not explain it to him very well.

● (1430)

The committee strongly believes that the patentee's prices must not be allowed to increase faster than the increase in the consumer price index. To have that happen and to codify what the minister has told the House of Commons requires amend-

ment, and that is what we have done in the amendments dealing with increased drug prices. With those amendments, price increases of patent drugs cannot increase more than—they can increase less than but not more than—the consumer price index. But we were not quite as draconian in the sanctions we proposed as was the Consumers' Association. If there was a complaint and a finding that a patent drug had gone above the CPI in its increase, we said, "Okay, give the board authority to take away the exclusivity in respect of that drug or another drug with respect to which exclusivity was operating." Honourable senators, surely nothing could be more reasonable than that.

Now we come to research and development. It is difficult for me to say that a fine company like Squibb or Upjohn would not carry out what it said it was going to do, and I am not saying that. However, the basic commitments for R&D expenditures, the basic commitments that are so important to the pharmaceutical industries of Quebec and Ontario, are not commitments made company by company. They are commitments made by an association without assets. The only assets it has are furniture and a heavy purse with which to conduct lobbies, as we have seen.

Certainly, the Senate is interested in supporting moneys being spent to enhance high tech research and to make sure that jobs in these areas are available. Certainly, if we are to give exclusivity for ten years, and have done that by getting a *quid pro quo*—the 10 per cent of sales committed to clinical and basic research in Canada—that is an indication of interest. What we are suggesting here is to make certain that nobody is caught by surprise. The minister has suggested, "Leave it loose; leave it to cabinet to decide whether it wants to accept something." We say, "No. Jobs in Quebec, Ontario and other places are too important to be left to cabinet discretion when it is possible to put it into a statute."

Some Hon. Senators: Hear, hear!

Senator Sinclair: That is what we are saying here: "Strengthen this, Mr. Minister. We accept what you say, but strengthen it by making it legislative."

Let me again quote the minister on this issue. He said:

> Under our proposal we have a commitment . . . for 10 per cent of sales to go into research and development, which is the international norm for this industry.

That was said on August 21, 1987, and appears in the *House of Commons Debates* at pages 8280 and 8281. At another time in the House of Commons what did the minister say, dealing with R&D? He said—and watch this:

> The commitment is worded so that 10 per cent of sales will be invested in research and development.

Honourable senators, yesterday reference was made to a letter of the minister in which he referred to the commitment in Bill C-22 on R&D. Honourable senators, there are no commitments in Bill C-22 as passed by the House of Commons dealing with R&D—not one commitment. The only thing that is there is a review after four years by cabinet and after nine years by Parliament.

So our committee turned its mind to this problem to see whether there was any reason why those kinds of commitments could not be put into legislative form, because we anticipated from some remarks made by the minister that he might feel that if a patent was conditional upon spending on research it would possibly abridge the Paris Convention dealing with intellectual property.

So we considered that, and, taking our cue from the minister in the way he handled prices, we decided that we could apply the same technique with regard to R&D—that is, by not making R&D related to the granting of a patent but by making the commitment of R&D relative to the exclusivity, relative to the restriction on the compulsory licensee; and that is what we have done.

The minister said to the committee, "You know, I do not like arithmetical tests. I like judgmental tests." The trouble with that is that 10 per cent of sales results in a number. The minister does not seem to remember that 10 per cent of X gives you a number. He also said, "You know, I want this committee to understand how fair I am, and how much I am concerned about fairness, and I would hate, with the numerical test, to have some poor company whose sales had fallen off to lose something, to lose some of its rights that it got for exclusivity, because it did not carry out its commitment of 10 per cent." What the minister forgot was that if sales went down because the company got into some kind of trouble, then so would its commitment go down. That is one of the advantages of having the kind of formula we have put in statutory form.

● (1440)

I now wish to deal with one other matter, and it is sometimes referred to as "retroactivity." One of the great things about being in the Senate is that you learn things. I have learned that since the days when I practised law there has evolved a distinction between "retroactive" statutes and "retrospective" statutes. So, I looked up the great book on drafting which, I am happy to say, was authored by an old friend of mine, Elmer Driedger, when he was with the Department of Justice. I found something in there that gives me a great deal of comfort, and I would like to read it:

> Retrospective laws are no doubt *prima facie* of questionable policy and contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts and ought not to change the character of past transactions carried on upon the faith of the then existing law.

Why *prima facie*? Because every once in a while a statute gives somebody something without taking anything away. In those kinds of cases retrospective legislation is fine. But to tell you how careful you have to be the minister said, "I have an opinion from the Department of Justice that Bill C-22 is not retroactive." Of course, it is not. What it is is retrospective with respect to the dates upon which exclusivity is being made retroactive to a date set out in the statute. The statute itself is not retroactive, but the effect of the retrospective application is

to affect rights retroactively . Certainly, nothing can be more unfair, particularly when you take away a right granted under the law and give it to a competitor, as does this bill, without compensation.

Now, if honourable senators do not think that there was a right of action, or the abridgement of a right, let me draw your attention to the fact that the bill specifically bars you from getting damages when your right is taken away and given to your competitor without compensation. Proposed subsection 41.26(4) reads:

> No action or proceedings for any compensation or damages lies against Her Majesty in right of Canada as a result of the application of subsection 41.11(1) or 41.14(1) to a licence referred to in that subsection.

In other words, even though you have a compulsory licence, even though you have an application for notice of compliance, even though you are in the process, even though you are selling the drug, even though it is being sold in pharmacies in Oakville, in Ottawa, in Goobies, Newfoundland, and in Whonnock, British Columbia, even though it is being sold everywhere—you get nothing back. Nor can you sue the province.

Senator Frith: And you have to take it off the shelf.

Senator Sinclair: Yes, you have to take it off the shelf. I do not know what you do with it when you take it off the shelf. Maybe you send it to Pakistan.

Let me give another example. It can be found in clause 32 of the bill. It is a rather remarkable thing. By this clause a particular drug has been singled out for special statutory provisions. When we went into the matter we found a unique situation had developed with regard to a drug that was developed and formulated in Japan. The drug was brought into Canada to treat hypertension. It was found that by changing the formulations and doing other clinical work, largely in Montreal, the drug could be applied effectively against angina. Is this not a very wonderful thing? Everybody said, "Yes, and we will put something special in the bill to take care of it. But because it will affect existing rights we had better be careful that we do not get sued." So, they put in the same kind of provision which statutorily bars actions against the Crown. What did the minister have to say about that? Honourable senators, he shocked us all, even his colleagues, when he said that it is there because they did not want anybody to make the mistake of suing the government and spending money. That is why it is there, just to help everybody out.

Honourable senators, there is no justification, as the Honourable Sinclair Stevens once said, for ever passing a law that takes away rights without compensation. That minister said, "This government will not change the rules in the middle of the game. That is one of our tenets." The minister responsible for this bill, the Honourable Harvie Andre, says that this is life. It is like a change in the Income Tax Act in the sense that notice is given, and once notice is given the particular date becomes operative. The minister went on to say that these people knew way back in June 1986 that the government was going to change the law, that the government had a proposed bill, and these people should have governed themselves accordingly. He said that it is part of our law that once notice is given we can take away rights. However, we pointed out to the minister that under our parliamentary procedure for such action to apply it requires a notice of ways and means motion, introduced in Parliament, to effectively fix the date. Upon asking whether he had introduced a ways and means motion in regard to the retrospective application of this bill, he said no.

Senator Flynn: Lord, have mercy!

Senator Sinclair: As we said in our report, the fact that rights are being taken away from Canadians, that rights are being trampled upon, that rights are being extinguished without compensation, cannot be ignored. It must not be ignored. Accordingly, we are recommending amendments to take care of the matter so that exclusivity will only apply to NOCs coming into effect after the bill is enacted, and so that the retrospective application and the retroactive effect will be eliminated. That is what we have provided. Perhaps, before I leave retroactivity, I can give you a further quote from the minister. This comment was made to the legislative committee, and appears in issue number 16 at pages 85 and 86. There, the minister said:

● (1450)

> This bill does not affect any of the drugs currently on the market, so there will be no price consequences of this bill on anything currently on the market.

Honourable senators, that is not so. Mr. Andre was missing the point.

There is one further drafting matter that we dealt with in the report, so I will not spend a great deal of time on it. There was a difference between the English and the French text, which always bothers senators; that kind of thing always bothers people who are careful and precise. However, we have overcome that drafting error by making a small amendment.

I would like to go to one other matter. I have dealt with the message; I have dealt with the principles; I have dealt with the attempt of the committee to come to a compromise on exclusivity and on doing away with the structure of the board, which were matters that were recommended by the Senate Special Committee in its report and adopted by the Senate. Honourable senators, we dropped that amendment and adopted the principles of the bill, as I have said, and strengthened it, as the Senate is required to do when it looks at legislation.

The motion of the Honourable Senator Murray was also referred to the committee. That bothered me, and I wondered what that motion really amounted to. In essence, the honourable senator's motion said that when the House of Commons speaks, the Senate must be silent. That is the essence of that motion.

Honourable senators, I say to you that there is nothing in the constitutional law in support of that allegation; nothing. Therefore, the amendments proposed by the Senate, following upon the recommendations of the Special Committee, were certainly within the ambit of the Senate, certainly within its jurisdiction, and certainly supported by the constitutional au-

thority that exists on behalf of this body, the Senate of Canada.

In any event, in a desperate attempt to, again, find a reasonable, common ground, as we were instructed to do by the Senate, the committee did find, I submit, a reasonable compromise; a reasonable accommodation by accepting the basic principles of the bill and strengthening it by codifying the price implicitness of entry drugs, the absolute of the consumer price index on price increases on patent drugs; by codifying what the patent holders had said they believed the bill to do and what the minister said the bill did. By codifying and legislating equally with regard to the very critical issue of research and development, we coupled that with the patent law and assured the people of Quebec that with these amendments they could look forward to jobs and look forward to a strengthened pharmaceutical industry in their province, and in Ontario. That is what we did.

Honourable senators, in closing, let me quote to you something that may assist us all in deciding what the phrase "end of the day" really means, since that phrase has been bandied about a great deal. Here I am quoting from Sir John A. Macdonald, someone whose reputation is known to us all; someone who is, perhaps, the greatest Conservative that this country has ever had. In referring to the Senate Sir John A. Macdonald summed it up so well when he said:

> It is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, but it will never set itself against the deliberate and understood wishes of the people.

Honourable senators, the understood wishes of the people are easy to determine in this case. They are in the evidence that was synthesized for us. There is no mandate given to pass this bill.

I therefore move, honourable senators, that the Nineteenth Report of the Standing Senate Committee on Banking, Trade and Commerce, containing several recommendations and two messages, be now adopted.

Some Hon. Senators: Hear, hear!

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

Hon. Jacques Flynn: Honourable senators, I thought that the Leader of the Opposition would state the position of the Liberal majority here in the Senate. I suppose it is implicit in his silence that Senator Sinclair has said all that can be said. Of course, it is very difficult to have the Leader of the Opposition pronounce on anything in a straight and clear fashion. When he decides that he will not speak, he does not whatever happens, and we can only assume that he is taking a given position.

[*Translation*]

Honourable senators, in that case I will express my point of view and, I hope, that of honourable senators sitting near me.

I listened with interest to the long and laborious speech by Senator Sinclair in which he commented on the report of the Senate Committee on Banking, Trade and Commerce. I noticed that his copy of the report had a red cover, very appropriate in the circumstances, because when he spoke on behalf of the committee, he was speaking exclusively for the Liberal majority on the committee. He did not bother to mention that, in every respect, the positions expressed in this report were exclusively those of the Liberal majority.

And now for my second preliminary comment. To hear Senator Sinclair, one would think we were at the second reading stage or were considering a bill after preliminary consideration in committee, not a bill that had been discussed for quite some time in this chamber.

Senator Sinclair made no mention of the fact that the bill had been considered in this chamber since April 8, which means for seven months. He mentioned only implicitly, a favourite phrase of his, that the bill had been examined previously by another committee. His report was the second report on the same subject, something that never happened before in the Senate.

However, I will get back to that later, and now I would like to start by looking at the recommendations in Senator Sinclair's report.

Implicitly, I know he likes that word, Senator Sinclair's report constitutes an about-face, compared with the report by the special committee. The report of the Special Committee of the Senate on the Subject Matter of Bill C-22 asked for a four-year period of exclusivity, without controls, without a review board. In fact, it was the camouflaged status quo recommended in the first report. The House of Commons said no. Senator Sinclair's committee—I think we can say it is his committee, because after seeing him chair the committee, one realized it was his committee and not anybody else's, and that he would not tolerate any interruptions or digressions that he considered to be entirely beside the point. In his report, the concept changes. The recommendation is for a period of exclusivity of ten years, with monitoring. The bill is given a new effective date. The report accepts the review board but restricts its discretionary powers. It is a whole new approach. The Standing Committee on Banking, Trade and Commerce has defined a whole new policy in its report.

Now let us see what it all boils down to. As far as the question of retroactivity was concerned, the senator was almost ecstatic about the effects of retroactivity. Many of our statutes—and not just tax laws—have effective dates that predate the date of proclamation. That is nothing new. The senator wanted this to be legitimate only in the case of a Motion of Ways and Means. However, the difference between tabling a Motion of Ways and Means and a bill is practically nil.

• (1500)

Then the senator was upset because the bill provided there could be no recourse against the consequences of the bill's coming into force on the agreed date. Doesn't the senator realize that on the proclamation date, when the bill becomes

law, the consequences will be similar for all those who are engaged in research? The senator did not even think about amending the law to repeal this provision concerning possible recourse. The coming into force of a law at any time can affect—and in this case will affect—the rights in much the same way as certain rights may be affected as of the date provided in the legislation. The senator made a mountain of a molehill. He might again quote Mr. Driedger. I would suggest he read not only the quotation but the rest of the book as well. This might stir his memory of his student days and his first years as a lawyer, and he will gain better understanding of what it is all about when he refers to the effects of retroactivity.

The second amendment proposed is important and has to do with fixing drug prices, and the senator has made a number of comments on the constitutionality of this provision. One can rest assured that the bill as drafted provides a link between fixing the price and maintaining the ten-year exclusivity. All the amendments do is limit the discretion of the review board and may quite simply scare off corporate investors. Without the proposed amendments, the bill empowers the board to suspend the patent. But here the amendment forces the review board to do just that regardless of the extent, if you will, of the offence or of the company's failure to comply with review board instructions. They want the board to be forced to remove exclusivity. It is bad legislation which does not leave any discretion at all. Indeed it is the same flaw in cases where the patent has to be suspended because a company is deemed to have failed to make the promised investments. Let us suppose a company has promised to invest $1 million and, according to the review board, it has invested only $950,000, for good reasons. The board, in keeping with the recommendations of Senator Sinclair—because in fact he is the one who made all these recommendations, and I hope he will be given copyrights with respect to this report—has to cancel the patent in such a case. There is no excuse possible. The review board has to suspend the patent.

You are taking away this discretion from the board and forcing it to make an irreversible ruling. The patent is suspended.

In passing, as concerns investments, the major argument raised by Senator Sinclair was that the commitments had been made by an association without any assets. Perhaps he was misinformed, but according to my own information, the commitments were made by the pharmaceutical companies involved. It is on the basis of the specific commitments of each company that the governement will review this legislation in four years, and perhaps even before that. Senator Sinclair will probably say that the government is not to be trusted even if his own party is in power by then!

In any case, I shall now conclude my comments on the proposals contained in the report. I think that I have said enough to show that they are neither realistic nor practical.

I now come to the fact that we have been debating this issue for seven months. No one is questioning the powers of the Senate to reject any piece of legislation except in constitutional matters.

However, everything resides in the way that we use these powers. We can do so in a spirit of cooperation. This is ordinarily what happens. Indeed, when the Committee on Transport and Communications examined Bills C-18 and C-15 last summer and wanted to propose some amendments, it discussed the situation with the minister involved. An agreement was made, and the amendments were submitted to the House of Commons and accepted. There was no confrontation. However, in this case, the Senate, or rather the Liberal majority in the Senate, has tried to use its powers in a spirit of confrontation. Even if you do not want to admit it, it still remains that the majority used its powers in a spirit of confrontation and partisanship.

First, there was the refusal to have a pre-study of this bill. Then, there was the creation of a special committee entrusted to known adversaries of the bill, such as Senator Bonnell. We all know what happened. The committee travelled throughout Canada, not to hear the views of the public, but to mobilize the opposition. For instance, the committee heard representatives of the Consumers' Association about ten times, which was redundant. What the committee wanted to hear was that people were afraid of the period of exclusivity as this might result in increased prices for new drugs.

It was not difficult to raise such fears. Once more, as I have already said, if you ask someone if he wants to pay more for his drugs, he will certainly say no. If you ask instead whether he is willing to pay a bit more for better drugs, he will naturally say yes.

● (1510)

The committee came back and what did it recommend? It was against the bill. As I remember, Senator Bonnell, Senator Thériault and Senator Buckwold would not accept any compromise. They were against that bill. In such circumstances, we would have expected the committee to tell us to vote against it.

Instead, with an obvious lack of courage, they moved amendments aimed at preserving the status quo. As you know, actually drugs enjoy exclusive rights for approximatively four years without this legislation. So, they suggested that this bill should provide for exclusive rights over a four year period. In such circumstances, there is no need for a review board or for any control. The bottom line is that what has been proposed amounted to the status quo.

When these amendments were rejected by the House of Commons, what could the majority do to save face? This question was referred to Senator Sinclair's committee which should have studied this bill in the first place. I thought Senator Sinclair would be more objective than Senator Bonnell.

He may be at first glance, but not really. There still was a confrontation with the government, but not openly this time, as they avoided taking a direct position against the Bill. They are trying to hamper the government and this is the whole

purpose of the report from the Committee on Banking, Trade and Commerce. This way, if a minister rejects the amendments and if the bill dies on the Order Paper, they will be able to say that they are not to blame. They pull the lion's tail saying: I am not the one who pulls it, it is the lion. It is as simple as that.

This is the historical background of Bill C-22 to date. I do not know when we will see the end of this. I hope it will come soon because I suggest that the way the majority proceeded has destroyed the atmosphere in this house. I hope we will come back to the old days when there was more openness in the Senate.

The background of Bill C-22 illustrates the longest filibuster I have ever seen in my 30 years in Parliament. I believe it can even be safely said that the last comparable one goes back to Confederation time. It is a record of time spent to actively debate a bill in this house.

Second, we have also been breaking new grounds by referring a bill to two committees in a row, first the special committee and then our Committee on Banking, Trade and Commerce.

Third, it is the less straightforward, I would even say the most hypocritical filibuster I have ever seen because its purpose was to reject the bill. Through their proposals, both committees were simply trying to avoid taking a resolute position against that bill. They did not have the courage of their convictions.

There was another move to exclude senators from Quebec from the process, except Senator Gigantès in the special committee.

During consideration in special committee, senators from Quebec did not take any position, except Senator Gigantès. Senator Gigantès, incidentally, was very cautious. At one time, he wrote to tell us that he would rather see Bill C-22 passed in its initial form than defeated. I do not know where things stand at present, but at any rate that is what he told us. Then, it was an extremely costly filibuster, a waste of time and money. The second committee told us nothing the first committee did not already know. The first committee spent upwards of $300,000. I do not know how much the second committee has cost, but that is beside the point. In any case, it was a waste of time and money.

I would add, it was a pretentious and an ostentatious filibuster. Imagine trying to have the Standing Committee on Banking, Trade and Commerce establish a different policy on such a complex matter! Senator Sinclair talked about a compromise. The compromise already was there between the Department of Consumer and Corporate Affairs and the Drug Manufacturers Association.

● (1520)

That compromise was based on the investment commitments made by the various corporations. The compromise the committee was supposed to look for was not the one between the positions of the opposition in the Senate and the government. What was needed was a compromise between the parties to the compromise, that is the Department of Consumer and Corporate Affairs and the Drug Manufacturers Association.

But Senator Sinclair was aware the minister would not accept any changes. He was aware the manufacturers would not want any changes. At that point, there was no possible compromise. This is what strengthens my point—the committee carried on with the confrontation initiated when the special committee was established and that has been going on ever since. That could be the subject matter of a novel. I could retrace all that transpired, since it is forgotten.

The other day, I was having a second look at the *Debates of the Senate* from early September, when we were recalled. There was some talk of referring the House of Commons' message to the Standing Committee on Banking, Trade and Commerce. I remember the comments made by the Leader of the Opposition at that point, when he expressed his sincere wish for a compromise, for a solution to that problem. Since then, we have seen this cat and mouse game.

Finally, we had the report last week. It is now being discussed. Apparently, we are going to reach a decision. There will remain another chapter, perhaps two. We may possibly have a third committee, I do not know. In any event, on that matter, the confrontation up till now is not in line with the Senate's role.

If actually the bill is as bad as some senators would have it, the Liberal opposition merely had to defeat it.

I see Senator Buckwold saying yes. I think he would have voted it down. He disagrees with the way his party has been acting on this matter. He does not believe there was a genuine quest for a compromise. He and I quite agree on that point. Unfortunately, Senator Buckwold's and Senator Thériault's views were not followed in the circumstances.

However that may be, honourable senators, the message will be sent to the House of Commons. I do not see how the government could accept these amendments which are hypocritically destroying the bill.

We are not dealing here with a major question of principle, but with a very pragmatic one. That a Senate committee should try to define a different policy on the basis of the argument raised by Senator Sinclair, I feel, is to act irresponsibly. I, for one, wish this debate would end as soon as possible. I suppose we will have to be satisfied with the committee report message as drafted being sent to the House of Commons. It will be turned down. As soon as we get the reply from the House of Commons, I hope we will put an end to this disgrace.

Hon. Azellus Denis: Honourable senators, may I direct a question to Honourable Senator Flynn? I wish simply to know how to assess responsibilities as to the delays in the passing of this bill.

Is it not true that at third reading stage, we received Bill C-22 at the very end of June and that not only were we unable to go on holidays, but had to work also during July and August? Normally, we should have been on holidays. Therefore, we could have adjourned in September or October, so

that the Liberal opposition would have delayed by two months and not by seven months, as you said, the passing of this bill.

I should like, therefore, to check the sequence of events so that everyone may assume his or her own responsibilities. If this great bill was to create so many jobs, and if it has cost so much both in time and money, why did the Conservative Party not introduce it in 1984, 1985 or 1986? Why introduce it only at the end of June 1987?

We are therefore willing to admit our responsibility for the months of September and October. But since 1984, it is the responsibility of the Conservative Party. I should like to know why Senator Flynn suggested that we had delayed the passing of this bill for a full seven months.

Senator Flynn: Honourable senators, Senator Murray provided us at one point with the history of this bill. I refer Senator Denis to these data which distinctly shows all the time which the other place has devoted to this bill.

Senator Denis should remember that this bill was introduced in 1986. It was introduced again, I think, when the new session began in the fall of 1986.

Senator Sinclair: Not so!

● (1530)

[*English*]

No, it was not tabled in 1986.

Senator Flynn: In the house. That is what I was saying.

[*Translation*]

Senator Denis: I want to know when it was tabled here after third reading in the House of Commons.

Senator Flynn: Honourable senators, I am getting there.

Senator Denis: After the White Paper or the Green Paper!

Senator Flynn: Senator Denis, you should not be upset. What I am deeply interested in is to know your position on this bill. I asked you again yesterday, but we still do not know.

Appointments to the Special Committee on the subject-matter of this bill were made on April 8.

Senator Denis: In other words, the White Paper.

Senator Flynn: We got the bill in June.

Senator Denis: At the end of June.

Senator Flynn: Yes, but the committee was already appointed and operating. The committee submitted a report at the end of June, with recommendations that went beyond the competence of the Senate. The Senate re-examined the bill. We came back in August. Finally, a report was sent to the House of Commons. When we came back at the beginning of September, we received the message from the House of Commons.

The message was referred to the Standing Committee on Banking, Trade and Commerce at the beginning of September. We thought the committee could finish its work in a few weeks. The committee's report was tabled last week and the Senate was not ready to consider it. If this bill wasn't examined in the Senate for seven months, I can't count. The Senate was not sitting but the committee took its own sweet time to do what it had to do. It did not work very hard and it travelled a lot.

In the Standing Committee on Banking, Trade and Commerce, we went back to square one. Again, if Senator Denis would care to look at the proceedings of the committee's activities, he will agree this is the longest it has ever taken a bill to be passed by the Senate.

Senator Denis: Honourable senators, I may remind you that Senator Denis told the truth!

Senator Flynn: Who?

Senator Denis: Senator Denis told the truth when he said that the bill did not get here until the end of June. We worked during summer recess, but we could have waited until September.

In fact, we had two months to consider this bad bill you refused to improve. We made suggestions. We tried to reach a compromise but you wouldn't cooperate. So it's your baby now, and you will be responsible for the consequences.

Senator Flynn: In any event, if Senator Denis had bothered to work on the committees that were asked to consider this bill, he would be a lot better informed. He would know a lot more about the subject, and he would know what he was talking about.

Senator Denis: They already had Senator Flynn. They didn't need me!

[*English*]

Senator MacEachen: Question!

Senator Doody: Question!

Senator Sinclair: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Sinclair speaks now, his speech will have the effect of closing the debate on the motion.

Senator Sinclair: —I am sorry I did not bring to the attention of honourable senators the fact that the report is the report of Liberal senators. I thank Senator Flynn for bringing that to my attention. I apologize. It was there in the report.

Honourable senators, I listened to Senator Flynn and I thought that in light of his experience and knowledge I would have found a sense of accommodation and recognition of a job done here to bring about some kind of reasonable compromise.

Senator Flynn: Sorry.

Senator Sinclair: I am sorry that he did not so do.

Some Hon. Senators: Hear, hear!

Motion agreed to and report adopted, on division.

SUPREME COURT ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Tremblay, for the second reading of the Bill C-53, An Act to amend the Supreme Court Act and to amend various other Acts in consequence thereof.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Nurgitz reviewed the provisions of this bill. It makes some fundamental changes in the proceedings for appeals to the Supreme Court of Canada. Senator Nurgitz outlined them all. I and my colleagues certainly support the bill, but there are questions that should be considered in committee.

We certainly would not want to support anything that would undermine the importance of the court, or which would jeopardize the laws of fundamental justice, nor would, of course, the Minister of Justice or the court itself. I think the committee should have someone appear before it from the government to give assurances, in general, that there are no such interferences with the laws of fundamental justice, one of the most important of which is the resort to the court as a final court of appeal.

As Senator Nurgitz has stated, oral judgments are not necessary in provincial courts of appeal and, therefore, the argument is that they should not be necessary at the level of the Supreme Court of Canada.

Senator Doody: Oral judgments are not worth the paper they are written on.

Senator Frith: You will bring that up in committee, no doubt.

Senator Doody: I will.

Senator Frith: In any event, no one quarrels with the vital national role which the Supreme Court of Canada has traditionally played. So I do not consider the fact that provincial courts of appeal are not required to pronounce in court their judgments to be a reason for the Supreme Court of Canada not to do so. There are other reasons which we will hear about in committee.

Is there any unintentional diminution of the role of the Supreme Court, and does the fact that the court does not have to give its reasons and pronounce its judgments orally in any undesirable way reduce the important visibility of the Supreme Court of Canada? The Supreme Court of Canada recently—and by that I mean within the last ten years—has attracted the same attention to its judgments as has traditionally the Supreme Court of the United States. My experience has been that for some period of time—at least since I became a lawyer in 1949, which is 38 years—the judgments of the Supreme Court of Canada for many years were largely of interest to lawyers whereas judgments of the Supreme Court of the United States always received wide publicity. I think it is desirable that such publicity be attracted by judgments of the Supreme Court of Canada, because it frequently deals with matters not just of arcane law but with law of important social, economic and, sometimes, cultural dimension.

I also want to consider some of the more detailed aspects of the bill such as the fact that, as I understand it, appeal as of right is maintained on questions of *habeas corpus*. I think that most desirable, but I have not had an opportunity to examine the bill in enough detail to assure myself that that is so. I believe it is somewhere in those clauses between 11 and 14.

• (1540)

Honourable senators, I want to make just one other reference for the sake of our record, and that is to the August 1987 report of the Canadian Bar Association on the Supreme Court of Canada. The CBA endorsed the provisions of Bill C-53 abolishing certain as-of-right appeals. The CBA viewed "with the utmost concern" the caseload of the court and the length of time required to render judgments. The report noted that the number of judgments rendered annually by the Supreme Court of Canada has decreased significantly, falling from 138 in 1979 to 81 in 1986. Someone checked with the registrar of the court as to the increased number of appeals brought in because of the Charter. The information I received was that the number of appeals to the Supreme Court of Canada has not increased but that the complexity of the cases has. That, therefore, deals with the second branch of the CBA's position; namely, that the caseload of the court and the more complicated appeals brought to it have resulted in an understandable delay in the length of time required to render a judgment.

The CBA would have gone further than Bill C-53 with respect to leave to appeal. It would have abolished appeals as of right in all civil cases and in all criminal cases, including the denial of *habeas corpus*. It also would have ended the power of provincial courts of appeal to grant leave to appeal to the Supreme Court of Canada, and would have provided that reference cases—that is, cases wherein governments refer a point to the Supreme Court of Canada—also be heard only with leave.

Honourable senators, those are some of the questions that I hope will be examined in committee. Other questions of principle may be raised, but at second reading there is no doubt that we support this bill. Because I know that the Supreme Court itself supports the bill, I am sure that questions I have raised and questions raised by other honourable senators in the course of committee hearings will be answered to our satisfaction. I certainly hope so.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, for Senator Nurgitz, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Macquarrie, for the second reading of the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.—(*Honourable Senator Bosa*).

Hon. Peter Bosa: Honourable senators, I rise to take part in the debate on Bill C-55, and I wish to express a few of my concerns about this legislation. Before doing so, however, I would like to congratulate Senator Grafstein on the brilliant speech he gave yesterday. He went into the historical background of the Immigration Act and how the policy on immigration and that on refugees has evolved through the past 40 years.

One of the first disappointments I might express about this bill is the lack of any reference to the social significance of sponsored immigration. That reference had been promised to me by Senator Barootes in the course of a debate that took place in March of 1986. At that time we were discussing a bill on refugees, which, incidentally, was also known as Bill C-55. In the course of that debate I said to Senator Barootes that I would like to have reference on a future occasion to the contribution made to our society by sponsored immigration. In the eyes of many people, sponsored immigration is considered not to be as beneficial to Canadian society as immigration through the point system.

In addition to that, I also mention that when in opposition, the Conservatives supported an amendment made by Andrew Brewin, the late member from Greenwood, in the course of debate in 1977 when the Immigration Act, 1976 was proclaimed. The nature of that amendment lies in the fact that Mr. Brewin wanted to expand on the preamble of the act. The preamble read that immigration to Canada should reflect the federal and bilingual nature of Canadian society. Mr. Brewin suggested that the preamble should be amended to read that immigration to Canada should reflect the federal bilingual and multicultural nature of the people of Canada. Honourable senators, that amendment was defeated, although it was supported by the Conservative opposition of that time. Many members of Parliament took part in that debate, and the Conservative members really condemned the then government for not having included in the preamble of the Immigration Act, 1976 a reference to multiculturalism.

I made these views known to Senator Barootes, after which he wrote a letter to the Minister of State responsible for Immigration. This is the way he expressed his views to the minister, the Honourable Walter McLean, P.C. His letter states:

Dear Walter:

I have the honour of sponsoring Bill C-55 through the Senate.

Second reading occurred on Wednesday, March 5, 1986 and the Bill was referred to the Standing Senate Committee on Social Affairs, Science and Technology, which Senator Arthur Tremblay chairs, where it should be considered next week. Some pre-study of the Bill was undertaken by that committee on December 3, 1985.

In speaking on Bill C-55 in the Senate, Senator Peter Bosa brought up two areas of concern and asked that I bring them to your attention; not as amendments to Bill C-55 but for consideration in the major rewrite of the Immigration Act contemplated for later this year in response to the Plaut Report and the report of the Legislative Committee of the House of Commons.

These are well expressed in the Debates of the Senate for Wednesday, March 5, 1986, which I enclose for your easy reference.

His first and major concern has, as you know, been voiced before by several groups. It involves the inclusion of "multiculturalism" as an objective of Canadian Immigration Policy in addition to the two aspects of "federalism and bilingualism".

The second concern was in the area of any possible distinction between sponsored immigrants and "landed" immigrants in relationship to the value of their contribution to our country. I am sure that no implied, intended or indirect distinction or discrimination is made between any such categories of immigrants by the government of Canada, either in the Act or in our attitudes, but Senator Bosa suggests a study of the class of sponsored immigrants be undertaken to dispel any mistaken notion, as well as any implied discrimination as to the contribution made between immigrants with various levels of monetary means.

I am pleased to pass this information along to you in the important considerations which you must give to the major revision of the Immigration Act, 1976.

With kindest personal regards,

Yours most sincerely,
E.W. Barootes
Senator

● (1550)

The minister's reply to that letter, dated March 19, 1986, reads as follows:

Dear Senator Barootes:

I am writing in reply to your letter of March 6, concerning Senator Bosa's views regarding immigration and the lack of a reference in the Immigration Act to the multiculturalism and heritage of this country.

While I believe it is not appropriate, and indeed, too late in the day to use the amending process for Bill C-55 to take Senator Bosa's views into account, I do not have any difficulty with the principle. Section 27 of the Constitution makes reference to the multicultural heritage of Canadians and I would think we could find some kind of language to reflect this in the Immigration Act.

I will be pleased to give this issue full consideration in the amending process that deals with the broader reform

> of the refugee determination system which we hope to introduce in late spring.

That letter was written in 1986. It continues:

> As to sponsored immigration, I do not think anything as elaborate as a study is necessary. I will, however, see if our public affairs group can make recommendations on ways and means to enhance the perception of sponsored immigration.

It is signed "Yours sincerely" by Walter F. McLean.

Honourable senators, those were promises that were made during the debate in March 1986, and I am very disappointed that they are not included, as promised, in Bill C-55. That is the bill to which the Honourable Walter McLean referred when he said that in a future bill that amendment would be included.

I ask honourable senators opposite how much credence we can give when a minister of the Crown makes a promise in writing, and it is in the records of the Senate, and the promise is not kept? I repeat that I am very disappointed that it is not included in this bill, and when this matter is referred to committee I intend to propose an amendment.

Some Hon. Senators: Hear, hear!

Senator Bosa: Honourable senators, there is, however, one area of agreement in Bill C-55. Everyone—government, churches, the Bar, refugee organizations—agrees that this country is long overdue for an overhaul of our refugee determination system. We all recognize that the current system has become a back door for people seeking to avoid normal immigration procedures. We are aware that the anomalies and delays of the present cumbersome system hurt genuine refugees, and we looked forward to the introduction of Bill C-55 which we hoped was going to bring in a streamlined, yet flexible, and compassionate system for quickly identifying genuine refugees and deterring abusers.

Unfortunately, I am disappointed, if not outraged—as are virtually all informed commentators on the matter—by Bill C-55. Instead of streamlining we have complexity. Instead of focusing on identifying genuine refugees and letting them stay in Canada we have a bill which does everything it can to try to get other countries to take responsibility for them. Instead of a fair process we have a system that greatly restricts the right to appeal adverse decisions. Instead of relief that the government has finally acted we feel consternation that it has acted in this fashion.

Honourable senators, in a bill as lengthy and as complex as C-55, I cannot begin to address all aspects of its subject matter. I will, however, touch on those aspects of the bill which are most troublesome. Foremost among those aspects are procedures that occur at the screening stage. Screening takes place before any case can be considered in full by the new refugee board, and is clearly designed to keep as many people as possible from proceeding further through the system. No one objects to weeding out invalid claims quickly—indeed, we insist on it—but this system is designed to weed out genuine refugees and to send them back to the country from which they came, if that country is on a certain list.

Honourable senators, from where does that list come? It comes from cabinet, which, as we are all aware, means that it is initially drawn up by departmental officials in the Department of Employment and Immigration. For years experts have been saying that we needed to keep more distance between immigration and refugee matters, that we needed more expertise in the refugee process. So I ask, honourable senators, why is not the new expert refugee board the one to make this list—if, indeed, we need a list at all?

There is only one criterion for a country to be put on this list: Does it comply with article 33 of the convention relating to the status of refugees? Article 33, granted, is a most important one in the convention and protects refugees from being sent to the country where they fear prosecution. But we have no assurances of what will happen to those people we send back to countries on the list. Will they be admitted to the country? Will they be put in camps? Will they be kept in detention? Will they be allowed to make a refugee claim in that country? Most serious of all, will they be sent from that country to yet another country which may not be on Canada's list? We will not know.

We would, at least, have had some reassurance on this point had the bill introduced in this chamber been the same as the one originally tabled in the other place. Before being changed in committee the bill provided that a claimant had to be allowed to return to the "safe country," as it was then called, or have a right to have his or her claim determined there. Both of those minimal protections have now gone. To my mind it is ominous that the words "safe country" no longer appear in Bill C-55.

If claimants managed to pass the hurdle I have just described, and cannot be returned anywhere else, their claims are then examined to see if they have any credible basis, although that term, in my opinion, is somewhat vague. If the decision-makers rule against a claimant at this point, the person will be sent back to the very country from which he or she claims to fear persecution. Honourable senators, is the government so sure that no mistakes can be made that it is still willing to take that risk? Of course, the people whose claims are not valid will not suffer from being returned. But what about those who do have valid claims, but who, for one reason or another, are rejected at this stage? Yes, they can apply for judicial review of the decision, but they must await the decision from their home country. Success in court will be cold comfort to those suffering persecution because they were returned.

This aspect of the screening process is directly contrary to the conclusions of the Executive Committee of the High Commissioner for Refugees, of which Canada is an active member—namely, that claimants be permitted to await the decision on their appeals inside the country.

Because of the speed of the screening process few claimants may be able to have counsel of their choice. Duty counsel will

be provided by the government in those cases, but those lawyers may not be sufficiently independent and may not have time to establish a relationship of trust with the claimant.

For those who make it through the screening and who receive a negative decision the right of appeal is limited, indeed. Appeal to the Federal Court will be "with leave" only, which traditionally has been given in a very small number of cases. Although the word "appeal" is used in connection with refugee division decisions, the grounds for appeal are the same as those for judicial review. There is, therefore, no true appeal, and the merits of the case will not normally be considered. Neither is there any central administrative review of either screening or refugee decisions; so it is predictable that decisions will be inconsistent from one panel to the next, and most mistakes will remain uncorrected.

Honourable senators, I hope that I have been able to alert you to some of the problems associated with this bill. I urge you to give it particular scrutiny both here and when it goes to committee.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if no other honourable senator wishes to speak to the bill, I will move the adoption of the motion for second reading on behalf of Senator Simard. If any honourable senator wishes to speak to the bill, or wishes to stand it, I will resume my seat.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am not sure that no one else wishes to speak to it. Shall we suggest that by Tuesday or, at the latest, Wednesday of next week we make it clear that we wish the bill to go to committee, unless someone else wishes to speak on it? Of course, those wishing to speak on the bill can always do so at third reading, or they can attend the committee hearings to express their views.

• (1600)

On motion of Senator Frith, debate adjourned.

SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-22

CONSIDERATION OF THIRD REPORT OF COMMITTEE—ORDER WITHDRAWN

On the Order:

> Resuming the debate on the consideration of the Third Report of the Special Committee of the Senate on the subject-matter of the Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, tabled in the Senate on 23rd June, 1987.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, I have no objection to this order being withdrawn. I kept it on the order paper to measure the time from the third report to the end.

The Hon. the Acting Speaker: Honourable senators, is it agreed that the order be withdrawn?

[Senator Bosa.]

Hon. Senators: Agreed.

Order withdrawn.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DEBATE ADJOURNED

Hon. Philippe Deane Gigantès rose, pursuant to notice of Tuesday, October 27, 1987:

> That he will call the attention of the Senate to the Canada-U.S. Free Trade Agreement.

He said: Honourable senators, I shall be brief. You have been here a long time, and I shall adjourn this debate in my own name.

On a question of privilege, I would like to say to Senator Flynn that I have never kept my views on Bill C-22 secret from anybody. They are known. I am against that bill. If I misled him into thinking that I might not be against that bill, I apologize. I must be failing in my trade as a communicator.

Honourable senators, the Free Trade Agreement between Canada and the United States is truly something that will determine the future of this country and the nature of its institutions. Some of us believe that. I think it involves deep divisions among Canadians, and there are three divisions. First, there are those who believe that we should have absolutely nothing to do with the Americans. They are the NDP, and they do not believe in free enterprise or free trade at all. On the other hand, there are those—and it does not include all Tories—who believe that free enterprise, and only free enterprise, is good, people who, like Milton Friedman, say, and I quote from his book *Capitalism and Freedom*:

> In . . . a free economy . . . there is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits.

That is the only responsibility. Not all Tories believe that. Then there is a third group, the Liberals, who believe in a mixture of government action and free enterprise. We do not believe that the profit motive is evil. We believe that it is a useful instrument to harness, and we certainly do not believe that it is God.

I really do believe that we are heading towards a confrontation, a three-way confrontation among these disparate views of the Canadian economy.

Before I come to the specifics of the bill, which I shall do on another occasion, I would like to mention the fact that in recent days in a newspaper in Quebec they mention the views of Lester C. Thurow, a prominent economist of the Massachusetts Institute of Technology, who said that Canada should not worry about its economic independence, that it does not have any to start with, because there is no such thing as a Canadian economy, that we live in a global economy. The strange thing is that one of the closest associates of Lester Thurow, one with whom he has written a brilliant book called *Economics Explained*, Robert L. Heilbroner, the celebrated author of a history of economics called *The Worldly Philosopher, a His-*

tory of Economic Thought, said in the *New York Times Magazine* of August 15, 1982, that he foresees wrenching change as a pre-condition for repairing the economy not only of the United States but of other industrialized countries. He said:

> This is the abandonment of the idea of a unified world market as the global basis for accumulation, and its replacement with a system of regional blocs, each securing a reasonably protected market for its favoured producers, and regulating its intercourse with other large blocs.
>
> The reason for this change again lies in the power of modern technology to outflank and bypass established centers of production . . . The pressures of international competition are largely determined by the technology of transportation and information and communication. As long as these pressures were bearable, a worldwide free market could be held up as the ideal by which the greatest welfare could be achieved for all. In fact, that was not the way the free market worked, so far as the underdeveloped countries were concerned, but unquestionably free trade and the associated free market in currencies served the interests of the industrial countries very well.
>
> Today, though, things have changed. Cities that were Kiplingesque tourist attractions a decade or two ago are now centres of low-wage, high-technology manufacture and assembly. The jobs of German, French, British and American workers are being performed by Taiwanese, South Koreans, Thais—perhaps soon by Chinese. This is all very well for the consumer, but it is not so well for the producer. A successful social structure of accumulation must ultimately support its producers over its consumers, and that includes its working force as well as its capitalists. I believe that the flag of free trade will be hauled down in the coming restructuring of things, as the flag of laissez-faire was hauled down in the last restructuring.

This is not just the thinking of one economist. If we look at the evolution of what we call protectionist tendencies in the American Congress we shall recognize these strains, the strains of Heilbroner thinking, in the speeches of powerful legislators in the United States, all based on the idea that you cannot abandon your producers, you cannot, for the sake of an economic theory called "free trade," if you have any other avenue, abandon your steel workers, your other workers, if for no other reason than they will vote you out of office the next time.

● (1610)

It so happens that the United States is one of the few countries in the world that can have this dream of self-sufficiency. With Canadian resources the United States can pretty well do without the rest of the world, if it wants to. It would cause serious adjustments, but, as Heilbroner says, it could go into a mode where, as a trading bloc, it would deal through managed trade, bloc to bloc. There would no longer be a free world market, but a managed market in which giant partners—the European Economic Community, the Soviet Bloc, and the United States with Canada—would be negotiating with one another certain exchanges that they found necessary.

Honourable senators, if we go into a free trade deal with the United States, this is what is facing us. It may be unavaoidable. This is what makes it extremely important for us to have a good deal. In interventions to come I shall discuss the character of the deal we have signed, as we know it from the documents we have, and in particular the dispute-settlement mechanism. However, I would like to assure my fellow senators that I will not engage in the practice that I have seen, and which I am sure you do not approve of, of imputing wicked motives to others along the lines of: "If you oppose this, you are against the west," or "If you oppose that, you are against Quebec," or "If it is good for Ontario, it must be bad for Quebec," and vice versa. In an issue that is as truly important for our future, for our independence, and for our governments, I do not think we have the right to think in those terms.

I accept that the government of this day believes that it is doing what is good for Canada. I do not intend to dispute that, or dispute their motive. I will try to prove that this belief is wrong, but not that they are wicked. Further, I will not say in this chamber that any of the members of the government—and certainly not the Leader of the Government in the Senate—has anything but the good of Canada at heart.

I feel, however, that they are taking the wrong avenue to reach their goal, which is the good of Canada, and I will try and so prove to you, honourable senators, because this is really a turning point in our history such as has come before. In the past there have been crises on this very same issue. One such crisis led to the creation of this country. Lord Elgin signed a free trade agreement, and when it went wrong Canada was born. This time, if we sign the Free Trade Agreement that is reflected in the document given to us by the government, Canada will not be born; it will be dead.

Honourable senators, I will adjourn this debate in my own name, with the permission of the Senate.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Gigantès, seconded by the Honourable Senator De Bané, that further debate on this inquiry be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Gigantès: Honourable senators, I rise on a point of personal privilege—

Senator Frith: There is no point of impersonal privilege; there is simply a point of privilege.

Senator Gigantès: Very well. I feel a little impersonal, because I have so many names. My name is pronounced in different ways in different languages. In Greek it is "Tsighantes"; in French it is "Gigantès", and in English it is "Gigantès". I would be most grateful to my colleagues in the Senate when they address me in English, or refer to me in English—whether to insult, compliment or to dismiss, I do not care—that they say "Gigantès", and "Gigantès" in French, and not the sort of mixture between the two. It grates, and I am sure that you will oblige me.

Senator Frith: That is pretty personal, I agree with you.

On motion of Senator Gigantès, debate adjourned.

The Senate adjourned until Tuesday, November 3, 1987, at 2 p.m.

APPENDIX "A"

(*See p. 2090*)

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

SIXTH REPORT OF JOINT COMMITTEE

THURSDAY, October 29, 1987

The Standing Joint Committee on Regulations and other Statutory Instruments has the honour to present its

SIXTH REPORT
(Report No. 40 - *Indian Act*)

In accordance with its permanent reference, section 26 of the *Statutory Instruments Act*, S.C. 1970-71-72, c. 38, your Joint Committee draws the attention of both Houses to the proclamations listed in Appendix A to this report. In the judgement of the Committee, the issue of these proclamations is not authorized by the *Indian Act*, R.S.C. 1970, c. I-6.

Subsection 77(1) of the *Indian Act* prescribes the qualifications required of Indian band members to vote for the election of a band chief or band councillors:

> "77. (1) A member of a band who has attained the age of eighteen years and is ordinarily resident on the reserve is qualified to vote for a person nominated to be chief of the band and, where the reserve for voting purposes consists of one section, to vote for persons nominated as councillors."(1)

A number of Indian bands have expressed the desire to permit any band member who has reached the age of 18 to vote in band council elections irrespective of whether or not the member is "ordinarily resident on the reserve". To give effect to these requests, the Government resorted to the authority delegated by subsection 4(2) of the Act. Subsection 4(2), as amended by S.C. 1985, c. 27, provides that:

> "(2) The Governor in Council may by proclamation declare that this Act or any portion thereof, except sections 5 to 14.3 or sections 37 to 41, shall not apply to
>
> (*a*) any Indians or any group or band of Indians, or
>
> (*b*) any reserve or any surrendered lands or any part thereof,
>
> and may by proclamation revoke any such declaration."

The purpose of the proclamations reported upon is to suspend the application of the words "and is ordinarily resident on the reserve" which appear in subsection 77(1) of the Act.

In an earlier report, your Committee recorded its view that subsection 4(2) of the *Indian Act* does not give the Governor in Council the authority to amend the Act but that it "was meant to be used in order to declare substantive parts of the Indian Act not to apply to Indians or in respect of certain reserves".(2) The conceptual distinction between a delegated power to amend the Act and a power to suspend the application of certain portions of the Act is central to the Committee's opinion on the validity of the proclamations under report. In this regard, we refer to the testimony given before the Sub-committee on Indian Self-Government by two officers of the Department of Justice. In reply to a question concerning section 12 of the *Indian Act*, Mr. Ian Binnie, Associate Deputy Minister of Justice, explained that:

> "... if you pick and choose among the provisions of a statute, particularly the subsections of a section, you distort the meaning. Although you say that Section 12 applies except for this little subsection, the problem is that perhaps Parliament intended Section 12 to be read as a whole, and you are not really exempting anyone so much as you are changing what Parliament intended as a package. Therefore you should either suspend the whole of section 12 or you should leave it intact.

> The problem is, does Section 4(2) contemplate an amendment of what Parliament has determined by exempting altogether or does it contemplate changing the meaning by picking and choosing within a section what will apply and what will not apply? The problem is to determine whether Parliament really intended when it gave the Governor in Council authority under Section 4(2) that he would go through the statute and pick out this section and that subsection and thereby change the whole impact of the sections."(3)

In relation to subsection 4(2) of the Act, Mr. Fred Caron, a legal officer of the Department, stated that:

> "It has not been used very often to my knowledge. (...) I think the limitation we would see to it is that, while you may be able to lift a whole section from application to a band, we would perhaps draw the line at lifting words out of a section and inadvertently amend the act. I think what Section 4(2) is saying is that you can remove a part of the act and say it does not apply any more, and so then you go back to what would apply if you did not have that section. But if you start lifting words out of it, you in fact are perhaps amending the act, and that is really a function of Parliament."(4)

The Committee fully agrees that a distinction must be made between amending the Act and suspending the application of a portion of the Act. To properly characterize the proclamations under report in terms of this distinction, it is necessary to ascertain the exact scope of the power to suspend the application of a portion of the Act. Are the words "and is ordinarily resident on the reserve" a portion of the *Indian Act* the application of which may be suspended by the Governor in Council?

Prior to 1951, the *Indian Act*, R.S.C. 1927, c. 98, provided that:

> "**3**. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption."

This section expressly limited the Governor in Council's authority to the suspension of "one or more sections of the Act". In 1951, Bill No. 79 was passed by Parliament and became chapter 29 of the 1951 Statutes of Canada (S.C. 1951, c. 29). The 1951 statute revised the previous legislation applicable to Indians. In that revision, section 3 of the earlier statute became subsection 4(2) of the *Indian Act* but it now referred to the suspension of a "portion" of the Act rather than "one or more sections of the Act".

As to the effect of the new wording, your Committee refers to paragraph 36(f) of the *Interpretation Act*, R.S.C. 1970, c. I-23:

> "**36**. Where an enactment (in this section called the "former enactment") is repealed and another enactment (in this section called the "new enactment") is substituted therefor,
>
> ...
>
> (*f*) except to the extent that the provisions of the new enactment are not in substance the same as those of the former enactment, the new enactment shall not be held to operate as new law, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the former enactment;"

Insofar as subsection 4(2) of the *Indian Act* is "in substance the same" as section 3 of the previous legislation, paragraph 36(f) requires it to be construed as a consolidation of the earlier provision. If subsection 4(2) is to be construed as a consolidation of the previous enactment, recourse may be had to that enactment to determine the meaning and intent of this subsection. On this basis, your Committee concludes that the word "portion" in subsection 4(2) refers to "one or more sections of the Act" (see Appendix B).

Your Committee is satisfied that the *Indian Act* does not authorize the Governor in Council to suspend the application of anything less than one or more sections of the Act and that in purporting to suspend the application of a few words within a subsection of the Act, the Governor in Council is in fact amending the *Indian Act*.

Even if the word "portion" did not have the meaning arrived at on the basis of the *Interpretation Act*, your Committee would conclude that the Governor in Council has no authority to suspend the application of the words "and is ordinarily resident on

the reserve" in subsection 77(1). In our view, subsection 4(2) of the Act may only be used to suspend the application of a portion of the Act that deals with a specific subject-matter. If part of an enactment is interrelated with others in such a way that the suspension of its application would bring a result which could not have been intended by Parliament, the suspension is invalid.(5) In enacting subsection 77(1) of the Act, Parliament prescribed the eligibility criteria to be met by Indians voting for the election of a band chief and, in certain circumstances, for the election of band councillors. The subject-matter of this particular enactment is the prescription of voting qualifications. The result of the proclamations and their purpose is not to declare that Indians do not have to meet voting qualifications, but rather, to modify the qualifications prescribed by Parliament. Whereas subsection 77(1) previously required Indians to be at least 18 years of age and to be resident on the reserve, it would now require only one of these two requirements to be met. Here, the Governor in Council has not suspended the application of a portion of the Act but amended that which Parliament itself had provided.

Your Committee wishes to emphasize that the making of these proclamations raises an important point of principle. The issue is not whether voters in Indian band elections should or should not be ordinarily resident on the reserve in order to be eligible to vote. We readily agree that if the members of a band wish to allow non-resident members to vote, they should be able to do so. As far as the Committee is concerned, the issue is that the Government has sought to achieve this result by means that are not authorized by law. The proclamations under report are best characterized as amending the *Indian Act* without parliamentary sanction. The use which the Government has made of the authority delegated by the Act challenges the exclusive constitutional right of Parliament to make our laws. It matters not that in this instance, the statutory authority was misused to achieve a desirable result. If the rule of law means anything, it is that the pursuit of a lawful end will not support or excuse the use of unlawful means. As the Chairmen of your Committee wrote to the responsible Minister in reply to the assertion that the Government had done "all that is possible to ensure that its actions are within statutory authority":

> "The Government could and should have sought legislation authorizing it to suspend, at the request of an Indian band, the requirement that an elector reside on the reserve. Instead, the Executive chose to rely on a use of subsection 4(2) that was never contemplated by Parliament and that infringes the sovereignty of Parliament".

Your Committee was informed by the Minister that his officials were studying possible amendments to the *Indian Act* in order to provide clear authority for the issue of proclamations such as those under report. Your Committee recommends the adoption of this legislation to the Houses. Your Committee also recommends that the legislation provide for the retroactive validation of the proclamations reported upon.

Your Committee informs the Senate that it has requested the government to table a comprehensive response to this report in the House of Commons pursuant to the Standing Orders of that House.

APPENDIX A

The proclamations registered as SOR/82-882, SOR/83-317 to SOR/83-322, SOR/83-559, SOR/83-772 to SOR/83-775, SOR/84-135, SOR/84-313, SOR/84-851, SOR/85-153, SOR/85-346, SOR/86-126 and SOR/86-925, each under the title: 'Proclaiming Certain Indian Bands Exempt from Portions of the Act'.

APPENDIX 'B'

1. The parliamentary record confirms that subsection 4(2) of the Act did not, and was not intended to, effect any change in the substance of the earlier provision but merely carried it over in the new Statute. Testifying before the Special Committee on the Indian Act appointed to consider Bill No. 79, An Act respecting Indians, the Minister of Citizenship and Immigration pointed out that:

> "This section has been in the Act since 1874. There has never been any complaint against it before that I know of from any band council, but since bill 267 was prepared they have suddenly become fearful of the results - although they had been living under the same conditions all these years and none of them had ever felt any adverse effect by the Governor in Council having these powers under 4(2)."(6)

At another time, the Minister remarked:

> "In time we are going to increase the stature of the band council and the Indian, and increase his control over his affairs. This is not going to take anything away from him. In any event, we can only take away the sections of the Act." (emphasis added) (7)

At the report stage of the Bill, the Minister reiterated that:

> "This section has been in the act since 1880 (*sic*), and, as the hon. member for Lethbridge has said, it did not cause concern to the Indians until the past few months when the matter was raised by some hon. members opposite. (...) If you did not have a section of this kind you would not be able to relieve the Indians from some of the restrictions unless the act was brought back to the house and it was done by way of amendments so that a particular section would not apply to a particular band. This is a salutory provision in the interest of the Indian and will be used for that purpose." (emphasis added)(8)

2. In determining whether a significant or substantial change has been made to an enactment, one may have recourse to the parliamentary proceedings (see *Beswick* v. *Beswick*, [1968] A.C. 58). As noted under paragraph 1., the parliamentary proceedings on subsection 4(2) of the *Indian Act* indicate that this provision was intended as a straight consolidation of the earlier enactment. A consolidating enactment may be construed on the basis of the previous enactment (see I.R.C. v *Hinchy*, [1960] A.C. 748).

NOTES

(1) This provision was amended by S.C. 1985, c. 27. The Act previously required a band member to have attained the age of 21.

(2) Standing Joint Committee on Regulations and other Statutory Instruments, *Fifteenth Report (No. 19)*, First Session, Thirty-Second Parliament.

(3) Sub-committee on Indian Self-Government, *Minutes of Proceedings and Evidence*, Issue No. 5, First Session, Thirty-Second Parliament.

(4) *Ibid.*

(5) The Committee's position on this point draws largely upon the reasoning of Mr. Justice Martland in the reference *Re Proclamation of Section 16 of the Criminal Law Amendment Act, 1968-69*, [1970] S.C.R. 777.

(6) Special Committee appointed to consider Bill No. 79 - An Act respecting Indians, *Minutes of Proceedings and Evidence*, Issue No. 1, Fourth Session, Twenty-first Parliament.

(7) *Ibid.*

(8) House of Commons, *Hansard*, Fourth Session, Twenty-first Parliament, p. 3062.

Respectfully submitted,

NATHAN NURGITZ
Joint Chairman

APPENDIX "B"

(*See p. 2090*)

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

SEVENTH REPORT OF JOINT COMMITTEE

THURSDAY, October 29, 1987

The Standing Joint Committee on Regulations and other Statutory Instruments has the honour to present its

SEVENTH REPORT
(Report No. 41 - *Various*)

Pursuant to the general Order of Reference approved by the Senate on November 27,1986 and by the House of Commons on December 17, 1986, and its permanent reference, section 26 of the *Statutory Instruments Act*, S.C. 1970-71-72, c. 38, the Joint Committee draws the attention of the Houses to the following matters:

A. SOR/80-510, Ontario Rutabaga Service Charge (Interprovincial and Export) Regulations

1. By subsection 4(1) of these regulations, the Ontario Rutabaga Producers' Marketing Board (the Board) authorized itself to fix, from time to time, the service charges payable to the Board by Ontario producers of rutabagas marketed in interprovincial and export trade. In this case, the *Ontario Rutabaga Order* (SOR/80-74, as amended) required the Board to exercise the powers delegated under the *Agricultural Products Marketing Act*, R.S.C. 1970, c. A-7, by order or regulation. In subsection 4(1) of the regulations, the Board purported to give itself the authority to establish service charges administratively, rather than by order or regulation, and the Committee took the position that the regulations were invalid. This conclusion was communicated to the federal Department of Agriculture in November of 1980 and in a letter dated September 3, 1981, the Department's Designated Instruments Officer advised the Committee that the Legal Services Section of the Department agreed with your Committee's conclusion. There followed repeated assurances over the years that the Ontario Rutabaga Producers' Marketing Board had been informed of the situation and was proceeding with the enactment of valid regulations.

2. In the summer of 1985, the *Ontario Rutabaga Order* was revoked by the Governor in Council following the dissolution of the provincial marketing board. Ontario Regulation 650/84 charged the Ontario Farm Products Marketing Board with the administration of the affairs of the local Board pending its formal dissolution. An inquiry was made as to how that agency proposed to deal with the illegal collection of service charges under the *Ontario Rutabaga Service Charge (Interprovincial and Export) Regulations*. In October of 1986, your Committee was informed that no remedial action was contemplated. The validation of these illegal charges by means of legislation was termed "impractical". On the other hand, it was said that to refund the service charges to those who had paid them would not be an "acceptable solution" to the extent that the amounts owing were likely to be small and those who paid them unknown. That reply also stated that "the Regulations were thought to be valid by the Board and the Department of Justice at the time they were established in 1980".

3. On this last point, your Committee emphasizes that objection was taken to the regulations in November of 1980 and that both the Ontario Rutabaga Producers' Marketing Board and the responsible federal Department had long been aware of their illegality. The history of this case illustrates the difficulties your Committee often encounters in securing a prompt and efficacious resolution of its objections to a particular instrument. In this instance, the dissolution of the local marketing board responsible for making the objectionable instrument means that your Committee can do little else but record its view that the federal Department responsible for administering the *Agricultural Products Marketing Act* ought to have taken earlier and more forceful action to ensure that the charges imposed on Ontario producers were lawfully prescribed.

B. SOR/84-572, Labour Adjustments Benefits Designation Order, amendment
SOR/85-785, Labour Adjustment Benefits Regional Designation Order, No. 1
SOR/86-215, Labour Adjustment Benefits Regional Designation Order, No. 2
SOR/86-588, Labour Adjustment Benefits Regional Designation Order, No. 3

1. The *Labour Adjustments Benefits Act*, S.C. 1980-81-82-83, c. 89, which came into force on May 1, 1982, provides benefits to older employees who are laid-off from industries designated by the Government pursuant to section 3 of the Act. Industries may be designated either generally or on a regional basis. The Act provides that an order designating an industry expires after a prescribed period of time but also empowers the Governor in Council to extend the

period of validity of a designation order by means of continuation orders which themselves have a fixed period of validity. A number of designation orders and continuation orders have been made to date by the Governor in Council. In some instances, the Governor in Council, either following the expiration of the period for which a designation order and subsequent continuation orders could remain in force, or in lieu of a continuation order, has made orders re-designating previously designated industries with a view to extending the eligibility period of laid-off employees in those industries. Each of the instruments reported upon effected the re-designation of one or more industries and, for the reasons that follow, the Committee entertains serious doubts as to their validity.

2. Your Committee refers to sections 3 and 4 of the *Labour Adjustments Benefits Act*:

"**3.**(1) For the purposes of this Act, the Governor in Council may, by order, designate any industry either generally or with respect to any region of Canada.

(2) An industry may be designated generally pursuant to subsection (1) if the Governor in Council is satisfied that

(*a*) the industry in Canada generally is undergoing significant economic adjustment of a non-cyclical nature by reason of import competition or by reason of industrial restructuring implemented pursuant to a policy or program of the Government of Canada to encourage such restructuring; and

(*b*) the economic adjustment referred to in paragraph (*a*) is resulting in a significant loss of employment in the industry in Canada generally.

(3) An industry may be designated with respect to any region of Canada pursuant to subsection (1) if the Governor in Council is satisfied that

(*a*) the industry in that region is undergoing significant economic adjustment of a non-cyclical nature; and

(*b*) the economic adjustment referred to in paragraph (*a*) is resulting in a severe economic disruption in that region and in a significant loss of employment in the industry in that region.

(4) An order under subsection (1) that designates an industry generally is in force for such period, not exceeding three years from the date the order is made, as is specified in the order unless, before the expiry of the period so specified, the Governor in Council makes a continuation order continuing the order in force for such period, not exceeding three years, as is specified in the continuation order.

(5) No more than one continuation order may be made under subsection (4) in respect of any one order under subsection (1).

(6) An order under subsection (1) that designates an industry with respect to a region in Canada is in force for one year from the date the order is made unless, before the expiry of that one year, the Governor in Council makes a continuation order continuing the order in force for such period, not exceeding six months, as is specified in the continuation order.

(7) Where the Governor in Council has made a continuation order under subsection (6) continuing an order in force, he may, before the expiry of the period for which the order is so continued, make one further continuation order continuing the order in force for such further period, not exceeding six months, as is specified in the further continuation order.

(8) The revocation or expiration of an order under this section does not affect the entitlement, after the revocation or expiration, of any person laid off while the order was in force to make an application under section 10 or 12 in relation to the order or to receive labour adjustment benefits by virtue of the order.

4.(1) Subject to subsection (2), the Governor in Council may, in any order under section 3, declare

(*a*) that the designation of the industry in the order is retroactive in effect and applies as of such day, before the date of the order, as is specified in the order; and

(*b*) that this Act applies in respect of lay-offs from a Canadian establishment in the industry designated in the order occurring on or after the day specified pursuant to paragraph (*a*).

(2) The Governor in Council may not specify pursuant to paragraph (1) (*a*) a day that is more than forty-eight months before the day this section comes into force."

These enactments may be summarized as follows: an order designating an industry generally is in force for a maximum of three years after it is made (ss. 3(4)) while an order designating an industry regionally is in force for a maximum of one year after it is made (ss. 3(6)). Either type of designation order may be made to apply retroactively (ss. 4(1)) but in no case may an order be made retroactive to a date prior to May 1, 1978 (ss. 4(2)). Prior to its expiration, a general designation order may be continued in force for a further maximum period of three years (ss. 3(4)) but only one such continuation order can be made (ss. 3(5)). As for a regional designation order, the Governor in Council may continue it in force for a maximum of six months (ss. 3(6)) and may issue a further continuation order for a further maximum period of six months (ss. 3(7)). The result of these provisions is that the maximum duration of a general designation order is six years after the original designation while the maximum duration of a regional designation order is two years after the original designation is made.

3. In light of these statutory provisions, your Committee believes that the *Labour Adjustments Benefits Act* does not authorize the Governor in Council to designate an industry, generally or regionally, more than once. Section 3 of the Act places strict and express limits on the duration of a designation and of any continuation of that designation. An interpretation of the Act according to which the Governor in Council may effect repeated designations of the same industry would render these limitations entirely meaningless. The provisions of sections 3 and 4 must be seen to express Parliament's intention that designations remain in force for a limited time. If the Act is interpreted so as to give the Governor in Council the authority to re-designate previously designated industries at will, the limits placed by Parliament on the total duration of a designation may effectively be circumvented. A general designation order, for example, is valid for a maximum of three years after it is made and may be continued in force for a maximum of three years. The Act expressly prohibits the making of more than one such continuation order. This prohibition is nugatory if the Governor in Council, following the expiration of the maximum period of validity of the designation, may simply re-designate the same industry. Your Committee considers that an interpretation which leads to such results is to be avoided. The provisions of sections 3 and 4 indicate that the powers of designation conferred on the Governor in Council may only be exercised once in respect of any given industry.

4. This interpretation, in the Committee's view, is compatible with the general scheme of the legislation and the economic circumstances prevailing at the time of its adoption. The purpose of the Act is to allow the payment of labour adjustment benefits to older workers laid off from a designated industry as a result of that industry undergoing "significant economic adjustment of a non-cyclical nature". The legislation was not intended to provide assistance on a permanent basis in respect of industries in which the employment situation is chronically poor.

The Department of Labour has argued that a distinction can be made between a continuation order, to which the time limits prescribed in the Act would apply, and an order re-designating an industry. It was submitted that:

> "... before continuation orders may be made under subsection 3(6) and subsection 3(7), the designation criteria provided for in subsection 3(2) need not be considered by the Governor in Council. A new designation order, on the other hand, is more stringent and the Governor in Council is forced to reconsider all circumstances and to be satisfied that the criteria in subsection 3(2) have been met before the order can be made."

The Committee does accept this alleged distinction. A continuation order is in the nature of an amendment to the original designation order and the making of the continuation order is thus subject to the same conditions as the making of the original designation order. For example, when making a regional designation order, the Governor in Council must be satisfied that the industry identified in the order is undergoing significant economic adjustment of a non-cyclical nature and that this is resulting in a severe economic disruption in the region and loss of employment in the industry. If it is decided to continue the order in force, the Committee considers that the same criteria must be taken into account before making the continuation order. It is only common sense that the Government would not continue to provide benefits to laid-off workers in an industry that has ceased to meet the relevant statutory criteria.

The *Labour Adjustments Benefits Act* was enacted at a time when the employment situation in many Canadian industries was critical because of the economic recession. To assist the reorganization of these industries, Parliament authorized the Government to provide exceptional assistance to those affected by the reduction of the labour force due to the restructuring of those industries. These measures were never intended to become permanent. Rather than enact a series of individual Bills providing for temporary assistance to named industries, Parliament enacted the *Labour Adjustments Benefits Act*. This Act was meant to have temporary application to those industries designated by the Governor in Council. By

temporary application, your Committee understands that once an industry has been designated and labour adjustment benefits have been paid to workers pursuant to that designation, the Act ceases to apply in respect of that particular industry.

5. For these reasons, your Committee concludes that the instruments reported upon, to the extent they purport to re-designate previously designated industries, are not authorized by the Act and that the payments made in consequence of these re-designations were made without parliamentary sanction.

C. C.R.C., c. 330, Labour Mobility and Assessment Incentives Regulations

1. The *Labour Mobility and Assessment Incentives Regulations* were enacted in 1972. The regulations prescribe the conditions under which payments may be made by the Minister of Employment and Immigration for the purposes of the Labour Mobility and Assessment Incentives Program. This Program has been in operation for more than 20 years and substantial amounts of money are appropriated each year for its continued operation. The conditions under which this Program operates should, in your Committee's view, be the subject of direct parliamentary enactment rather than be prescribed in regulations made under the authority of Votes in successive appropriation acts.

2. The Joint Committee has long been critical of the use of Votes or items in the estimates to confer legislative powers and has called for an end to the practice. Successive Speakers of the House of Commons have also made it clear that the appropriation process should not be resorted to in order to by-pass the normal legislative process and should be restricted to the authorization of expenditures required to operate programs which are otherwise authorized by legislation. On June 12, 1981, the Speaker recalled earlier rulings to the effect that:

> "... the Appropriation Act is not the place to seek authority to do something such as to establish a program. Rather, the Appropriation Act should only seek authority to spend the money for a program that has been previously authorized by a statute."

The Speaker further mentioned that:

> "By definition, the estimates seek spending authority alone; they are not intended to ask for substantial authority, such as to pass regulations."

The 1982 Report of the Canadian Bar Association Committee on the Reform of Parliament commented as follows on the use of so-called dollar items in the Estimates:

> "This procedure has been used not only to bypass the regular legislative process in the manner just suggested; but even to establish new programs. By including dollar items that describe new programs in the estimates, the government is able to secure parliamentary approval for them by the back door instead of by the usual method of presenting legislation for debate and approval in the House and Committee. This is because once the House has approved the estimates, they become the detailed content of the annual appropriation act, which is then passed by the House. From that point on, the programs carry the sanction of the appropriation act as their legislative authorization without the debate that would take place if the programs were brought forward as distinct bills requiring three readings and committee study."

While these comments were directed to the use of dollar items, they apply equally to any item of the estimates that provides for the introduction or continued existence of a program for which there is no parliamentary sanction elsewhere than in appropriation acts or in the estimates on which these are based.

3. In a letter of June 13, 1985, the Chairmen asked the Minister of Employment and Immigration if he would consider the introduction of legislation to govern the Labour Mobility and Assessment Incentives Program. In a reply dated July 30, 1986, the Minister indicated that:

> "The Labour Mobility and Assessment Incentives Regulations do no more than set out the conditions pursuant to which payments to provinces, employers and workers under the program may be made. Essentially, they set out the administrative conditions for the expenditure of funds for a purpose authorized by Parliament. The regulations are not substantive legislation in the sense that they go beyond the stated purpose for which the monies are voted by Parliament and should not be seen as subverting Parliament's control of the public purse."

Your Committee points out that it does not allege that the regulations under report go beyond the enabling authority set out in the relevant appropriation acts and associated estimates. Nor has the Committee suggested they involve a subversion of Parliament's

control of the public purse. What is involved is the right of Parliament to approve, through regular legislation, the principle of the Labour Mobility and Assessment Incentives Program and the conditions in accordance with which expenditures may be made to achieve the objects of the Program. Your Committee does not believe that the supply process is adequate to express Parliament's intention with respect to a program of this kind.

4. This view extends to other programs of a permanent nature whose existence relies entirely on supply measures. The Labour Mobility and Incentives Assessment Program is simply drawn to the attention of the Houses as illustrating our concern that the supply process and appropriation acts should not be used to circumvent or avoid the normal legislative processes of Parliament. Economic or social programs that are intended to be permanent should be established and governed by statute, and not by subordinate legislation authorized by Votes in appropriation acts or items in the estimates.

D. Various Regulations made under the Fisheries Act, R.S.C. 1970, c. F-14

1. The *Fisheries Act* authorizes the Governor in Council to prescribe close times for the purpose of managing and conserving the fishery. The Act defines the expression "close time" as meaning "a specified period during which fish to which it applies, may not be fished". The power to prescribe close times is regularly exercised in ways and for purposes which, in the opinion of your Committee, are not authorized by the Act and amount to an unusual exercise of the authority delegated by Parliament. This occurs in so many of the regulations made under the Act that the Committee thinks it preferable to report its objections in general terms rather than list each and every regulatory provision which this report concerns.

2. Many regulations made under the Act will, in respect of particular species of fish, prescribe a close time in the following fashion: "from January 1 to December 31" (For one example, see the *Atlantic Fishery Regulations*, SOR/86-21, as amended, section 77 and Schedule XXII). To prescribe a period from January 1 to December 31 is to make the prohibition against fishing for the relevant species indefinite and such a prescription does not conform to the statutory definition of "close time" which calls for the establishment of a specified period during which fish may not be fished. Insofar as the regulation-making powers conferred by the Act are otherwise wide enough for the Governor in Council to prohibit fishing for a particular species of fish, it may be thought to be of no consequence whether this is done directly or through the establishment of a close time "from January 1 to December 31". The explanation lies in paragraph 34(m) of the Act. This provision empowers the Governor in Council to make regulations:

> "(m) authorizing a person engaged or employed in the administration or enforcement of this Act to vary any close time or fishing quota that has been fixed by the regulations."

If a regulation is made to prohibit fishing for a particular species of fish, and it is subsequently decided to relax or modify the prohibition, the Governor in Council is required to make a further amending regulation, with all the formalities attendant thereto. A regulation prohibiting fishing could not authorize a fishery officer to subsequently remove the prohibition or grant exemptions from the prohibition. Such a regulation would be illegal in that it would subdelegate to someone other than the Governor in Council the authority to enact the prohibition and to modify the same. A fishery officer may, however, be legally authorized to vary a prescribed close time. In enacting prohibitions against fishing under the guise of prescribing close times, the Governor in Council is effectively delegating to fishery officers a power which may not otherwise be lawfully delegated. Your Committee considers that this use of subordinate legislative powers is a misuse of power.

3. Regulations made under the Act will also frequently prescribe what your Committee has come to term "token close times". In those instances, the specified period during which fishing is not permitted is expressed to be "from December 30 to December 31" or for some similarly symbolic period (For one example, see the *Foreign Vessel Fishery Regulations*, C.R.C. c. 815, as amended, Schedule X). The prescription of token close times, when coupled with a delegation of the authority to vary close times, is designed to empower fishery officers to subsequently establish an appropriate close time if it becomes necessary.

It is clear that the prescription of token close times is not a meaningful exercise of the authority to specify periods during which fish may not be fished. The very nature of a token close time discloses that the species of fish to which it relates is not, at the time the power is exercised, in need of protection. The real purpose of such a prescription is to delegate to fishery officers the authority to establish close times under the guise of varying the token close time. This authority belongs under the Act to the Governor in Council and it may not be subdelegated to others. The prescription of token close times for the sole purpose of evading that restriction strikes your Committee as an abuse of the powers conferred by the Act.

4. A third and somewhat more complex example of the use of close times to subdelegate to fishery officers regulatory powers which Parliament delegated to the Governor in Council is also found in a number of regulations (For one example, see the *British Columbia Fishery (General) Regulations*, SOR/84-248, as amended, section 9 and Schedule II). The *Fisheries Act* authorizes the Governor in Council to make regulations "respecting the use of fishing gear and equipment", and the prescription of close times has also been found convenient to transfer that authority to the hands of fishery officers.

Typically, a regulation made for that purpose will contain a general provision prohibiting fishing with a type of gear described in a schedule during the close time set out in the same schedule. The schedule will list a number of items each of which describes a separate type of gear used to fish for the relevant species of fish so that eventually all types of gear are enumerated in the schedule. The schedule will also set out separate close times "from January 1 to December 31" in respect of each item describing a type of gear. On its face, this kind of provision prohibits fishing for the relevant species with any type of gear at any time. But fishery officers can then vary the close time set out in any particular item of the schedule so that the type of gear associated with the "varied" close time can lawfully be used. The object of this kind of provision is to permit fishery officers to regulate the use of fishing gear and to decide when each type of gear may be used in a particular fishery. Here again, the authority to prescribe close times is used primarily to subdelegate to fishery officers a power which Parliament required to be exercised by the Governor in Council.

5. Provisions of the kind described above abound in regulations made under the *Fisheries Act*. Their purpose, in each case, is to transfer to fishery officers regulatory powers which are exercisable by the Governor in Council, and your Committee considers the use of these techniques is unlawful and constitutes an unusual use of the powers conferred by the *Fisheries Act*. Your Committee has on numerous occasions called for a complete revision of this Act. As stated by the then Minister of Fisheries and Oceans in the House of Commons on March 6, 1985:

> "The Fisheries Act is a venerable document. It was passed in 1867. Amendments were made in the 1970s to permit protection and management of fish habitat. Apart from that, little changed in the Act for 117 years. Not surprisingly, as time has gone by, parts of the Act have become almost obsolete. New needs, new issues and new implications for management have arisen that could not have been foreseen in 1867, or even 1967."

The inadequacy of the present statutory framework in terms of contemporary management of our fishery resources is a matter of public knowledge. The practices described in this report are but an illustration of this. Faced with a statute that does not meet modern management requirements, the Executive sees itself forced to resort to regulatory techniques of doubtful validity in order to meet those needs. While it recognizes those difficulties, your Committee does not consider they excuse the persistent and deliberate misuse of the regulation-making powers conferred by Parliament. If the *Fisheries Act* has ceased to be an adequate instrument to regulate our fishery resources, it is the responsibility of the Executive to propose the necessary amendments to Parliament.

Respectfully submitted,

NATHAN NURGITZ
Joint Chairman

APPENDIX "C"

(*See p. 2090*)

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

EIGHTH REPORT OF JOINT COMMITTEE

THURSDAY, October 29, 1987

The Standing Joint Committee on Regulations and other Statutory Instruments has the honour to present its

EIGHTH REPORT
(Report No. 42 - *Crop Insurance*)

1. Pursuant to its permanent order of reference, section 26 of the *Statutory Instruments Act*, S.C. 1970-71-72, c. 38, the Joint Committee draws the attention of the Houses to the amendment to the *Crop Insurance Regulations* (C.R.C., c. 445) registered as SOR/85-455.

2. The *Crop Insurance Act*, R.S.C. 1970, c. C-36, authorizes the federal government to provide financial assistance to provincially administered crop insurance plans that conform with the provisions of the Act. The crop insurance shared-cost program has been in place since 1959 and crop insurance plans have been established in all ten provinces. The crop insurance legislation of three provinces, Alberta, Quebec and Saskatchewan, allows producers of honey to insure their production against losses. On May 16, 1985, the Governor in Council passed an amendment to the *Crop Insurance Regulations* declaring honey to be a crop for the purposes of the federal legislation. This amendment made it possible for federal contributions to be paid to the provincial insurance plans.

3. Contributions or loans from the federal government may only be made in respect of "crops" as defined in the federal legislation. Section 2 of the *Crop Insurance Act* defines a "crop" to mean "an agricultural crop declared by the regulations to be a crop for the purposes of this Act". This definition confers on the Governor in Council the authority to determine, by regulation, which "crops" insured under a provincial plan are eligible for federal contributions or loans under the *Crop Insurance Act*. This authority of the Governor in Council, however, is not entirely discretionary. Only those products that are agricultural crops may be designated for the purposes of the Act.

4. It is a well established rule of statutory interpretation that words used in an Act of Parliament must be given their ordinary grammatical meaning unless the context in which they are used requires otherwise. The ordinary grammatical meaning of a word is its "proper and most known signification"; where a word has more than one ordinary meaning, the "most common and well-established" meaning of the word is to be preferred. As explained by one authority:

> "Compilers of dictionaries usually place first in the list of meanings of a word the meaning most commonly used. This meaning is variously called the ordinary, common, popular or primary meaning". (1)

Your Committee is satisfied that the primary or most common meaning of the word "crop" does not include agricultural commodities such as honey. The word "crop", as it is used in the *Crop Insurance Act*, refers to the cultivated produce of the land such as cereals, vegetables and fruits. Usual dictionary definitions confirm that while the word crop can sometimes be used to describe the yield of any natural product, the primary or first-listed meaning of the word is restricted to those products that grow from the soil. (2)

5. Your Committee's position is supported by the parliamentary record. The *Crop Insurance Act* was first enacted as chapter 42 of the 1959 Statutes of Canada. This Act was introduced in the House of Commons as Bill C-66 on the basis of a resolution previously adopted by that House. The debates on the resolution and the bill leave no doubt that the purpose of the Act was to provide for the making of contributions and loans with respect to the insurance of crops that are the produce of the soil.

Furthermore, this intent was expressly confirmed by the responsible minister in the House. During the debate on Second Reading of Bill C-66, the Minister of Agriculture, in reply to a question by a member as to the scope of the bill, said:

> "I think it is understood by probably every other member of the house that the crop insurance bill is designed to apply to crops that are grown from the ground. [...] This is a crop insurance scheme. In other words, it insures crops which grow from the ground -whether it is barley or any other types of crop of the kind- but does not insure what are ordinarily classed together as livestock and chattels." (3)

In Committee of the Whole, the suggestion was again made by the same member that the bill would permit the designation of any agricultural product as a crop

and could even "go so far as to cover the products of bees in the production of honey". The Minister of Agriculture replied that:

> "Every other member of the house, I am certain, and every farmer in the country knows and has known that crop insurance was intended for crops which are grown, not for livestock and things of that kind". (4)

6. The meaning assigned by the Committee to the word "crop" is also consistent with the remaining provisions of the *Crop Insurance Act* and, in particular, with section 8 of the Act which provides for extended insurance coverage. The provisions respecting extended coverage were introduced in the House of Commons by Bill C-208 and enacted as chapter 37 of the 1966-67 Statutes of Canada. On the Second Reading of Bill C-208, the then Minister of Agriculture explained those provisions as follows:

> "Under the existing legislation the coverage is limited to crops. Thus what might loosely be called production units such as apple trees or stands of perennial forage crops cannot by themselves be covered. [...] For this extended coverage, as it is called, the amendments authorize the making of contributions by the federal government equivalent to those made for crops per se." (5)

The intent of the amending legislation was to extend insurance coverage to the means of production of those crops which could already be insured under the Act. The losses that may be so insured are those resulting from the destruction of stands of fruit trees, or perennial plants other than trees, as well as those arising when the seeding or planting of a crop is prevented by agricultural hazards.

It is clear that the provisions for extended coverage apply solely to the means of production of "crops" that grow from the soil. Your Committee considers that section 8 of the Act supports its understanding of the meaning of the word "crop" as it appears in the *Crop Insurance Act*.

7. Having regard to the legislation as a whole, your Committee is satisfied that the meaning of the word "crop", as it is used in the *Crop Insurance Act*, does not include honey and, consequently, that the Governor in Council had no legislative authority to make the amendment reported upon. The legislative history of the Act confirms your Committee in this view. If honey is to be an insurable crop for the purposes of the federal legislation, Parliament should be asked to adopt the necessary amendments to the *Crop Insurance Act*. Until such time, the government has no legal authority to make contributions or loans to provincial crop insurance plans in respect of an agricultural commodity like honey.

8. Your Committee informs the Senate that it has requested the government to table a comprehensive response to this report in the House of Commons pursuant to the Standing Orders of that House.

NOTES

(1) E.A. Driedger, *The Construction of Statutes* (1974), p. 6.

(2) See the definitions of "crop" in the *Shorter Oxford English Dictionary*; the *Oxford English Dictionary*; *Black's Law Dictionary*; the *Canadian Law Dictionary*; the Houghton Mifflin *Canadian Dictionary of the English Language*; Funk & Wagnalls' *Standard Encyclopedic Dictionary*; Funk & Wagnalls' *New Standard Dictionary*; and the Random House *Dictionary of the English Language*. See also the definitions of "récolte" in the *Dictionnaire de la langue française Littré*; the *Larousse de la langue française Lexis*; the *Grand Larousse de la langue française*; and the *Grand Robert de la langue française*. In all of these definitions, the first-listed or primary meaning of the words "crop" and "récolte" excludes agricultural products such as honey. Only in Webster's *Third New International Dictionary* is the primary meaning of crop given as "a plant or animal or plant or animal product that can be grown and harvested extensively for profit or subsistence". In all other dictionaries, this meaning is listed as a secondary meaning of the word "crop".

(3) *House of Commons Debates*, July 7, 1959, p. 5625.

(4) *House of Commons Debates*, July 7, 1959, p. 5629.

(5) *House of Commons Debates*, July 7, 1966, pp. 7335-7336.

Respectfully submitted,

NATHAN NURGITZ
Joint Chairman

THE SENATE

Tuesday, November 3, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

THE LATE HON. RENÉ LÉVESQUE

TRIBUTES TO FORMER PREMIER OF QUEBEC

Hon. Arthur Tremblay: Honourable senators, the people of Quebec mourn the loss of one of its greatest political figures, if not the greatest, considering the quality and the strength of the ties that René Lévesque established, over the years, with the Quebec community.

Those ties began to develop in very special circumstances, through a unique TV show. As was said time and again, *Point de mire* probably launched Mr. Lévesque's true career. It did, indeed, because of the special type of relationship he established as a mentor and communicator with his huge audience. He discussed the most difficult and complex issues such as international relations which were unfamiliar to his audience and he was able to make those issues easy to understand for the general public. The talent of the "master", if I may use that word, his talent for simple and accurate explanations helped his listeners grasp issues that may have seemed too complex for them.

Was it because of his charisma that René Lévesque was always able to communicate with the crowds? If so, it was a very special type of charisma which found its roots not in his rhetorical talents but mainly in the authenticity and sincerity of his discourse. His charisma also stemmed from a vision which translated into feelings and emotions as well as into ideas and beliefs.

I think that the strength of the ties between René Lévesque and the Quebec community were due to that special charisma. He became not only its champion but also the living symbol of the reality and spirit of the Quebec society.

Whatever may be our background or our purpose, we Quebecers more or less identified with what René Lévesque stood for.

Everyone of us has changed to a certain extent under his influence. For instance, when I was a teenager, in the 1930s, we French Canadians used to suffer from an inferiority complex. Everyone was talking about it. All our problems were attributable to that complex. That is never mentioned anymore.

Of course, he was not the only architect of such a change. We had the quiet Revolution to which Mr. Lesage, Mr. Gérin-Lajoie, Mr. Lapalme and many others also made a major contribution as well as Daniel Johnson and Pierre Elliott Trudeau, Jean Marchand or Gérard Pelletier, each of them in his own sphere. But René Lévesque had a special talent for translating every event into a unique language, with a commitment which conveyed the true meaning of events and projects, which transcended them in a way, while mobilizing people's enthusiasm.

A few minutes hardly suffice to summarize the career of a man like René Lévesque, who made such a lasting impression in his time, not only on the people of his own generation but also on a younger generation that did not experience our beginnings but nevertheless was able to draw a parallel between his hopes and their own aspirations.

Beyond the laborious struggle, the specific paths he chose to tread and the ups and downs of an exceptional and extraordinary career, that is what I want to remember about René Lévesque today. That is what I think most people remember, and since yesterday this has been the common line that runs through the stories of the man in the street and prominent members of our community.

In concluding, I would like to read a short extract from his book "Memoirs", taken from page 493 and dated September 2, 1986. It starts with a quotation from Julien Green:

> "The mind flies but words must walk". It is midnight. The mind falters and words no longer come easily. I have hardly any paper left and no time to spare. Only enough for the words "The End".

Did those few lines point to a certain weariness which would be quite normal, to use one of Lévesque's favorite expressions, for someone who after a long and laborious task now finally has a chance to, as it were, heave a sigh of relief? Was it perhaps a premonition that the real end was indeed approaching? We shall never know. Of course, science tells us that some day we will all have to die. Even with the firm belief that another life awaits us on the other side, the passage from this life to the next is not easy for the person who goes through this experience, and it is a shattering experience for those around him.

In any event, as Claude Ryan said last night on Radio-Canada: "Despite our differences, we have all lost a part of ourselves", and we share the grief of his wife and children at this sudden and tragic loss.

On behalf of all my colleagues on this side of the chamber, I wish to offer them our sincere condolences and our feelings of deepest sympathy.

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, it would not be appropriate for the passing of René Lévesque to escape the notice of both sides of the chamber.

Mr. Trudeau, if I translate him correctly, referred to Mr. Lévesque as an aspect of the soul, or spirit, of Quebec. My own view is that as a politician or as a public figure he contributed significantly to Canada during his period as a member of Mr. Lesage's cabinet. I say that because I first became aware of Mr. Lévesque as a politician during the time I was on the Laurendeau-Dunton Commission and because of the work he did as a minister in Mr. Lesage's cabinet, particularly with regard to the nationalization of the hydro companies. He, in effect, founded Quebec Hydro as a publicly owned service, which is something that we in many other parts of the country have taken for granted for decades. From what I was able to learn that enterprise was totally dominated by English speakers. The language of work and the language of service was English. The work Mr. Lévesque did for the French language was explained in Book II B of the commission's report. Mr. Lévesque's efforts and those of his cabinet colleagues gave a genuine push to the developments that resulted in the establishment of our two official languages, the passage of the Official Languages Act, and our progress as a genuinely bilingual nation.

When Mr. Lévesque became a declared separatist I parted company with him politically, because he was promoting fundamental change in the structure of Canada, change that would be contrary to what many hoped Canada would become as a whole, and change that would alter totally the role Quebec would play in the Canadian federation. There was never any doubt in my mind, and I do not say so only retrospectively, that he believed that Quebec and Canada would be better off were Quebec to separate. I did not agree with him, but I do not think he was fraudulent about it. I do not think he used this issue to promote his personal stardom or to satisfy his own ego. He believed it. I thought he was wrong.

● (1410)

Honourable senators, René Lévesque's only real defeat politically was his defeat in the referendum when most Quebecers said no to separation. He was a passionate, sincere politician. I wish he had used all his passion and all his sincerity—indeed, all of his admitted talents as a politician, in the best sense of the word—for different purposes. Nevertheless, he left a very important mark on Canadian politics. Indeed, he left an important mark on the lives of all Canadians, especially those of us in the public sphere. I know that those for whom he did represent an aspect of the Quebec spirit, or the Quebec soul, to quote Mr. Trudeau again, will miss him, as, of course, will his legions of personal friends and his family. To them we express our condolences.

[*Translation*]

Hon. Paul David: Honourable senators, I would like to add my comments to what was said by Senator Frith and Senator Tremblay.

The sudden, premature death of René Lévesque aroused feelings of shock and profound sadness throughout Quebec and perhaps in Canada as well.

[Senator Frith.]

After the tragic news of his death, the media, political, social and religious leaders, the financial community, ethnic groups, union leaders and the arts community were unanimous in expressing their fondness and respect for this exceptional leader. René Lévesque will be responsible for a unique chapter in the history of Quebec and Canada.

He started his political career in 1960 as a minister in the Lesage government. He founded the Souveraineté-Association movement, became leader of the Parti Québécois and subsequently was Premier of Quebec from 1976 to 1985. René Lévesque was truly the soul and conscience of Quebec for a quarter of a century.

He was stubborn in the pursuit of a demanding and clear cut ideal. He was a gifted communicator, as Senator Tremblay pointed out. With a profound respect for democratic principles, Lévesque managed to restore the self-confidence, faith and optimism of Quebecers, of that distinct society that to him had always existed.

Although opinions differed on his view of Canadian federalism, Lévesque provided a positive response to the fundamental aspirations of the people of his country, giving them the political maturity to play their distinctive role as part of this country.

With a passion that was unique, he inspired people with a desire for excellence and action, for challenge and risk. However, reason and good judgment kept him from exploiting his tremendous popularity which could otherwise have led to intolerant and excessive fanaticism.

It is with feelings of sincerity and profound admiration that I invite my fellow senators to join us in extending our sincere and respectful condolences to his wife, children and family. Thank you.

[*English*]

PRIVATE BILL

YELLOWKNIFE ELECTRIC LTD.—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-10, to revive Yellowknife Electric Ltd. and to provide for its continuance under the Canada Business Corporations Act, and acquainting the Senate that they had passed the bill without amendment.

[*Translation*]

ROYAL CANADIAN MINT ACT CURRENCY ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-46, to amend the Royal Canadian Mint Act and the Currency Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday, November 5, 1987.

[*English*]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. George van Roggen, with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have to advise you that Senator Murray is detained elsewhere today.

Hon. Royce Frith (Deputy Leader of the Opposition): Is there any question that you would like us to ask you?

● (1420)

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Macquarrie, for the second reading of the Bill C-55, An Act to amend the Immigration Act, 1976, and to amend other Acts in consequence thereof.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I moved the adjournment of the debate on this order last week, explaining at the time that I was doing so because someone else might want to speak to it. It is not my intention to do so. I think the bill should go to committee.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, in that event, on behalf of Senator Simard I ask for second reading of this bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—SECOND READING—DEBATE ADJOURNED

Hon. Michel Cogger moved the second reading of Bill S-14, to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec.

He said: Honourable senators, I do not wish to take up too much of the time of the house. I would just like to make a few comments to give you some background about the corporation, the petitioner, indicating its history and the reasons why it wishes to be exempted from federal jurisdiction and to continue as a corporation under the laws of the province of Quebec.

[*Translation*]

Cooperants, Mutual Life Insurance Society, is the result of the amalgamation on December 31, 1981, of Cooperants, Mutual Life Insurance Company, under the jurisdiction of Quebec laws, and of The Artisans, Life Insurance Co-operative Society, under the jurisdiction of the laws of Canada. Previously, Cooperants, under the jurisdiction of Quebec laws, had decided to continue its operations under the provisions of Section 4.5 of the *Canadian and British Insurance Companies Act* by letters patent issued on October 23, 1981. On the other hand, The Artisans, Life Insurance Co-operative Society, had been originally incorporated by special legislation in 1917, but it had in fact existed since 1876.

Cooperants had been incorporated by a special act of the legislature of the province of Quebec in 1962 under the name of Assurances U.C.C., Mutual Company, and this name was changed by order in council on April 17, 1973, to Cooperants, Mutual Life Insurance Company. Assurances U.C.C., Mutual Company, was itself the result of the amalgamation of Mutual Life of U.C.C. and Mutual General Insurance Society of U.C.C. As the names indicate, these two companies were related to the Union catholique des cultivateurs, which has since become the Union des producteurs agricoles or U.P.A.

The major reason which led Cooperants to incorporate under the laws of Canada in 1981 in order to amalgamate with The Artisans was the size of the assets of The Artisans and an anticipation that it would be easier for The Artisans, with a federal charter, than for Cooperants, with a provincial charter, to expand to other Canadian provinces. However, it so happened that the projected expansion to Canadian provinces other than Quebec did not occur and that, essentially, Cooperants has remained a provincial company with operations mostly in the province of Quebec.

Contrary to many mutual insurance companies, Cooperants is a company whose members are militant and are present in

nearly all regions of Quebec. It is still closely associated with the Union des producteurs agricoles du Québec through the fact that their respective local jurisdictions are the same. On the other hand the local jurisdictions which existed within the old Cooperants Company will still exist in the new Cooperants Company.

The same company, the petitioner, also has a general insurance branch, namely Cooperants, General Insurance Company, also a provincially chartered company.

Cooperants, Mutual Life Insurance Company seeks to maintain its operations under the laws of the Province of Quebec in view of the fact that most of its operations are in Quebec, that its organization has it firmly anchored in that province, and that it no longer expects to have the same expansion opportunities in the other provinces of Canada, except through a different company with a different name as well. In fact, Cooperants wants to go back to its origins as a provincially chartered company of Quebec.

There is no need to stress as well the obvious advantages offered, for the time being at least, by the Quebec Insurance Act, except perhaps the possibility of opening a wholly owned branch which will enable it to compete on an equal footing with its main Quebec competitors, such as L'Industrielle-Alliance, Compagnie d'Assurance-vie and La Laurentienne Compagnie Mutuelle d'Assurance-vie, both with wholly owned branches for expansion and diversification purposes.

I might point out that the Cooperants consolidated assets as of December 31, 1986 were in excess of $1 billion.

Finally, honourable senators, I would simply add that the bill has the endorsement of the Superintendent of Insurance, both in Quebec and in Ottawa. In addition, as I am speaking to you in any case, notices having been duly filed there does not seem to be any objection to this change.

On motion of Senator Frith, debate adjourned.

[*English*]

ILLITERACY IN CANADA

DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Fairbairn calling the attention of the Senate to the question of illiteracy in Canada.—(*Honourable Senator Robertson*).

Hon. Brenda M. Robertson: Honourable senators, I apologize for the fact that this order has been standing in my name for some time. With the amount of business going on in the Senate it is sometimes difficult to find an opportunity to speak.

However, in the course of this debate on illiteracy in Canada we have certainly had a most interesting and worthwhile discussion. It is no exaggeration to say that the subject of illiteracy has certainly attracted the attention of the media more than ever during the last few months. I suppose what captures our attention are the staggering figures involved. Four million adult Canadians are unable to read or write at a level which enables them to function adequately in our society.

[Senator Cogger]

What is of great concern, of course, is the evidence of the economic and social costs of illiteracy.

• (1430)

This problem of illiteracy is really rather shocking. In our society only about 70 per cent of our young people graduate from high school. Even among those who graduate a significant number have difficulty reading and writing at a level that would enable them to function in today's society. We now know, too, that 70 per cent of the functionally illiterate were born Canadian. It is not an imported problem. The level of unemployment among the illiterate population is estimated to exceed 60 per cent, which certainly is a very clear measure of human suffering.

It hurts us to hear these statistics. We might consequently interpret this information to mean that the incidence of illiteracy is growing. I believe, honourable senators, that this is not the case. Illiteracy was as prevalent yesterday as it is today, but it is just more visible primarily because it is running out of places to hide.

I have endeavoured to find statistics on illiteracy from other countries. They are difficult to find, although I did find a few, and they may be of interest to honourable senators. None of the figures is too recent, and I assume that the rate of illiteracy has dropped in the countries I am quoting, although even that assumption may not be a proper one.

In 1946 the rate of illiteracy in France was 3.6 per cent, and in the same year the rate of illiteracy in Belgium was 3.3 per cent. In 1970 the rate of illiteracy in Hungary was 2.0 per cent, and in Poland it was 2.2 per cent. Our record compared to those countries I have quoted is not very good.

Prior to this age of computers and technology, poor literacy skills were not a major barrier to survival. Occupations in domestic, agriculture, fishing and woodwork, to name a few, were always available as a means to earning a living. Prior to our more sophisticated age of complicated written instructions on food, medicine or poisonous products, written street directions and written job or social assistance applications, people with poor literacy skills could get by more adequately.

But now the information age is here. Technology is here. The goods and the services that we produce must compete in a global market. Keeping informed of new developments and new technologies is a key to survival in this marketplace. Certainly, we must move information quickly and clearly, and we already have the means: writing, reading and technology. If we as a society did not have those skills, our economic survival would be doomed. Likewise, members within our society without these skills are threatened; in fact, they are at risk. They are vulnerable, often helpless, and we have generally protected many of them in the workplace and in our social structures. This protection is costly. Some of that cost is measurable; some of that cost is difficult to measure.

We can measure income support payments. We might also guess at the costs of other supports for our illiterate citizens. For example, how many of the people lining up for soup kitchens and living on our streets are there because they

cannot read or write enough to gain economic independence? How many of the 60 per cent of our federal prison inmates who are functionally illiterate are there out of sheer frustration at being unable to function within the rules that they cannot comprehend?

Business and industry, too, have just begun to realize that illiteracy is costly. Because of technological change many employers are finding it necessary to send their employees on courses to learn how to handle the new machines and the new procedures. I find it amusing in a way, but they are shocked to find out that a high proportion of their employees, often as high as 30 per cent, are illiterate. I say I find it amusing because I do not know where these people have been over the last 20 years. Not only must these employers rethink their training strategies for these employees, they must face the nagging questions: How can it be that this problem has not surfaced before? What has been going on? The answers are not reassuring. Illiteracy has been hiding in the workplace, and some of the costs of that cover up are low productivity, inferior product quality, absenteeism, also many health and safety problems which lead to higher insurance costs. Medical and workers' compensation payments can be related directly to employees' inability to comprehend health safety instructions.

Many of these costs to society in general and to industry in particular have been measured in the United States. In the United States they have estimated that illiteracy costs the economy $20 billion (U.S.) annually. We have not measured our costs yet, but they are probably as high in proportion to our economy. Some estimate that the Canadian figure is approximately $2 billion.

The time has obviously come to solve this major national problem. The future of our economy demands it. A democratic society dictates that we return these lost adults to their rightful place as participants in the development of our future. Finally, compassion tells us that we must welcome these people back inside our system.

Illiteracy is everyone's problem. It cannot be solved overnight or by the actions of one single organization. No one government or level of government has the resources to eliminate the problem. We will have to rely on the goodwill and cooperation of numerous individuals and groups in our society.

I believe that there is little need to create more private or semi-private bureaucracies. We have an impressive number of groups and organizations with demonstrated skills and abilities in this area. Perhaps we should pool our resources and support them.

Laubach Canada, the major volunteer illiteracy network, for example, has developed a very successful formula. Government should take heed of this experience and their contribution prior to contemplating alternative approaches.

They have learned that confidentiality is the key to developing a tutor-pupil relationship. They have sensed how frightened, guilty or ashamed people feel about their illiteracy "secret." Offering to share this secret is a phenomenal privilege, bringing with it the responsibility of unquestioned confidentiality.

Their approach is also based on the knowledge that people who carry illiteracy into adulthood often have some very poor evaluations of themselves. In order for literacy training to even begin, these self-defeating attitudes must be dealt with delicately. Hence, the Laubach insistence on a one tutor-one pupil approach, or "each one teach one." That is the second major reason for their success. It is clear that the voluntary approach must remain sacrosanct. Government strategy should build upon that foundation.

Government has a major role to play in the coordination of literacy efforts. Improved coordination will not only catalyse the exchange of information and sharing of resources, it will also bridge the gap between government and community-based literacy endeavours.

I believe that government has the leading role in searching for and developing new initiatives to meet particular needs as they are identified. A good example of a creative and successful literacy program designed for a particular group is "The Sentence To Read" project in Kentucky. The project was specifically designed to develop literacy for youth in trouble. There are many good examples in Canada which need funding and coordination.

Provincial governments must and, in fact, do have administrative structures already in place through which they can assume these roles of leadership. What is needed is the commitment and more resources. All levels of government can help in providing these resources.

Unfortunately, honourable senators, these efforts will be required for decades to come unless we can turn off the tap that produces the problem. Canadians brag about having in Canada one of the best public school education systems, and we spend billions of dollars every year to maintain that system. A question to be asked surely must be: Why are we still producing graduates who are not capable of reading and writing at an acceptable level? In Canada, by law, students have to be in school until the age of 16. Yet, even after those required years in a learning environment many still come out functionally illiterate. This, I believe, is the most discouraging aspect of the illiteracy problem.

In a recent article for Southam News Frank Smith talks about the failure of formal education. He states that schools are not good places for learning. Most learning, he claims, is done outside schools. I agree with Mr. Smith, that oftentimes schools do not take into account all of the learning that is happening outside the school system. Inside the classroom everything is structured. Drills are designed the same way for everyone, and students almost have to forget what they have learned at home or in their environment.

I had the privilege while Minister of Social Reform in New Brunswick to criss-cross the province while holding public hearings on educational reform. I met with parents, teachers, school board officials, students, employers, and ordinary inter-

ested citizens. Everywhere I went the turnout was excellent and the interest was evident.

We heard it again and again: The educational system can and must do more. Participants felt that the public school education system had drifted too far away from the basics. Schools are no longer the centres of excellence where one was challenged, where one received the germ which provided the desire to discover and continue learning. I concluded that schools had become too much like factories, where students are often looked upon as "just passing through." So many students at community colleges and universities have told me that we need to emphasize communication skills much more.

• (1440)

New Brunswick, like most other provinces, has undertaken the task of reforming its educational system. Students will be expected to take an extended compulsory core program, and more emphasis will be placed on communication skills and basic mathematics. If children must stay in school until the age of 16—and I doubt there is anyone here who would argue that point—is it too much to expect them to at least be literate when they leave school—whether they drop out or whether they graduate? I think not. Unless we demand this from our education systems our illiteracy problem will continue to grow faster than remedial systems can mend the damage.

I believe that for us to consider that we can always correct or improve or teach people is "spinning our wheels" when there is an obvious area of neglect. Surely, we can do better in the school system than we are doing now.

It would be encouraging if parents made reading part of family activities and if they set good examples for their children. Unfortunately, many parents do not and cannot; many do not and will not. Fortunately, we have parents who can, who will and who do. I believe that recognizing realities of home life in Canada, the curriculum in every provincial jurisdiction should have as a primary goal "literate students"—literate students in a practical way—some will say "functionally literate." With the huge sums being spent on education surely we can expect and demand that this happen.

It would be nice if we could depend on all parents to help, but we certainly cannot. Rather than take the chance on parental help, basic literacy may have to become a primary responsibility of our public school system. Another generation may be more responsive, but my experience—and the experience of many of the senators in this chamber—is that the response is not there at the present time.

The cost in human suffering and the cost in economic terms is too great to leave literate skills to chance. It is not easy in times where everything happens at the touch of a button. Many Canadians have come to think that books have gone the way of the dinosaurs. In an age where the next generation of televisions will be three dimensional we sometimes wonder where books will fit in for most people.

The facts are all around us. Universities and colleges continue to complain that students from high schools are not always ready for advanced studies.

[Senator Robertson.]

I know that many of you have read a lot of information in the papers recently, but I want to point out to honourable senators that the recognition of the illiterate high school drop-out or the high school graduate is not just something that happened in 1987. I have here a copy of a press clipping dated February 17, 1985, from the *Winnipeg Free Press*. It states:

> About one in every five Manitobans does not read or write well enough to function properly in business and social life.
>
> In one Winnipeg vocational high school alone, 25 students have no reading or writing skills beyond Grade 2.

I have another quote which appeared in the Ottawa *Citizen* on May 31, 1985. It states:

> Almost one-third of Ontario's working francophones are functional illiterates, according to a study released Thursday.

It goes on. It becomes quite depressing.

The next quote appeared on October 16, 1986. It states:

> An agency of the United Nations says it believes more than a quarter of Nova Scotia's population is illiterate—meaning some 150,000 of our people cannot read or write—

The next article appeared in the *Toronto Star* on October 6, 1986. It states:

> Incredible as it seems, 42 per cent of first-year students at McMaster University in Hamilton have flunked a new mandatory literacy test.

That is quite an indictment of the school system.

There is another article under the heading "University grammar test results dismal," which appeared on October 10, 1986, from Niagara Falls, Ontario. It states:

> Almost 40 per cent of students who took a writing assessment at Brock University have been "strongly recommended" for remedial work on their grammar.

In an article which appeared on September 7, 1985, in the Toronto *Globe and Mail* under the heading of "Literacy of college students found declining," it states:

> At Centennial College in Scarborough, about 40 per cent of students are reading at or below the Grade 9 level;
>
> At Toronto's Seneca College, about 25 per cent of students are also reading at or below the Grade 9 level;
>
> At Sheridan College in Oakville, between 30 and 40 per cent of the student population reads at mid-Grade 10 levels;—

It goes on and on. You have read the headlines. Too many of us have closed our eyes to this, expecting that at some time the public school system will wake up.

I have an article from *Chatelaine* magazine of April 1987. I am sure that you will remember this one. It states:

> "I couldn't read until I was 35." Like a few million other Canadians, I went through school without becoming literate.—

It is a sad indictment of our school system in Canada.

Approximately 30 per cent of our students do not finish high school, and of that group a large percentage is known to be functionally illiterate. The public education system is therefore not meeting the needs of numerous young Canadians who will continue to add to the adult population illiteracy list. We cannot continue to address this disastrous issue by looking at it only as an adult problem. If the public school system had been doing their job properly, we would have an adult illiteracy problem that would be significantly less.

I agree with my colleagues that illiteracy is our country's national shame. We have now at least recognized the extent and the seriousness of the problem, but I believe that we have to get on with addressing the solutions to the problem. My personal view is that the problem has to be addressed at its roots—that is, at the public school system. I am convinced that we can do a better job and that with time we can eliminate illiteracy or at least reduce it to a level acceptable to a civilized and developed country such as Canada.

We have little to say about the education curriculum at the provincial level, but surely there must be a way to get our message to the provinces so that they know that, generally speaking, the job that they are doing is not satisfactory.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this is Senator Fairbairn's inquiry. As she is not here today, I will take the adjournment, on the understanding that if anyone else wishes to speak I will be glad to yield to them, because I do not wish to speak on it myself.

On motion of Senator Frith, debate adjourned.

CHILD CARE

NATIONAL POLICY—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Spivak calling the attention of the Senate to the question of a national policy on child care.—(*Honourable Senator Frith.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I do not intend to speak on Order No. 19, dealing with a national policy on child care. This is Senator Spivak's inquiry. If some other honourable senator wishes to speak on it she might know about it, in which case they might prepare to do so; otherwise, Senator Spivak might wish to close the debate.

Hon. Mira Spivak: Honourable senators, I have nothing further to add to the subject since I spoke on it some time ago. However, the Standing Senate Committee on Social Affairs, Science and Technology still has before it a study of the special committee on child care and has not completed it. Perhaps this could remain on the order paper, because when the Senate committee has completed its study, there may be senators who will wish to speak on this particular subject.

I do not wish to close the debate at this time. I would prefer that this inquiry remain on the order paper until the study is completed.

Senator Frith: That is reasonable, honourable senators. However, perhaps we will have it stand in Senator Spivak's name, because people who wish to intervene are more likely to speak to her than they are to me.

Order stands in name of Senator Spivak.

• (1450)

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before we adjourn, I remind honourable senators—if Senator Doody does not mind—that three committees will be meeting when the Senate rises. The Standing Senate Committee on Foreign Affairs will meet in room 256-S; the Standing Committee on Internal Economy, Budgets and Administration Subcommittee on Classifications and Salaries will meet in room 263-S; and the Special Senate Committee on National Defence will meet in room 356-S.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, November 4, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

QUESTION PERIOD

[*English*]

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR—GOVERNMENT ACTION—REQUEST FOR ANSWER

Hon. H.A. Olson: Honourable senators, it has been almost three weeks since I asked the Leader of the Government if he was ready to make an announcement with respect to the price of grain in western Canada and whether or not there was to be a deficiency payment or some other type of payment for the 1987 crop. I asked these questions before the summer adjournment, and at that time the Leader of the Government indicated that the Prime Minister and members of the government would be meeting with farmers, farm groups and provincial governments on those matters, and following those meetings an announcement would be made as to a solution. In other words, he acknowledged there was a severe problem and that the government was working on it.

It is now November 4 and the crop has long since been harvested. Farmers in the grain sector are now able to see the severe difficulty with respect to grain prices. Is the Leader of the Government now ready to make an announcement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have nothing to announce in that respect today.

Senator Olson: In order to give comfort to the producers, could the Leader of the Government give us an indication whether or not the government has this under active consideration? Will an announcement be made this year, or will there be no indication at all?

Senator Murray: I am sorry that I cannot be more helpful to the honourable senator, but I shall make inquiries of my colleague, the Minister of Agriculture, and report, if there is anything further to report, when appropriate.

TRANSPORT

TASK FORCE ON ALCOHOL AND DRUG USE IN RAILWAY INDUSTRY—SCOPE OF CONFIDENTIAL SURVEY

Hon. Charles Turner: After reading the *Saturday Night* Magazine I understand that the Leader of the Government is the smartest Tory in Canada, so I expect many answers today.

Recently the employees of the CNR in the Great Lakes region received a letter, which stated, in part:

> The consulting firm of Price Waterhouse is currently contacting some CN employees to request their participation in a confidential survey on alcohol and drug use in the railway industry.
>
> I wish to emphasize that this survey is not sponsored by CN, and the railway will not be given any information relating to it. This survey is being conducted on behalf of the Task Force on Alcohol and Drug Use in the Railway Industry, which has been established by the Minister of Transport.

At the top of this letter the following handwriting appears:

> Charlie, ask the minister (Crosbie) if this included him. He's classed as the brains or leader.

I have a question for the Leader of the Government from the employees of the CNR. Will this survey include all officials of the CNR, especially the Honourable John Crosbie and all his officials and Department of Transport employees, as he is the one who ordered the establishment of the task force?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall seek to obtain a copy of the terms of reference of that task force and any information that is available on its methodology and bring it to the attention of the honourable senator.

CANADIAN NATIONAL RAILWAYS

LONDON, ONTARIO LAYOFFS—JOB GUARANTEES

Hon. Charles Turner: Honourable senators, when Parliament passed Bill C-18, the National Transportation Act, 1987, and Bill C-19, the Motor Vehicle Transport Act, 1987, in June of 1987 it was led to believe that those bills were the greatest thing since the introduction of sliced bread and would lead to more jobs and stronger regional economies. Honourable senators, the chickens have come home to roost. We are moving jobs to other areas and are creating layoff problems in those former areas.

On Friday, October 30, 1987, at 9.20 a.m., 44 CN employees were notified of a big layoff that is to take place in London, Ontario. Area MPs were notified of the layoff on October 28, and the union was notified of the layoff on October 29. The employees were told that those jobs would be axed on February 1, 1988, and that the employees could apply for 28 jobs in Toronto and three jobs in Montreal.

Honourable senators, the following question arises: Will these jobs be guaranteed if the employees move to Toronto or Montreal?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure that I caught the last part of the question, but I believe it related to job guarantees for employees who are being displaced by CN. I would have thought that those matters were covered in the various agreements between the company and the union, but, in any case, the honourable senator will know, as a former railroader, that what is at stake here is the competitiveness and the survival of a Canadian company that is engaged in a highly competitive business. The honourable senator will also know that regardless of the bills passed by Parliament some time ago relating to the National Transportation Act, the company must be on top of market conditions. It is difficult for the company, and certainly impossible for the government, to give the kinds of guarantees the honourable senator seems to seek, which is that there will never be any changes. The long-term profitability, the competitiveness and, as I said, the survival of that company is what is at stake.

LONDON, ONTARIO LAYOFFS—POSSIBLE DELAY OF IMPLEMENTATION—CONSULTATIONS WITH CITY COUNCIL AND UNION

Hon. Charles Turner: Honourable senators, I attended a meeting held at the Holiday Inn in London, Ontario, with the former President of the CNR, Dr. LeClair, the mayor, the deputy mayor and the council members of the city of London. At that time Dr. LeClair faithfully promised that no decisions to cut jobs in the London area would be made until the mayor, the deputy mayor and the members of city council were notified.

A headline in the *London Free Press* of Saturday, October 31, 1987, reads: "CN Rail's job cuts 'callous,' mayor says". That article states, in part:

> Gosnell said the job cuts are 'callous' and it is the third time CN reneged on promises to consult with the city on any planned reductions in its London operation.

There were 87 jobs cut last year, and 400 over the past five years.

My question is: Will officials of the CNR delay the implementation of this cutback until after they meet with the members of the union and the members of council of the city of London?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will ask the minister who reports to Parliament for Canadian National, Mr. Crosbie, to furnish a reply to that question.

Senator Turner: Further, why did CNR officials not keep their promise to the City of London and the employees that they would be notified in advance of proposed cutbacks?

Senator Murray: I will refer that question to the minister as well.

LONDON, ONTARIO LAYOFFS—EFFECT ON AND POSSIBLE TRANSFER OF SUPERVISORY POSITIONS

Hon. Charles Turner: Further, do these cutbacks in the London accounting department affect any supervisory positions, and if so, how many?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That is a question seeking statistical information and should probably be put on the order paper, but I will see if a reply can be obtained to it readily.

Senator Turner: Further, will those supervisory personnel be transferred to other terminals, and if so, where, and in what official capacity will those supervisory employees be placed?

• (1410)

Senator Murray: Honourable senators, the answer to that question would depend completely on the answer to the immediately preceding question.

JOB SECURITY AND RETRAINING PROGRAM—STATUS AND APPLICATION

Hon. Charles Turner: I have a further question. The government of the day, under the Honourable Jean-Luc Pepin as Minister of Transport, established the job security and retraining program of $50 million. Is this program still in effect, and how and when does a laid-off or cut-off employee apply for saving benefits?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sorry, I do not know the answer to that question, honourable senators.

LONDON, ONTARIO LAYOFFS—TORONTO COST-OF-LIVING COMPENSATION

Hon. Charles Turner: Recent statistics inform us that a person moving to the city of Toronto, Ontario, needs at least $9,000 extra pay per year just to break even with the increased cost of living in the city of Toronto. Will the government of the day fully compensate any of the laid-off 36 unionized employees who desire to move to Toronto?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think I can with some confidence answer that question in the negative.

Senator Turner: Thank you very much, sir; I will remember that in the next election.

Some Hon. Senators: Hear, hear!

Senator Murray: Thank you, sir.

COMMUNICATIONS

SALE OF TELEGLOBE CANADA TO MEMOTEC—INVESTIGATION OF INSIDER TRADING—GOVERNMENT ACTION—REQUEST FOR ANSWER

Hon. H.A. Olson: Honourable senators, I have a question for the Deputy Leader of the Government. I ask him if he has a delayed answer for me today, or if he answered my question some time when I did not notice, because I see by my notebook that it was September 29 when I asked him whether or not Memotec Corporation had been asked to withhold an announcement of its bid for Teleglobe.

The question was simple. It was: Is it true that they were asked to withhold making an announcement from January 5 to February 9, and if so, what was the reason for withholding it? That is all.

I see that they are looking puzzled about this, but there are a number of clouds—

Senator Doody: I thought I was looking learned.

Senator Olson: —hanging over what I think are some innocent people involved in all of this.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That is the first time that you have evoked a possibility that there are innocent people involved.

Senator Olson: I am sure of that.

Senator Murray: Good!

Senator Olson: But there might be someone who is not so innocent, too. That is what we want to find out, and that is what we need some answers on.

Senator Murray: I am glad that you have changed your mind.

Senator Olson: Would the deputy leader like to deliver on his undertaking that he would give me a reply so that we can clear this matter up?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I delivered a delayed answer on Memotec to this chamber either last week or the previous week. I do not recall the exact wording of it, but I suggest that Senator Olson check back through *Hansard*. If the answer that was delivered was not satisfactory, I will certainly undertake to do more research on his behalf.

Senator Olson: Thank you very much.

DELAYED ANSWER TO ORAL QUESTION

FIJI

CURRENT POLITICAL SITUATION—GOVERNMENT STANCE AT COMMONWEALTH CONFERENCE—CONSULTATIONS WITH FIJIAN COMMUNITY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer. It is an answer to a question asked by Senator Marsden on October 1, 1987. It deals with Fiji—Current Political Situation.

If Senator Marsden wishes me to read it I will. Otherwise, I ask that the answer be taken as read and form part of today's proceedings.

Hon. Lorna Marsden: Is it a long answer?

Senator Doody: It is almost a page.

Senator Marsden: All right.

(*The answer follows:*)

> The Government of Canada is clearly on record as having strongly condemned the two military coups initiated by Colonel Rabuka. The Secretary of State for External Affairs, the Right Honourable Joe Clark, most recently issued a statement to this effect on October 2. On October 15, Colonel Rabuka declared Fiji a republic. On the same day the Governor-General requested that the Queen relieve him of his office as he no longer felt able to carry out fully the duties of his office. The Queen accepted his resignation on that date with "regret".
>
> In view of the situation the leaders attending the Commonwealth Heads of Government Meeting in Vancouver issued, as part of the final declaration, a statement on Fiji that expressed the hope that the country would return to democratic principles that respected the rights of all citizens equally. The statement also noted that because of Colonel Rabuka's actions Fiji could no longer be considered a member of the Commonwealth. Since that time, the Government of Canada has continued to view the situation in Fiji with concern. The Government of Canada is continuing to monitor developments closely and has maintained close consultation with other countries in the region. Some members of the Fijian community in Canada have expressed their concern to the Government. It is normal Canadian policy not to officially recognize new regimes or governments following extra constitutional changes in a particular country. The Government of Canada nevertheless continues to maintain diplomatic relations with Fiji and to provide consular protection to Canadian citizens who may be in Fiji.

ANSWER TO ORDER PAPER QUESTION

NATIONAL ADVISORY COUNCIL ON AGING

MEMBERS BY FEDERAL DISTRICT OR PROVINCE

Question No. 32 on the Order Paper—**By Hon. Jack Marshall:**

> 3rd September, 1987—What are the names of all Members of the National Advisory council on Aging, broken down by federal district or province?

Reply by the Minister of National Health and Welfare:

PROVINCE	MEMBERS
YUKON AND NORTHWEST TERRITORIES	Mr. William Smoler 406 Hoge Street WHITEHORSE, Yukon Y1A 1W2
	Vacant

BRITISH COLUMBIA	Mrs. Patricia Moir 6 - 511 Braid Street PENTICTON, British Columbia V2A 4Y4
ALBERTA	Mrs. Thelma Scambler 9526 - 86 Street EDMONTON, Alberta T6C 3E9
SASKATCHEWAN	Miss Madge McKillop 1009 - 514 23rd Street SASKATOON, Saskatchewan S7K 0J8
MANITOBA	Vacant
ONTARIO	Mr. Joel Aldred Postal Box 122 PORT PERRY, Ontario L0B 1N0
	Dr. Kappu Desai 173 Cassandra Boulevard DON MILLS, Ontario M3A 1T4
	Dr. Charlotte Matthews 673 Hollywood Place SARNIA, Ontario N7V 2J3
	Vacant
QUEBEC	Mr. Antonio Capobianco 6821, rue St-Denis MONTREAL (Québec) H2S 2S3
	Mrs. Louise Francœur 10, rue de L'Anse BEAUMONT (Québec) G0R 1C0
	Mr. Roland Gagné 11790, rue Pasteur MONTREAL (Québec) H3M 2P6
	Mr. Yvon-R. Tassé 2052, rue Boisjoli SILLERY (Québec) G1T 1E1
	Sister Marie Bonin 138, rue St-Pierre MONTREAL (Québec) H2Y 2L7
NEW BRUNSWICK	Mrs. Barbara Gregan Pinegrove 521 Woodstock Road FREDERICTON, New Brunswick E3B 2J2
NOVA SCOTIA	Vacant
PRINCE EDWARD ISLAND	Mr. Joseph Murphy 18 Laurie Drive PARKDALE, P.E.I. C1A 0M8
NEWFOUNDLAND	Mrs. Grace Sparkes 25 Oxen Pond Road ST. JOHN'S, Newfoundland A1B 3J2

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Cogger, seconded by the Honourable Senator Tremblay, for the second reading of the Bill S-14, An Act to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if I understand well the purpose of this bill—and Senator Cogger will correct me if I am wrong when he closes the debate—essentially the problem that the bill addresses arises from the fact that insurance companies can operate under either federal or provincial law. As has happened on previous occasions, amalgamations sometimes take place between a company operating under federal law and a company operating under provincial law. The decision then has to be made as to the law under which the amalgamated company wishes to operate.

In this case the original decision was to operate under federal law. One of the reasons for that was that the companies to be amalgamated felt that there would be more opportunities for expansion of their business throughout Canada if they operated under the federal statute. Another factor was the rather impressive size of the assets and the share value of one of the companies that was being amalgamated.

Since then, the new amalgamated company has decided that it would prefer to operate under the laws of Quebec only. There are some technical advantages to its so doing, but, essentially, it has decided that it wants to restrict its operation to Quebec and, as I say, to take advantage of some additional aspects to operating under Quebec law, as outlined by Senator Cogger.

Honourable senators, if I am correct in my understanding of the situation, then, obviously, the bill should go to committee and be dealt with in the normal course. I also want to underline that the bill has the endorsement of the Superintendent of Insurance, both in Quebec and in Ottawa, and all the necessary notices have been filed without any objection being taken.

Again, if I am right in my summary, it seems to me, honourable senators, that this application should go to the committee for the usual study and report.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cogger, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

DISTINGUISHED VISITOR IN GALLERY

SPEAKER OF LEGISLATIVE ASSEMBLY OF ALBERTA

The Hon. the Speaker: Honourable senators, before we proceed further with the Orders of the Day, I should like to draw the attention of honourable senators to the Honourable David Carter, Speaker of the Legislative Assembly of Alberta, who has honoured us with his presence in the gallery.

Hon. Senators: Hear, hear!

• (1420)

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—CONSIDERATION IN COMMITTEE OF THE WHOLE—ORDER STANDS

On the Order:

The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Gildas L. Molgat: Honourable senators, Senator Forsey expected to be here at 3 o'clock this afternoon, and I am not sure whether he is available immediately. Perhaps we could deal with the other items of business on the order paper and revert to this order. I will try to seek Senator Forsey out.

The Hon. the Speaker: Are honourable senators agreed that we proceed with the Orders of the Day until 3 o'clock, at which time we shall revert to Order No. 6?

Hon. Senators: Agreed.

Order stands.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the response of Canadians to a petition mailed out, calling upon Parliament to urge the government to act on the motion dealing with the production of the NFB film "The Kid Who Couldn't Miss".—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, in line with the action I have taken on the National Film Board film "The Kid Who Couldn't Miss", I just want to give a three or four-minute up-date on the petition and its response.

The Hon. the Speaker: Honourable senators, if I might intervene, I must inform the Senate that if the Honourable Senator Marshall speaks now, his speech will close the debate on this inquiry.

[The Hon. the Speaker.]

Hon. C. William Doody (Deputy Leader of the Government): I do not believe that is so. I think the honourable senator might adjourn the debate in his own name, as he has been doing for some time.

Hon. Royce Frith (Deputy Leader of the Opposition): I think that is correct, Mr. Speaker, because he has not finished his introduction. Therefore, he is not exercising his right of reply.

Senator Marshall: I want to assure the Speaker that this will be the second-last dissertation he will be hearing from me.

Senator Doody: No! No!

Senator Marshall: Tomorrow I shall table the petition.

To proceed with the up-date on the results of the petition on the National Film Board work entitled "The Kid Who Couldn't Miss", not including today's returns, we now have 13,816 signatures over and above the 50,330 persons whose executive members have spoken for them in support of my action to have the film corrected.

I want to say a brief word about a news story that was carried in the *Ottawa Citizen* on Friday, October 30. In it appeared a photograph of three veterans of the Royal Flying Corps, standing in front of a painting by Robert Bradford. Incidentally, this is the same Robert Bradford I spoke of last Wednesday, October 28. In a letter, which I quoted then, he described how Bishop would not have been able to handle his aircraft unaided on the ground, after landing, to shoot holes in it, which is the NFB's outrageous suggestion in the film.

The title of Robert Bradford's painting is "Dawn Attack". It shows the moment on June 2, 1917, when an enemy aircraft that Billy Bishop was attacking had collided with a tree. I want to make a couple of significant points about that event.

First, all three of the veterans knew Billy Bishop through the years until his death in 1962. Despite the statement in the film that "everyone knew that Bishop was fraudulent," none of the three had any doubts whatsoever about Bishop's honesty.

Honourable senators, the same day the story appeared in the *Citizen* I received a letter from one of the RFC veterans in the picture, Banfield Taylor. I will read his letter:

The Honourable Jack Marshall

Senate of Canada

Dear Sir:

In August you sent to me a memo with reference to the production by the NFB "The Kid Who Couldn't Miss".

As a member of the RFC 1917-19 we all found this film to be full of untruths and actually disgusting.

Remember, honourable senators, that from 1917 to 1919 he served.

Owing to a fall in early August I was immobile for eight weeks. Enclosed is a copy of the petition you sent me which has been signed by some of my friends, all senior officers in the Canadian Armed Forces.

May I express my thanks and how grateful we all are for your efforts in trying to amend the injustice to the memory of a truly great pilot.

The NFB production betrays not just Billy Bishop but also Banfield Taylor and his comrades, and it simply cannot be allowed to continue in its present defamatory state.

In July a museum, the Billy Bishop Building, was opened in Owen Sound in honour of Billy Bishop. The Air Force Association just last month announced a new annual award to be presented in honour of Billy Bishop, and all of those honours are happening while a government agency continues to show its anti-Bishop film.

I mention this again, honourable senators, to indicate that each day as the weeks pass, someone refers to the Billy Bishop film and the unfair way in which it was presented.

There is no doubt, honourable senators, that next Wednesday, November 11, at school assemblies in Canada, the film "The Kid Who Couldn't Miss" will be shown, and those assemblies will conclude—as did the Grade 9 student to whom I referred in an earlier speech—that our most honoured veteran, our most highly decorated Canadian, was a fake.

I hope that we may be able to influence those with the authority to resolve the unacceptable blight on the record of one of Canada heroes; and, as I indicated to honourable senators, tomorrow I will be tabling the petition.

Some Hon. Senators: Hear, hear!

On motion of Senator Marshall, debate adjourned.

● (1430)

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

Leave having been given to revert to Order No. 6:

The Senate again in Committee of the Whole on the Meech Lake Consititutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, if the Committee of the Whole is prepared to proceed, before we call Senator Forsey, who appeared before us last time and who has agreed to come back because a few senators had more questions, perhaps in the general order of business I might report that the steering committee has met since the last meeting. I shall make a complete report at the next meeting of the Committee of the Whole. One of the decisions taken by the steering committee was to hear all those who had requested to appear before the Committee of the Whole, plus three other persons. We have been attempting to reach those who indicated a desire to appear before us. Today we will hear the conclusion of Senator Forsey's testimony and the testimony of the Honourable Charles Caccia, MP.

I might also report—and there will be a further report on this matter as well—that the task force of this committee has had in the past ten days two days of hearings in Whitehorse, two days of hearings in Yellowknife, and one day of hearings in Iqaluit. We had excellent attendance at the hearings. I would like to thank my colleagues who served on the task force for their very constant attention to the work of the committee. It was not an easy series of hearings as many people appeared before us, but it was a very useful series of hearings.

Senator Thériault: Mr. Chairman, how many people or organizations have asked to appear before the Committee of the Whole?

The Chairman: At the moment we have something of the order of 45 individuals or representatives of organizations who have requested to appear.

Senator Thériault: Is it the steering committee's intention to hear all those who have applied to appear before the committee?

The Chairman: The decision of the steering committee—and a list of the names of those who have requested to appear has been distributed—is to hear all those who expressed a desire to appear before us, as well as three other persons.

Senator Thériault: Mr. Chairman, you said three other persons?

The Chairman: Yes. The steering committee requested me to invite two university professors and a previous Prime Minister of Canada, the Right Honourable Pierre Elliott Trudeau. Those requests are now going forward to the individuals concerned.

Senator Doody: I might say, Mr. Chairman—and you can correct me if I am wrong—that the Committee of the Whole still has the right to suggest other names and extend other invitations if we feel that there are people who can bring us further information, another point of view, or whatever.

The Chairman: That is absolutely correct. There was no cut-off of any kind on other persons who might be interested in appearing or whom members of the committee might wish to invite to appear.

To be precise, the committee requested me to invite the following persons: The Right Honourable Pierre Elliott Trudeau, Professor Peter Russell, University of Toronto, and Professor Allan Cairns, University of British Columbia.

Senator Flynn: Mr. Chairman, you mentioned a decision. I suppose that is a recommendation from the steering committee to the Committee of the Whole.

The Chairman: Yes, Senator Flynn, you are correct in that regard. If the Committee of the Whole did not wish to accept that recommendation, the Committee of the Whole would certainly be within its rights to vote against such a recommendation.

However, I believe I prefaced my comments by saying that I was advising the Committee of the Whole that I would make my formal report at the next meeting of the committee.

Therefore, my comments are for information only at this point, and I will submit my formal report at the next meeting, at which time the Committee of the Whole, of course, will have the perfect right to question, change or vote against the recommendations of the steering committee if they so wish.

Senator Frith: Mr. Chairman, when we adjourned last time, you had a list of senators who wished to ask questions of Dr. Forsey. Can you now tell us who is on that list?

The Chairman: As a matter of fact, Senator Frith, I was about to propose that we start afresh, because there are a number of senators who were present at that time who are not here today. However, I was about to suggest that we start with Senator Neiman, whose name was first on my list from last time. Thereafter, we will see who else wishes to question Dr. Forsey.

If that is agreeable, honourable senators, then we will ask Dr. Forsey to join us.

Senator Frith: If there are other senators present today who were on the list from last time, I presume you will be asking them to proceed since they will assume that they have held their place.

The Chairman: Yes. As a matter of fact, I tried to reach a number of those senators prior to today's meeting to determine whether or not they were prepared to proceed today. Some of them told me that their questions had already been answered during the testimony, and so on, so I thought the best thing would be to start afresh. However, I do have three names left over from last time, and those senators are here today: Honourable Senators Neiman, McElman and Marsden.

[*Translation*]

Pursuant to Order adopted on June 18, 1987, the Honourable Eugene Forsey was escorted to a seat in the Senate Chamber.

The Chairman: Your are listening, dear Senator Forsey, you can hear me?

Dr. Forsey: Yes, very well, Mr. Chairman.

The Chairman: So again I welcome you. You have been kind enough to come back today to answer further questions from honourable senators. I know you have asked to leave at 3.40 p.m. at the latest, if I understood correctly, because you have another appointment.

So I would ask honourable senators to keep that time limit in mind. We greatly appreciate that you have agreed to reappear before the Senate Committee of the Whole, for the fourth time, I believe.

He shall proceed directly with the questions of honourable senators. The first name on the list is that of Senator Neiman, followed by Senator McElman.

● (1440)

[*English*]

The first name on my list is Senator Neiman.

Senator Neiman: Thank you, Mr. Chairman.

[The Chairman.]

Dr. Forsey, I had hoped to be able to put my question to you on the last occasion you were here because of the particular significance of that day. It happened to be the day on which there were awards being presented in this chamber during a ceremony celebrating Persons Day. That, of course, is of particular significance to all the women of Canada and, I hope, to all senators.

Dr. Forsey, I would like you to comment on your perception of the possible impact of certain provisions in the Meech Lake Accord on the interests and rights of women. I am referring in particular to paragraph 2.(1)(b), which states:

> 2.(1)(b) the recognition that Quebec constitutes within Canada a distinct society.

I would also like to refer you to subsection 2.(3), which states:

> 2.(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(b) is affirmed.

I would like to hear your views on the possible impact this may have. I am sure you are aware that many women's groups have expressed their concern about these provisions.

Dr. Forsey: Yes, Senator Neiman, and I think particularly in the light of section 16 of the accord, which appears to make everything in the Constitution and in the Charter subject to this new principle of interpretation, the distinct society of Quebec, with the exception of multiculturalism and the provisions dealing with aboriginals and, by a side wind, in the section on immigration, mobility rights. Everything else appears to be subject to the principle of the distinct society.

[*Translation*]

An interpretation of the Constitution must be consistent with this principle.

[*English*]

It is clearer in the French text than in the English text, which says that the Constitution shall be interpreted in a manner "consistent" with the distinct society.

The fact that there is nothing in section 16 relating to the gender equality section of the Charter, as the joint committee has called it, is, I think, significant. There is legal opinion that has been presented to the joint committee that the section on gender equality—the rights of women, the anti-discrimination section—is still preserved. However, there is also legal opinion to the contrary.

Between these two expert legal opinions I certainly do not dare to advance any claim to judge, but it illustrates, once again, that we shall not know the answer to many of these things in the accord until we hear it from the Supreme Court of Canada. The defenders of the accord are delighted with this. They say, "Leave everything to the Supreme Court of Canada. Don't worry about anything. The Supreme Court of Canada is bound to give you a right and constructive and useful and careful and reasonable decision. Don't worry about anything." I have great confidence in the Supreme Court of Canada, but I do not think that this is really satisfactory. I

think we ought to have something clearer, and not simply be told to wait until the Supreme Court of Canada gives a decision.

To the best of my belief, the women's organizations in Quebec have said they are not worried about this. That is very nice, and I must say that recent developments in Quebec with regard to the rights of women have been positive, as far as I am aware. However, this idea that you can simply trust future governments and future legislators to do what is right and reasonable and nice and decent is not good enough if you are dealing with a Constitution. If you could always trust governments and legislatures to behave properly, we should not need a Charter, and we should not need a Constitution; we would all be in heaven where these things are superfluous.

I feel uneasy about this. It is, perhaps, possible that in fact women's rights and other rights in the anti-discrimination clause of the Charter are preserved, but it is possible they are not. I am worried about it, and I do not feel happy in being told that I must wait until I do not know when, when there is a decision from the Supreme Court of Canada on these matters. It may take a very long time, and it may be a very expensive process as well.

Senator Neiman: Dr. Forsey, do you believe those same provisions might have an impact on the rights and interests of the aboriginal and native peoples of Quebec?

Dr. Forsey: I think they might, in spite of the proviso in section 16 of the accord, which seems to protect them. It is significant that two of the witnesses before the joint committee—Professor Wayne MacKay of the Dalhousie Law School and Professor William Lederman of the Queen's Law School—seemed to think that this did not provide a guarantee for the aboriginal people. I hope I am not misinterpreting what they have said, but I read it very carefully. Professor Lederman, of course, is a defender of the accord. Both professors indicated that they did not think this was a complete bar. I have the quotations from their evidence here. If necessary, I can look through my material and find those quotations, but I think I am correctly interpreting what they have said.

In effect, both of them said that there are two principles here, and the Supreme Court, if this ever comes before it, will have to decide which of them takes precedence over the other.

Senator Frith: Dr. Forsey, section 16 is the section that seems to give rise to this concern about what has been described as the Charter being "overridden" by section 2. Remembering that you think it should be made clearer, and should not be left to the courts to decide whether or not the Charter is overridden, would you support an amendment to section 16 that would read something like:

> 16. Nothing in section 2 of the Constitution Act, 1867 affects the Canadian Charter of Rights and Freedoms . . .

You could add:

> . . . section 35 of the Constitution Act, 1982 . . .

And you might feel that that should be broader.

> . . . or the distribution of powers in sections 91 and 92 of the Constitution Act 1867.

Would that make it clearer?

Dr. Forsey: If I recall exactly what you said, Senator Frith, I think so. I think these things should all be kept out from under.

Incidentally, the joint committee appeared to regard this with horror. They said that if there was going to be something provided to protect the rights of women, what about all these other rights? What about discrimination on grounds of religion, ethnic origin, language, and so forth? It was indicated that if you excepted the rights of women from the operation of the distinct society you must except all these others. The committee appeared to regard this with absolute horror, and said, "What would become of the whole thing?" My comment, as you may have noticed if you read my analysis of the joint committee's report, was, "What, indeed?" It seems to me that none of these rights should be subjected to these new principles of interpretation. The Charter should be there. It should be supreme in regard to all these things.

The Chairman: The next questioner will be Senator McElman, followed by Senator Marsden.

Senator McElman: My question follows on the discussion that has just taken place.

Dr. Forsey, you will recall during the 1981-82 period of consideration by the joint committee of the then proposals for patriation of the Constitution and its reform.

• (1450)

The government took a position on the constitutionality of what it proposed to do. At that time the Right Honourable Joe Clark, then Leader of the Opposition, took a very different position. He urged the government to submit a reference to the Supreme Court of Canada, which did take place, and a ruling was given by that court which proved to be very constructive and useful at that time.

Currently, we have a situation that has created a great deal of concern among women's groups, aboriginal groups and others as to the meaning of the words "distinct society" and the effect that those words will have on the workings of the Charter of Rights and Freedoms. The government has said that the language in this aspect, and other aspects of the proposed accord, is purposely vague so that it can be interpreted by the courts.

The government has not been able to firmly establish what the effect of this terminology will be, although at one point it suggested, through one of its ministers, that it was simply a recognition without great effect. At the same time the Premier of Quebec, the Honourable Robert Bourassa, and Mr. Claude Morin quickly suggested that those words were going to have a tremendous effect upon interpretations that will be made by the Supreme Court of Canada.

That is a long lead-in to ask you the following: Do you not think it would be most appropriate, so that the problems in the minds of Canadians could be cleared away, that before we

proceed further the government should make a reference to the Supreme Court of Canada and ask that court what the effect of that terminology will be, for example, on the Charter of Rights and Freedoms?

Dr. Forsey: Yes, I do think so. I think that would be most appropriate. If the Government of Canada is not prepared to do that, I would hope that a provincial government might be prepared to make a reference to its court of appeal. That was the way the problem in connection with the patriation proposals was handled. That matter went to three provincial courts of appeal. If I remember correctly, that matter went to the Quebec, Newfoundland and Manitoba courts of appeal, and then to the Supreme Court of Canada. So, even if the government here is unwilling to make the reference, I think that one might hope that some provincial government would make a reference to its court of appeal and then it might be carried on appeal to the Supreme Court of Canada.

Senator McElman: Thank you, Dr. Forsey.

The Chairman: Thank you, Senator McElman. I have Senator Marsden's name, followed by Senator Marshall's name.

Senator Marsden: Thank you, Mr. Chairman.

Dr. Forsey, Senator Neiman has asked the first question I intended to ask regarding the impact of this accord on gender equality rights in the Constitution, but may I follow with two further questions related to the process under which this debate has gone on.

I wonder if you would comment on an argument put forward by Professor Lynn Smith of the Faculty of Law of the University of British Columbia at a conference held last weekend, which seems to me to be significant to this debate. She pointed out that in this instance the burden of proof of showing that there is an error has been put not on those people who are proposing change—that is, the drafters of the Meech Lake Accord—but on women's groups or those people who testified before the joint commmittee. They were asked to prove that there was some error which could be described as "egregious" in order to bring about any change.

I wonder if the shifting of the burden of proof to those people who are standing for the *status quo* has been made before in terms of constitutional changes in this country or elsewhere, as far as you recall, and even if it has, how you would evaluate that?

Dr. Forsey: I cannot positively say that this has never been done before. It seems to me to be out of tune with anything I can recollect of previous discussions on this kind of subject. Ordinarily, the burden of proof is on the people who want to make a change.

This may reflect the fact that I was brought up as a Conservative and I may be a little prejudiced—and now I am getting very old, which makes it worse, I suppose—but I have always felt that if you are dealing with a proposal to make changes the people who want to make the changes should make the case. It is not for the people who want to keep things as they are to make the case; doubtless, they will have to argue back and forth and you will get an exchange, but the onus of proof, it seems to me, is on the people who want to make the changes.

Senator Marsden: That leads to my second question. As you know, the joint committee has recommended a permanent parliamentary committee to discuss constitutional matters that come up now on an annual basis at First Ministers' conferences.

Given the way in which the joint committee has argued this time for shifting the burden of proof to those who are questioning the change, I wonder whether you think such a committee will be helpful in the future.

I should like to raise two other examples, one of which came out of a meeting you and I attended last week at Ottawa City Hall where a member of Parliament, who had sat on the joint committee, made very incorrect statements about the history of Canada's Constitution in 1867, saying that it had been imposed by "our colonial masters." In other words, having sat on the joint committee, and as someone who speaks for the Meech Lake Accord, that member of Parliament had not bothered to inform himself of the way in which the original Constitution of the country had been drafted.

I wonder if you think that gives much hope for the possibility of help from a permanent committee?

The second example comes from a paper written by Professor Beverly Baines, Faculty of Law, Queen's University, who analyzed carefully the submissions made to the joint committee on gender and equality rights and the responses of the joint committee to these submissions. She suggests that the committee simply did not understand at all what it was that the five major women's groups which appeared before the joint committee were talking about, that even though the accord is defined in linguistic and cultural terms, the language of those five major groups was misinterpreted in some cases, and in other cases seems to have been totally ignored.

My general question is: What do you think the value of a permanent parliamentary committee would be in such cases, given the sorry history of the current joint committee?

Dr. Forsey: I think it would be useful to have one, but I am doubtful as to whether it would have a great deal of effect, notably because of the provisions of section 13 of the accord, which hit me like a bullet long after I should have wakened up to them, because it seems to me that under section 13 what you have is a statement that the deliberations of the First Ministers' conferences on constitutional matters shall include Senate reform, roles and responsibilities in relation to fisheries, and "such other matters as are agreed upon."

That seems to me to mean that, in fact, nothing except Senate reform and fish can be brought up at the meetings of the First Ministers except with the unanimous consent of the premiers, and one premier can impose total silence. That seems to me to be a very serious defect in the accord which has not received as much attention as I should have expected it to.

If you have a parliamentary committee representing Parliament and the legislatures, and so forth, as suggested in the accord, it may be useful, but how far will it get? Because you

can have just one eccentric, one stubborn, one selfish premier even vetoing a discussion on anything he does not like. This really scares the daylights out of me.

• (1500)

Senator Marsden: It is frightening. Assuming, though, that you are correct on that—even if you are correct and the only two subjects that can be raised are Senate reform and fisheries—if they were to proceed with the case of either Senate reform or the fisheries, do you think that a parliamentary committee holding hearings on looking into this would have any more weight than any of the other committees that have made recommendations on these issues over the years, including the Macdonald commission and the joint committee report that came down on Senate reform in January 1984, and so on? Do you think that parliamentary committee will carry any weight?

Dr. Forsey: I am doubtful about it because of the atmosphere that has surrounded this whole accord, that it is a sort of "Ark of the Covenant;" that it is sacred; that it must not be touched; that even criticism is rather nasty of people—they should be prostrating themselves before this enormous achievement and not questioning anything in it. If that kind of atmosphere survives, then how much attention will be paid by governments to even the joint parliamentary and legislative committee which is suggested? I hope that it would have some effect—I think that it would be useful; it is one of the things in the joint committee's report that I am glad of—but, frankly, I am not very sanguine about it.

Senator Marsden: I have one last question. There are those who have argued that the joint committee's report will be used as an interpretative document on such things as what constitute "national standards" for the federal spending power clause. Are you in agreement with that view that the joint committee report will be used as an interpretative document? If that is the case, would not reports of the various provincial legislatures on this matter also become interpretative documents?

Dr. Forsey: I think they might. I think that it is a frightful prospect, because, frankly, I think that the joint committee's report is a bad piece of work, a shoddy piece of work. I suppose that that is disrespectful, but that is what it seems to me.

Incidentally, you mentioned the misunderstanding of the origins of the Constitution by that member of Parliament the other evening. There is much worse than that in the joint committee's report itself where it quotes with approval—indeed, approval is putting it mildly—the preposterous rubbish that Mr. Eric Kierans produced, which was absolute nonsense from start to finish, from the first word to the last. I never saw such a complete travesty of what actually took place. Here you have a member of Parliament, a well-educated man, thinking that the British North America Act was imposed upon us by our colonial masters when, in fact, it is 99.9 per cent homemade. You have a former cabinet minister coming forward with two sets of statements which were absolute rubbish—and I am choosing my words carefully. The committee endorsed these and said that perhaps one could be forgiven for thinking that there were as many versions of the intentions of the Fathers of Confederation as there were Fathers of Confederation—on which my comment, as you may have noticed if you read what I wrote, was, "No, one could not be forgiven. The thing is preposterous."

This ignorance in high places, this confident, bumptious ignorance in high places, is one of the most frightening features of the whole thing. Of course, I have often said that Canada is a paradise for humbugs. On no subject are the humbugs more prolific than on constitutional matters. If you have enough nerve, crust, grind and gall, you can palm yourself off on most of the people of this country as an expert on almost any subject under the sun, and more particularly on constitutional questions. No one who knows anything about it will be impressed. If I tried to palm myself off as a reincarnation of Caruso, no one who knows anything about music would be impressed; but if I had enough gall to try it, I could get away with it with an enormous number of people.

Senator Marsden: Thank you very much.

The Chairman: I have a small problem. I have two supplementary questions at the moment, and I also have four names on my list. Senator Forsey must leave us by twenty minutes to four. For the moment I will skip the supplementary questions and go directly to the questioners and ask them if they would keep in mind the clock. I have Senator Marshall next, followed by Senator Stewart.

Senator Marshall: Dr. Forsey, I have one question—and you touched on it in answer to Senator Marsden. It has to do with section 50, the roles and responsibilities in relation to fisheries.

You are aware that national objectives are prominent in allocation of fish. The federal government sets a total allowable catch; the federal government manages the fish from the perspective of national objectives. Certainly, fish do not know boundaries. Since we are involved with three or four provinces, would you like to comment on the adequacy of or the reasons why the responsibilities in relation to fisheries are so prominent in the Meech Lake Accord whereas other things are not? It states: "Such other matters as are agreed upon." Would you like to comment on that?

Dr. Forsey: I think it was, undoubtedly, put in there to please the Premier of Newfoundland. As far as I know, he is the only premier who has been raising this question. As I understand it, the people in Nova Scotia are uneasy about the possibility of any change there.

Incidentally, all he has is a guarantee that the matter will be discussed—nothing else. Presumably, it is a perpetual guarantee. He can raise the question of jurisdiction over fisheries this year, next year and the next year afterwards forever. But, that is all he has. I think that that was put in there to please him, and he apparently is satisfied with it. He is much more optimistic than I am that anything will come out of the discussions. I should think that little is likely to come out of the discussions, because the Province of Nova Scotia—and probably the other provinces particularly interested in fisher-

ies—will be leery of this, judging by the evidence that the fisheries organizations gave before the joint committee.

Senator Marshall: During the evidence at the committee the Province of Nova Scotia indicated their concern about it from the point of view that some allocation of quotas and licensing could degenerate into interprovincial squabbles. I accept the fact that, as you say, it can be brought up, as many other things can be brought up, but I wanted to know why specifically fisheries. You gave me the answer that it was because of Newfoundland.

Dr. Forsey: I think that it was to please the Premier of Newfoundland.

The Chairman: Next is Honourable Senator Stewart, followed by Honourable Senator De Bané.

Senator Stewart (Antigonish-Guysborough): Dr. Forsey, earlier you mentioned the great reliance which will be placed upon the Supreme Court of Canada in interpreting expressions like "distinct society" if the Meech Lake Accord is approved.

In the United States, also a federal country, the argument sometimes is made that overt amendment, formal amendment, to a federal constitution is difficult, perhaps virtually impossible, where what is involved is the powers of the several states, on the one hand, and the power of the national government, on the other hand. Because overt or formal amendment is difficult, there has to be reliance on amendment by judicial interpretation and, indeed, judicial re-interpretation.

● (1510)

In the arguments and explanations put forward by the government, particularly by Senator Murray, the Mulroney government seems to be making that same argument, that is, "We will agree here on a document which allows a great latitude for interpretation—indeed, we cannot agree on a more precise document—and then we will rely on the wisdom of our judges to put the right meaning in the varying circumstances on the words we have used." Am I correct in believing that you think that this is not the right approach insofar as a federal constitution is concerned?

Dr. Forsey: Yes, I think so. This involves the whole question of these ambiguities in the accord, which I have said previously are a sort of cornucopia. I might have said that they are there by the hogshead.

Constitutions, whether they are difficult to amend or otherwise—and this one is going to be made more and more difficult to amend by this accord—will have to be interpreted by the courts. That is unavoidable; it is necessary; and it is, in some ways, desirable. But it does seem to me that if you are making a formal amendment, and that is what we are doing here—it is really a formal amendment of great significance—you want to get it as clear as possible. You do not simply want to leave it to the courts to do as they please with it. I am not a judicial activist in this way. I think judicial activism can be carried much too far. I do not think that what are, essentially, broad political decisions should be made by the judiciary. They should be made by the legislators.

[Dr. Forsey.]

I think it is the duty of the legislators to say as clearly as they can what they intend, and not simply to say to the courts, "Well, we will put something down, but it has to have a colour. That leaves you to decide whether it will be brown, white, black, pink or blue. We will be perfectly happy with whatever you do. We know that you are wise, and we know you will take account of all the various forces that are at work in society and you will produce something far better than we could think of." I do not think that is satisfactory. I think the people who draw up constitutions should say more than "We want some colour." They should say what colour they want. Then, of course, it may be for a court to say, "Well, blue is specified, but there are different shades of blue, and considering everything we think a rather pale blue is best in this case, or a royal blue in that case, or a Prussian blue in the other." I do not think they should simply be told, "You go ahead and you decide. Anything you say is all right." I do not think the situation should be wide open, and that the gates should be opened as wide as the sky and let the judges come riding by and let the legislative bodies take a back seat.

Senator Stewart (Antigonish-Guysborough): Nevertheless, Dr. Forsey, if the Meech Lake Constitutional Accord becomes the law of the land, the judges will be writing and rewriting the Constitution of Canada.

I want to ask you if, over the years, there has been any pattern insofar as the selection of judges from the various provinces are concerned. We know that there is a pattern for Quebec. How many, by convention, come from Ontario? How many, by convention, come from the four Atlantic provinces? How many, conventionally, come from the four provinces west of Ontario? I am not asking for specific data on this, but I am sure you have some idea of what the normal distribution or representation has been in the Supreme Court.

Dr. Forsey: The joint committee actually made two statements on that which were not, I think, entirely consistent. I believe I can find them here.

Senator Frith: Would you give us the page number if you find them?

Dr. Forsey: Yes. On page 10 of the report it states that, by informal allocation, there would be three to Ontario, one to British Columbia, one to the Prairie provinces, and one to Atlantic Canada. However, on page 81, it states:

> . . . while by informal custom, there is a rough allocation (that is varied from time to time) of three judges from Ontario, two from the western provinces and one from the Atlantic provinces.

I do not know whether you have a sufficiently precise pattern to say that there is a constitutional convention, that is, a real, agreed upon constitutional convention on this subject. Apparently, the joint committee was a little uncertain about it too.

I recently saw a statement somewhere to the effect that Ontario, at the time of the appointment of Mr. Justice McIntyre, had, as it were, ceded its right *pro tem* to have the appointment and graciously agreed to an appointment from

British Columbia. I do not mean that it did so explicitly, but I mean it did not raise any objection formally, informally, quietly, or otherwise.

Senator Stewart (Antigonish-Guysborough): According to Senator Murray, we have here a body which is going to decide the shape of the Canadian Constitution for the future. It is clear that a majority of that body is going to come permanently from Quebec and Ontario. Do you believe, therefore, that we should, as in the United States, have a process by which justices of the constitutional court are not simply appointed by the Governor in Council but are confirmed by some body, such as the Senate? This would give some assurance to provinces such as Prince Edward Island, Newfoundland, Nova Scotia and other provinces which are unlikely to be represented regularly, and even then by only one judge on this court. After all, the court is to be given the power to decide what the vague language in our Constitution means.

Dr. Forsey: It is a new idea to me. I am rather leery of the idea of confirmation by the Senate, or by the House of Commons for that matter, but this may put a new face on that. The difficulty about confirmation is that it might lead to a series of inquisitions into the lives of the nominees, and this might make it very difficult to get some very good judges.

Of course, under the arrangement in the accord they are all going to be nominated by the provinces, anyway, which throws the whole thing back. I suppose, then, the confirmation by the Government of Canada would be made subject to confirmation by the Senate or some other body.

Senator Stewart (Antigonish-Guysborough): But the choice has to be made by the Governor in Council.

Dr. Forsey: Yes.

Senator Stewart (Antigonish-Guysborough): And they will pick whom they wish from the list of those nominated, and we in Nova Scotia, for example, will have to live with a constitution interpreted by a body on which we may not even be represented. That certainly would not be democratic.

Dr. Forsey: Quite.

[*Translation*]

The Chairman: The next name on my list is Senator De Bané, followed by Senator Le Moyne.

Senator De Bané: Thank you. Dr. Forsey, we don't have enough time to discuss any details and besides, you have already done so in your answers to question put by my colleagues. I would rather ask a more general question.

If we consider the various provisions of the Meech Lake Accord, according to you, what would be the path Canada would take in future decades, considering the proposed changes? Would there be some vital changes in Canadian federalism as we have known it since 1867, or would the changes be relatively minor? Could you perhaps explain what those changes would be?

Dr. Forsey: Senator, I think there would probably be some very important extraordinary changes, if statements made by the Premier of the Province of Quebec, Mr. Bourassa and by Mr. Rémillard, the Ministerof Intergovernmental Affairs and Mr. Claude Morin and others are any indication. Mr. Bourassa referred to the greatest victory in two centuries for provincial rights and powers, and especially as far as the province of Quebec is concerned.

I think there would be some very thorough changes. For instance, according to Mr. Bourassa or Mr. Rémillard, there would be the possibility of getting involved in banking, external affairs and communications.

Senator De Bané: The issue that interests me most is, of course, the unity of this country. Considering the general philosophy of the Meech-Langevin Accord, what will become of the unity of this country in the next decades if we follow the guiding principles of the Meech Lake Accord?

Dr. Forsey: What the reaction will be? I think I already answered that question. Do you have something more specific?

Senator De Bané: I would like to know whether you think the Meech Lake Accord will strengthen the unity of this country or gradually turn it into a Confederation.

Dr. Forsey: I think the result might be to turn our federation into a Confederation in the strictly technical sense, into something far less cohesive.

Senator De Bané: Thank you, Dr. Forsey.

The Chairman: Thank you, Senator De Bané. The next speaker will be Senator Le Moyne followed by Senator Fairbairn.

Senator Le Moyne: Mr. Chairman, I will state my question as briefly as possible.

Dr. Forsey, would you be so kind as to tell us what bothers you most of all in the Meech Lake Accord? Just that.

Dr. Forsey: The main issue to me is the provision about a distinct society. I say this with some hesitation, because I see several points that are both extremely important and extremely deficient. For instance, that other great new principle: linguistic duality. What does it mean for Francophones outside Quebec? I am not sure. It might mean some gains for Francophones outside Quebec, but it could also turn out to have no real impact on their situation.

On the whole, I think the main issue that worries me is the provision on Quebec's distinct society, partly because we have here something that is pretty vague. Senator Murray, Professor Beaudoin and Mr. Fortier say it does not mean much. On the other hand, Mr. Bourassa and Mr. Rémillard—personally, I do not agree with what they say. However, these are very senior and very competent politicians who have extraordinary powers in this particular area.

So that is my rather long-winded answer to your question, Senator.

Senator Le Moyne: Thank you and thank you, Mr. Chairman.

The Chairman: Thank you, Senator Le Moyne. Dr. Forsey, it was understood that you had to leave at 3.40 p.m. I have two

more names of senators who would like to ask you some questions, but I realize the understanding was that we had to let you go.

Dr. Forsey: I think I can stay for a few more minutes, Mr. Chairman.

● (1520)

[*English*]

The Chairman: Honourable senators, Senator Forsey indicates that although he was due to leave at 3.40 he can stay to answer a few more questions. I have two other questioners on my list, but I must confess that I see more hands. The first on my list is Senator Fairbairn, followed by Senator Watt.

Senator Fairbairn: Dr. Forsey, I apologize if this question has been dealt with before, but I want to get it very clear in my own mind. Has the Prime Minister forfeited his position as the overall leader of the nation, the first among equals, if you will, in terms of setting the constitutional agenda? Is it your view that should this agreement go through, if a prime minister wishes to place the question of aboriginal self-government, for example, back on the constitutional agenda, that desire could be vetoed by one or more of the premiers?

Dr. Forsey: Yes, that is my view. I wondered whether I was being a little outré or extravagant in this until I happened the other day to run into a very good lawyer on the plane returning from London, Ontario. To my surprise, he agreed that this is probably what is meant. I might add that although I cannot say who he is—that would be breaking a confidence—he is not among the opponents of the accord, not to the best of my belief, at all events; he did not show any sign of that.

Senator Fairbairn: Thank you. That point is particularly important in view of the fact that the federal government has the constitutional responsibility for our First Nations. This, presumably, might mean that that federal primacy has now been interfered with.

Dr. Forsey: That is my reading of the accord.

Senator Watt: Mr. Chairman, the questions I wanted to ask Dr. Forsey have already partially been asked and the answers already partially provided. I would just like to elaborate on the question put by Senator Fairbairn, which is related to section 91, head 24, of the British North America Act. From what I gather, at this time before the Constitution is amended through the Meech Lake Accord the Government of Canada acts as trustee of the aboriginal people across the country. Tomorrow, however, we might wake up to find that that is no longer the case, that the Government of Canada will no longer have the responsibility of trusteeship with respect to the aboriginal people, and that this has become a provincial responsibility. Is that your view, Dr. Forsey?

Dr. Forsey: I believe that section 16 of the accord seems to leave intact head 24 of the act of 1867. It seems to take it out from under the operation of the two new principles of interpretation, but I am afraid I do not feel competent to answer any more fully than that. I hope that is a safeguard; I do not know. I have not really considered it and I have no real competence in the matter.

[The Chairman.]

Senator Watt: I have one more quick question which is related to the same subject. The way I read the constitutional conference agenda item (c) it says, "such other matters as are agreed upon." That, to me, says that the Prime Minister of the country has already relinquished his responsibility as a trustee. Therefore, unanimous consent of the provinces is required.

Dr. Forsey: I think that is true with respect to any discussions in the conference. I think any premier has a veto.

● (1530)

Senator Watt: Under the heading "General" section 16 no longer applies.

Dr. Forsey: Well, it applies presumably to what the Parliament of Canada can do under head 24 of section 91. But if you are going to discuss anything further in regard to the rights of the aboriginal peoples any provincial premier can say, "No—out."

The Chairman: Senator Haidasz has appealed for one brief question, and then I have two supplementaries. Dr. Forsey, do you have any more time?

Dr. Forsey: I think I can manage another five minutes or so. I am sorry to be so sticky, but I have an appointment with a heart specialist; that's the trouble.

Senator Haidasz: Dr. Forsey, I have a simple question. In view of the overburdened Supreme Court and the slowness in getting decisions, what do you think about the possibility of having a "double-E" Supreme Court: equal—one for every province—and effective?

Dr. Forsey: Well, I think this is one of the things where you could argue theoretically, but the hard fact of the matter is that Quebec is now guaranteed three judges out of the nine, and I don't think there is any serious proposal to do anything else. I don't think that any attempt to change that would get to first base. I don't think it should, and I don't think it would. So, I think it is a purely academic question as to whether you might have something that would say everyone gets one. That, presumably, would meet Senator Stewart's difficulties, but I don't think it can be done.

The Chairman: We now have a quick supplementary from Senator Neiman.

Senator Neiman: Dr. Forsey, I am having a little problem with your comments concerning the interpretation of section 13, which amends Part VI on constitutional conferences. As I read it I cannot see where it says that it requires the unanimous consent of all of the First Ministers. The unanimous consent, as I have been able to read it, applies only to amendments to the Constitution. Am I wrong about that?

Dr. Forsey: I hope you are correct in what you say, but I am worried about this thing, because it says, "such other matters as are generally agreed upon." Now, what exactly does "generally" mean? Of course, you can then get into the question that came before the Supreme Court on the patriation refer-

ence, namely, substantial consent. Now, what does "substantial consent" mean—and they carefully avoided saying? They said, in effect, that two is not enough, but it doesn't have to be all of them, it doesn't have to be ten.

Similarly, here, what is meant by "generally agreed upon"? I don't know. It seems to me it might well be argued—and it was argued by Chief Erasmus before the joint committee, and no one contradicted him or even questioned what he said that I can recall—that it meant unanimous consent, that you can't get anything about aboriginal rights on to the agenda of the First Ministers' conference unless you have unanimous consent. I think this is one of the things that, at least, needs clearing up. It looks to me as if "generally agreed upon" means unanimous consent. It is conceivable that it doesn't. Incidentally, of course, when the Supreme Court handed down that part of the decision in the patriation case, it had no legal binding effect at all. It was merely the opinion of a number of learned people on a matter which was not within their competence.

Senator Frith: Dr. Forsey, it simply says, "agreed upon," and not "generally agreed upon."

Dr. Forsey: Doesn't it say, "generally"?

Senator Frith: It makes your position even stronger, because there is no qualification. It simply says:

(*c*) such other matters as are agreed upon.

I think that strengthens it.

Dr. Forsey: I think that reinforces my point. I was speaking from memory. Yes, I see it says, "... as are agreed upon." That washes out the whole question of what "generally" means, because it isn't there. It just says, "... as are agreed upon." If you have 11 people, and it is something that has to be agreed upon, then that presumably means all of the 11.

The Chairman: We have time for one final quick supplementary.

Senator McElman: Dr. Forsey, on October 23 at a state dinner in Quebec City, honouring Her Majesty, the Right Honourable Prime Minister said directly to Her Majesty:

As Your Majesty knows, we have now obtained Quebec's signature on our Constitution.

Is that accurate, or is it a misleading overstatement of the fact?

Dr. Forsey: It is not accurate at all. Nobody signed the Constitution at all. Ontario didn't sign it, Newfoundland didn't sign it, nobody signed it. There was a preliminary accord which was signed by everybody except the Premier of Quebec. But nobody signed the Constitution. Nobody does sign the Constitution.

The Chairman: We thank you, Dr. Forsey, for being prepared to return here today. We know that you now have an appointment. We thank you and will let you go.

Hon. Senators: Hear, hear!

The Chairman: Dr. Forsey, may we wish you good luck at your medical rendezvous. I think I can say from our observation that you appear to be in perfect health.

Honourable senators, our next witness will be the Honourable Charles Caccia.

Senator Flynn: Mr. Chairman, I wish to raise a question with regard to section 13 which was dealt with by Senators Fairbairn, Watt and Neiman. It seems clear that there is an obligation on the Prime Minister to call a conference with the agenda outlined there; but there is nothing in this text that prevents the Prime Minister from calling another conference on any other matter—so that the fears expressed by former Senator Forsey and by Senators Watt and Fairbairn are completely baseless. The Prime Minister can call any kind of conference on any other matter.

Senator Stewart (Antigonish-Guysborough): That can be decided by the court.

Senator Flynn: No, not at all. Read it. It says that the Prime Minister is obliged to do that, but he is not prevented from doing anything else. It is so obvious. It would be obvious to a child, but a supposed constitutionalist like Senator Stewart should be able to read.

Senator Frith: Mr. Chairman, for the record, on that point I think that Senator Flynn is quite right, that the Prime Minister can call it; but I think the point made by Dr. Forsey was not on the calling but on what would be on the agenda.

Senator Flynn: For this type of conference.

Senator Frith: Please let me finish. It says:

(2) The conferences convened ...

And Senator Flynn is quite right in that it does not require the agreement of everyone to convene it. It says further:

... (1) shall have included on their agenda the following matters:

(*a*) Senate reform ...

(*b*) roles and responsibilities in relation to fisheries; and

(*c*) such other matters as are agreed upon.

The point being made by Dr. Forsey was not against Senator Flynn's point; he was simply saying that in order to get an item on the agenda—

Senator Flynn: Of that particular conference.

Senator Frith: —there had to be an agreement.

Senator Flynn: Of that particular conference.

Senator Frith: No.

Senator Flynn: Sure. According to a conference, he may call—

Senator Frith: It says, "conferences," plural.

Senator Flynn: Sure, but the other conferences can also be called. Come on! You read only what you like.

The Chairman: Honourable senators, I note the observations of Senator Flynn and the comments made from the other side.

They will be part of the record. Perhaps when Senator Murray is before us that will be the type of question that might be clarified at that time.

Senator Flynn: Who?

The Chairman: Senator Murray, who is the architect. He possibly could help us to clear up the matter when he appears before us.

● (1540)

Senator Flynn: It is clear as far as I am concerned.

Pursuant to Order adopted on June 18, 1987, the Honourable Charles Caccia, PC, MP, was escorted to a seat in the Senate Chamber.

The Chairman: Honourable senators, if we are prepared to proceed, I would like to welcome the Honourable Charles Caccia to this Committee of the Whole hearing.

Mr. Caccia, you have provided us with a written text. It has been distributed to all the members of the committee, and you, of course, are free to follow the text or deviate from it, as you wish. I now turn the floor over to you.

Hon. Charles Caccia, P.C., M.P.: Honourable senators, it is indeed a great honour to have been invited this afternoon to have a dialogue with you on the Meech Lake Accord, a piece of legislation which, as we all know, is of the utmost importance, "utmost" because the Constitution is the frame of the house called Canada. The design of such frame, the way each component part relates to the other, and the recognition alone of component parts in the description of the house reveals how we see ourselves in such a house.

My credentials as a constitutional expert are nil. I am a consumer rather than a producer when it comes to constitutional matters, and I consider Eugene Forsey as very central to this debate, together with Pierre Elliot Trudeau. I speak as a citizen interested in the dynamics of change in Canadian society. I am very appreciative—and here I speak as an elected member of Parliament—of your invitation, not having been extended such an opportunity by the joint committee despite the fact I wrote twice to the joint committee Chair.

What I have to say is in two parts: process and substance. On process one must note that it is, to say the least, peculiar that 11 individuals should meet twice over night, agree and announce radical changes. Also peculiar is the fact that the government, immediately after, would set up a joint committee to hold public hearings in Ottawa, putting a limit of two months for the hearings; this coupled with the fact that at the beginning of the process last July the Prime Minister announced that he would not accept amendments from the committee. This announcement was reinforced by the first witness, Senator Murray. Thus, the discussion of possible amendments became pointless and the debate stultified. The joint committee heard, as you know, many witnesses, mostly organizations and specialists. The public at large across Canada did not get involved in the evolution of these constitutional changes. Hearings were held in the summer when Canada was away on holiday.

[The Chairman.]

If you ask a Canadian on a bus, train or airplane whether he or she agrees with the proposed definition of Canada, the definition drafted for them by the 11 premiers, you are likely to get a startled look except from a few well-informed individuals and activitists. Canadians do not know how the definition of their own country is being changed. The process is in sharp contrast with the fine, democratic tradition rooted in consultations and meaningful hearings, which has made Canada one of the most open democracies in the world, at least until September 1984.

One of the arguments advanced by the Prime Minister is the "fragility" of the accord and that re-opening it would unravel the entire accord. If it is so "fragile," I ask: Is it really good for Canada? To add insult to injury, the process of future changes is institutionalized further into the hands of 11 premiers for years to come, with the power of veto, as you know, to any one of them who may not want a specific item placed on the agenda. What will that do, for instance, to the future of native rights or to the North? Those of you who have attended the hearings in the North have already a clear picture as to what Canadians there think of the process as well as the substance.

Discussion on process deserves attention, because never again should the same process be adopted as a model in future constitutional changes. If we are doomed by a decision that will place future initiatives in the hands of 11 premiers, the least we can do is to recommend the procedure that will open the debate to the public, with a time frame of at least one year for consultations, without political orders from above precluding reasoned and thoughtful amendments by parliamentarians, groups and individuals.

On substance it is hard to say something novel. Therefore, I will do it in a concise way, elaborating mainly on section 2(1) which, as you know, contains the definition of what Canadian society is all about. A constitution should be a forward-looking document. It should not be a document describing the past alone but, rather, a document that offers a framework for the future. Furthermore, a constitution is there to promote values. In addition to language duality there must be scope for recognition of aboriginal rights and the multicultural character of our society, for a country reaching from sea to sea in which people can move freely and have access to universal standards of social security and equality before the law. Instead, the 11 premiers engaged in a rear-view mirror description of a society as it was perhaps a long time ago with no sensitivity whatsoever to the aboriginal presence and omitting from the Canadian scene the presence of millions of men and women who may use either French or English daily, but who do not identify culturally with English or French heritage. These are Canadians in their own right, commonly referred to as members of "ethnic" groups, who want to be recognized as vibrant members of Canadian society as, in fact, they are. They are new Canadians from many continents, members of visible and invisible minorities engaged daily in the building of Canada, they are nation-builders at home and at work, and yet

they are not to be found and they do not find themselves in section 2(1) of the accord.

Somehow the 11 premiers must have realized that something was missing in the definition. This explains the addition of section 16 as an afterthought, a technique which, in turn, gives reason for concern about being silent on other Charter items. I submit that section 2 is not a definition of today's Canada. It must include the aboriginal and multicultural communities as active forces participating in the shaping of Canadian society and values. For these reasons the accord is already an outdated document! If you like, it is a stillborn baby.

To sum up my definition of Canada, it seems to me:

1) Quebec does not need "crutches"!

2) Other provinces, like New Brunswick, or peoples, like the Haida nation, constitute in sociological terms distinct societies;

3) Present politicians, like Remillard, past politicians, like Claude Morin, and future politicians could and will use the term "distinct" as a springboard for the development of the political notion of special status.

Spending powers is another area of concern. Here, what Professor Johnson said before the joint committee struck me with the same impact as what Mr. Georges Erasmus said about native rights. May I refer you here to the analysis of the report of the Joint Committee on the Constitutional Accord, 1987, by Eugene Forsey, page 18:

> In his (Professor Johnson's) evidence, he spoke of shared-cost programs "like medicare or hospital care", "higher education", "even the Trans-Canada Highway", programs "with the provinces administering the program in accordance with certain nationally-established standards of principles." His (Professor Johnson's) verdict was: "The Meech Lake Accord will, I am afraid, end all this; will render the Government of Canada powerless to take such initiatives in the future . . . The only requirement the opting out province would have to meet is that it carry on a program which is compatible with, which is to say capable of existing alongside the national objectives the Government of Canada was seeking to achieve by its national program . . . To tell the provinces that in the future the dissenting provinces will be paid the same as the agreeing provinces, with the minimum requirements I have mentioned . . . is surely to render a body-blow to shared cost programs . . . in the future."

● (1550)

At this point it is interesting to note that Miss Jewett asked Professor Johnson:

> So your main concern would be that the variations in the programs would be such as to destroy, say, the principle of universality?

His answer was:

> Destroy the principle of universality would be one illustration. Even more important, in my judgment, would be to destroy the sense of Canadians that they were entitled to the same kinds of services wherever they went in Canada.

Honourable senators, let me conclude with a definition of Canada, this time from the perspective of Georges Erasmus in the words he used on August 19 when he appeared before the joint committee. His words still clearly ring in my ears. He observed that a distinct society clause—

> . . . perpetuates the idea of a duality in Canada, and strengthens the myth that the French and the English peoples are the foundation of Canada. It neglects the original inhabitants and distorts history.

I submit to you that a constitution must not be based on myth nor distort history. Instead, Mr. Chairman, a constitution must include all members of society, rather than putting some in and leaving some out. In Canada's case we have the most heterogeneous society in the world. Therefore, there is potential for greatness. Let us not single out one region and leave out all of the others. Let us not drift with the divisive notion that some are members of a founding group and some are not. Let us not allow the word "ethnic" to describe visible and invisible minorities while, by definition, members of majorities are not so described. In Canada either everyone is ethnic or no one is.

I believe that to achieve our potential for greatness the definition of Canada in our Constitution must be all-embracing, from the first aboriginal native to the latest arrival from Tibet. That is the new Canada which must find its place in Canada's Constitution.

The Chairman: Thank you very much, Mr. Caccia. The first name on my list is Senator Bosa, who was to be followed by Senator Haidasz. However, Senator Haidasz is not presently in the chamber, and so Senator Marsden will follow Senator Bosa.

Senator Bosa: Thank you, Mr. Chairman. Mr. Caccia, in reading the 1987 Constitutional Accord I see that there is a general definition in clause 16 which refers to multicultural heritage and aboriginal peoples. Perhaps I might quote that clause:

> Nothing in section 2 of the Constitution Act, 1867 affects section 25 or 27 of the Canadian Charter of Rights and Freedoms, section 35 of the Constitution Act, 1982 or class 24 of section 91 of the Constitution Act, 1867.

This clause has had various interpretations. However, those who have been involved in the making of this accord maintain that it does not affect the rights that have already been established in the Charter of Rights and Freedoms, section 27, when it comes to the cultural heritage of so-called ethnic peoples.

Mr. Caccia, where do you differ from this clause? In other words, what dangers do you see, or how could this clause affect what is now entrenched in the Constitution Act, 1982, or the Canada Act as it is commonly known?

Mr. Caccia: The reference in clause 16 is an afterthought; a technique that was adopted, I suppose, when it was realized that something was missing from the definition of Canada

under section 2(1). The same technique was adopted with respect to the aboriginal peoples. The reason for the difference is that the definition of Canada under section 2(1) should be worded in such a way that the aboriginal peoples and the multicultural minorities are included in the main definition under section 2(1) rather than by the oblique technique of a reference to clause 16, outside section 2(1).

Senator Bosa: In effect, then, you are saying that this clause 16 is not a guarantee that the rights that have been included in the Constitution Act, 1982 will be preserved and enhanced?

Mr. Caccia: I am saying that section 2(1) is a description of a Canada that does not exist today, because it ignores the presence of the aboriginal peoples before the arrival of the white man. That is a historical fact which there was a great opportunity to address at this time.

That section also ignores the fact that by virtue of immigration over decades the composition of this nation has changed; that there are other elements which are not described in section 2(1), which is the main vehicle by which Canada is described in the Meech Lake Accord. Those elements are missing from that main description, and a reference is made to them as an afterthought in clause 16, and that is unacceptable.

Senator Bosa: Mr. Caccia, do you see any relationship in section 2 to the fact that immigration and refugee matters have been guaranteed to the Province of Quebec under section 27?

Mr. Caccia: It seems to me, Mr. Chairman and Senator Bosa, that the Government of Canada went far enough in the late 1970s with the Cullen-Couture agreement, and that there is no necessity to go beyond that. In other words, there is no need to devolve additional powers to the provinces in the field of immigration.

Second, there is one section under the heading of immigration which, in my view, could and should be contested before the courts because of the way in which it is written. That is the guaranteeing of a certain number of immigrants to one province. That would deny the immigrant the right to move anywhere in Canada. That is a right that has never been taken away from any immigrant in recent parliamentary times, and it is a right that should not be removed in the future.

Senator Bosa: Therefore, once an immigrant or a refugee has been admitted to Canada and that person, under this clause, then settles in the province of Quebec, at a future date that person could leave the province of Quebec and move to another part of Canada.

However, under this accord, a certain number of immigrants must be allocated to the province of Quebec in order to comply with this clause.

Mr. Caccia: Exactly. Because of the premise that Senator Bosa has just made that part of the immigration section in the accord could not be delivered upon, and I believe that others have already commented on that. In other words, it is unrealistic to promise to any province a certain number of immigrants if you know that once those immigrants arrive in any part of Canada they have the right to move freely to any other part of Canada.

[Mr. Caccia.]

• (1600)

The Chairman: The next person on my list is Senator Marsden, followed by Senator Haidasz.

Senator Marsden: Mr. Caccia, I want to deal with comments and quotations from the 1982 accord, which many here will remember. On that occasion there was a great gala in the National Arts Centre, and your colleague, the member of Parliament for Kicking Horse Pass, gave the definition of Canada. Canada, he said, is a land of two founding peoples, four if you count the French and English. This raised, even then, the fundamental issue which you have raised today.

I would like to ask you about the comments you made regarding process. Is it your view that the hearings in the legislatures—either the public hearings in the provinces or the discussion which will take place, the votes in the legislatures of Canada—will have any influence on the course of this debate? If it does have an influence, what kind of influence will it have, and if it does not have an influence, can you comment on that in terms of democratic process in this country?

Mr. Caccia: Two provinces have already forgone that process—Quebec and Saskatchewan. In the other provinces I hope that there will be hearings in the legislature as well as public hearings throughout the provinces.

Given enough time to explain the content of the accord—and this is a very slow educational process—my impression is that Canadians in increasing numbers will express their objection to parts of it or to all of it. It remains to be seen whether or not this will be reflected in a political vote in the respective legislatures.

I would put a lot of hope in the role that the newly elected Premier of New Brunswick could and might play in this respect, and I would put a lot of hope in any other newly elected premier who might emerge in other provinces in future elections. I am afraid, though, that those premiers who have been part of this process on two key occasions—and I am referring to the Meech Lake and the Langevin meetings—are so much part and parcel of the process that it will be extremely difficult, if not impossible, for them to distance themselves from the substance.

Senator Marsden: In your remarks this afternoon you have said that discussion on process deserves attention, because never again should the same process be adopted as a model in future constitutional changes. I agree with you entirely.

There are 11 premiers who have made a pact, apparently, not to talk about their views. We only know the views of the Premier of Quebec. We do not know the views of the Prime Minister of Canada. Yet, the 1987 accord itself ensures that this process will continue. You have told us that you do not think the legislatures will have much impact on that.

How will the people of Canada—the people whose interests you are expressing, women's groups and other groups—ever be able to make any impact on constitutional change in the country if this accord should go through?

Mr. Caccia: By registering sufficiently strong indignation so as to obtain a model that would be different from the one that we have seen adopted this summer, one that would give the public time to absorb the proposed changes, one that would permit a joint committee to travel extensively and listen to the opinions of people in various regions, and one that would never again start with a political statement by the Prime Minister of the day, saying that no amendments will be accepted, that precluded from the beginning an intelligent and, hopefully, non-partisan discussion of such an important and basic document as the Constitution of your country. I believe that another model is possible despite the handicaps inherent in having this type of executive approach to constitutional meetings by the 11 premiers of the day. Perhaps, then, they could emerge with a proposed document for discussion in the country, giving the public enough time, and not prejudging the process with a fight by the highest political authority in the country, as we experienced last July in Canada.

Senator Marsden: You have pointed out that the joint committee refused your request to appear before them. I think that is most unfortunate.

The women's organizations who testified before the committee were told that in defending the *status quo* in those sections of the Charter which deal with gender equality it was up to them to establish that the change being proposed would make any difference. In other words, reversing the usual order, the burden was put on those who were defending the *status quo* to show that the change was not a good one. Suppose you had found yourself in the same situation, that is, having to prove that it makes a difference, can you give us an idea of the kind of argument that you would have brought to bear?

Mr. Caccia: I do not think I would have fared better than the women's groups. I would have been in a similar situation, and I would have argued that a process of such importance should not be an adversarial one and should not be one as encountered in a tribunal or a court. By way of consensus, by way of reasoning, and by way of adopting the techniques that our native people so well know how to adopt, changes can be made in a manner where no one will feel they have lost face or dignity or authority, no matter how important the proponents may be. We have that capacity in this country and we have enough cultural experience to make it happen that way. Therefore, I would reject any notion that the onus ought to be on the proponent. I would imagine that the onus ought to be on those who appear before the established authority. After all, the established authority is there by virtue of the support of those who appear before it.

Senator Marsden: Thank you, Mr. Caccia.

The Chairman: The next speaker on my list is Senator Haidasz, followed by Senator Stollery.

Senator Haidasz: I would like to thank Mr. Charles Caccia, member of Parliament for Toronto-Davenport, for appearing before this committee of the Senate and forcefully expressing such very important views about the essence of Canada, namely, our society and the way that important, essential factor of our country, its society, is treated in the so-called Meech Lake Accord.

• (1610)

I want to thank Mr. Caccia for raising this issue and for championing this issue in both the House of Commons in the past and in the Senate this afternoon.

I should like to ask Mr. Caccia whether paragraph No. 2 of this constitutional amendment, when it talks about the fundamental characteristic of Canada, negates or, at least, clashes with the official interpretation of section 27 of the Charter of Rights and Freedoms.

Mr. Caccia: What I am saying is that the definition under section 21 is incomplete, and it is historically out of date, and it looks at the past rather than at the present and at the future.

Section 21 of the Constitution is the document. I appreciate the importance of any reference to the Charter of Rights and Freedoms, but at this point the definition of Canada in the Constitution is the main preoccupation and is where, in the end, the description of Canada will be found by those after us who will want to know what Canada is all about. Any reference to the Charter, helpful as it may be as a technique, will fall short of the basic fundamental requirement of defining all Canadians in one place, namely, in section 21 of the Constitution.

I hope I have answered your question.

Senator Haidasz: As a corollary, if passed, this constitutional amendment will impose upon the Government of Canada, as well as upon the Government of Quebec, a duty to preserve and promote the distinct identity of Quebec, as well as its so-called fundamental characteristic as defined in paragraph 2(a).

Do you think that by the imposition of this constitutional obligation or duty there is a threat or danger in any way to the development of not only the multicultural fabric of Canada but also to paragraph 27 of the Charter of Rights and Freedoms, which, in my opinion, envisages and also obligates the provinces and the Government of Canada to enhance and preserve the multicultural heritage of Canada?

Is there some danger or some threat to the development of this multicultural policy in view of the fact that it is the duty and obligation of the Government of Canada and of the Government of Quebec to preserve the fundamental characteristic of Canada, as defined in paragraph 2(a), and, of course, the feature or the fact, as recognized in paragraph 2(a), of a distinct society in Quebec?

Mr. Caccia: Mr. Chairman, briefly, it would probably introduce an element of rigidity in the way that Quebec looks at itself and, therefore, poses, in the long term, if not a threat, a certain element of stagnation that will make it very difficult for the recognition of a heterogeneous society and, therefore, the recognition of all the cultural groups that make up a society, not just in Quebec but also outside of Quebec.

It would also be very distressing, if it were to happen, to see a picture emerging in which you would have a strong, lively

and vibrant multicultural society outside of Quebec and one that cannot unfold in Quebec by virtue of the notion that will be established through the distinct society clause.

Senator Haidasz: Thank you, Mr. Caccia. Thank you, Mr. Chairman.

The Chairman: Thank you, Senator Haidasz. Next on the list is Senator Stollery, followed by Senator Stewart, Antigonish-Guysborough.

Senator Stollery: Thank you, Mr. Chairman. I should also like to thank Mr. Caccia for appearing before the Committee of the Whole today. I have read the report of the joint committee, and I must say that I could not believe how poor the report is. I noticed that Mr. Caccia did not appear before the joint committee, so I particularly welcome his appearance before the Committee of the Whole today.

One of the important questions many Canadians are asking is how the Meech Lake Accord, if passed, will affect the national government. Will the national government, in the opinion of Mr. Caccia, come out of this arrangement stronger, the same, or weaker?

Mr. Caccia: Mr. Chairman, as other commentators have said, who are much more qualified than I am, if you put together the elements that comprise this accord—namely, the spending powers, the appointments to the Senate and the Supreme Court of Canada, the immigration portion and other components of the accord—it is inevitable that one will conclude that the national government is weakened.

I should like to add to that the fact that the promotion of the French language as proposed is no longer the responsibility of the national government or of the other provincial governments, and also the fact that the creation of additional provinces, as proposed and advanced in Canada's north, would no longer be the prerogative of Ottawa but would only be possible upon unanimous agreement on the part of ten premiers.

Senator Stollery: I know that you are from Toronto, as I am, and that that is the part of the country we know best, but I must say that very few of us taunt those from the other regions of Canada the way we are taunted.

Senator Frith: Jealousy! That's all that is.

● (1620)

Senator Stollery: I would like to ask Mr. Caccia if he thinks that if most Canadians knew that this legislation would weaken the national government—which is your opinion—would they be in favour of it. Do you think most Canadians think that the national government of this country should be weakened?

Mr. Caccia: I am told by others who have been around here, politically, longer than I have, and also from historical accounts, that, traditionally, Canadians have looked upon Ottawa with hope in the resolution of difficult political situations regionally and have, traditionally, always wanted to have a strong national government. Therefore, one has to conclude—and I belong to this school of thought—that Canadians do not like to see their national government weakened. I suspect that they would have not minded if the Meech Lake Accord had resulted in a give and take in which the provinces would have obtained certain powers, but at the same time Ottawa would also have obtained other powers. In other words, there would have been a fairly balanced result. But to see a so-called "bottom-line" result in which provinces received more than they were expecting to receive, and to realize the consequences—particularly in the Atlantic provinces and in the Prairie provinces—is not a source of reassurance for many Canadians.

I hope that I have answered the senator's question.

Senator Stollery: Thank you. Yes, you have. As I read the report I do not think that the report of the joint committee agrees with you. As I look at the names here—Gordon Robertson, a former clerk of the Privy Council; Mr. Pickersgill, a former federal cabinet minister; Mr. Kierans, a former federal cabinet minister; Mr. Fortier, whom I do not know; Mr. McWhinney, whom I think I may have met; and others, whom I will not continue to list—their views are more prominently displayed than the view that most Canadians continue to like a strong national government. They seem to disagree with that statement. Their views have predominated in the report.

I am sure that you have read the report of the joint committee. There is little reference to the fact that, for example, as we look at the fact that Quebec was left out of the constitutional arrangements of 1982 we should keep in mind that at the time there was a Separatist government in Quebec which had as its platform the establishment of an independent country.

Do you think that the report of the joint committee has been particularly balanced in regard to the Government of Canada and the view that you think many Canadians have that the Government of Canada should be a strong government?

Mr. Caccia: In reply, I have before me the analysis of the report by Eugene Forsey—whom you all know—who spoke here this afternoon, and who, as you know very well, is a person who weighs his words carefully. In his opening statement, referring to Chapter 3 of the report, Eugene Forsey says:

> These contain three statements which are sheer rubbish.

I place a lot of value on any analysis made by former Senator Forsey. I do not deny the right of making an opinion to any of the people whose names were mentioned by Senator Stollery—and I suppose that in the end their opinion influenced the development of the report. The report was pre-conditioned from the beginning. It was also pre-determined by the statement made in the House of Commons by the three party leaders. Therefore, it had no latitude, no scope in terms of what it should come out with, considering also the fact that the joint committee was dominated by members of a party whose Prime Minister, as I mentioned, indicated in July that there was no scope for amendments and that no amendment would be entertained.

If you are a member of a joint committee and a member of the party of the Prime Minister of the day those are your

marching orders. Nothing that the witnesses say for or against the accord will sway you unless you have an independent way of thinking. In addition to that, you all know how strong the element of party discipline prevails in our system, even in matters such as this, which affect many elections to come and which have a longer lifetime than the next year or two.

Senator Stollery: I have one final question. Here we are in the Senate. We have an obligation in this amendment process. In your opinion—and I think I am not misinterpreting it—this is a project that if Canadians realized that the central government was being weakened they would react differently. Yet, the government of the day, as you say, has its marching orders, and 11 men got together one night and seemed to have re-read the Confederation debates of 1865. What do you think we should do? As far as I understand it, we have three options: We can improve the accord in the form in which it is before us; we can come up with a different recommendation; or we can do nothing. Do you have any opinion as to what we should do about it?

Mr. Caccia: I have been around long enough on this Hill to know that you do not tell senators what to do. All I can say is that in my opinion the report of the joint committee is awful.

The Chairman: Thank you. Does that conclude your questions, Senator Stollery?

Senator Stollery: Yes; that is fine.

The Chairman: The next on my list is Senator Stewart.

Senator Stewart (Antigonish-Guysborough): Earlier this afternoon when Dr. Forsey was here I asked him a question concerning the role of the Supreme Court. I assume that you are not familiar with my question or his answer, so let me bring you up to date on that.

● (1630)

We have been told, particularly by Senator Murray, that the document known as the Meech Lake Accord is as precise as we have any right to expect it to be, that, naturally, there are terms in the accord on which people will disagree, but that there is an established method by which those disagreements will be overcome and settled, namely, judicial decision.

It is also said—I have not heard it in this chamber, but I have heard it elsewhere—that when one is dealing with a federal constitution one is not likely to get many formal amendments that change the relationship between the several states, on the one hand, and the states united, on the other hand; or the several provincial governments, on the one hand, and the national government, on the other hand. Consequently, one is obliged to rely on judicial interpretation and re-interpretation to assure that the Constitution continues to suit the changing requirements of the times. That is a view which Senator Murray seems to find appealing. That means, of course, that the Supreme Court of Canada will be shaping and changing our Constitution throughout all the foreseeable future.

In your presentation today you told us that the process engaged in at Meech Lake, and the documents that emerged therefrom, will have the effect of ignoring the presence in Canada of millions of men and women who may use, daily, either French or English but, culturally, do not identify themselves with either the English or the French heritage. "These," you say, "are Canadians in their own right, commonly referred to as members of ethnic groups, who want to be recognized as a vibrant component of Canadian society. They are new Canadians from all continents, members of visible and invisible minorities engaged daily in the building of Canada."

I have been looking at the present membership of the Supreme Court of Canada. That body consists of the Right Honourable Brian Dickson; the Honourable Jean Beetz; the Honourable Willard Estey; the Honourable Gerard LaForest; the Honourable Joseph Lamer; the Honourable Gerald Le Dain; the Honourable William McIntyre; the Honourable Bertha Wilson; and the Honourable Claire L'Heureux-Dubé. Are you satisfied that those ethnic groups to which you referred, those millions of Canadians, are adequately represented on the Supreme Court? This is important, because the Supreme Court of Canada is going to be the body which will shape and re-shape the Constitution of Canada, the Constitution under which these millions of people will be living from generation unto generation?

Mr. Caccia: Mr. Chairman, I am not satisfied, but at the same time I am not foolish enough to expect representation on the Supreme Court unless it is accompanied by skill and the proven ability to be there. As everyone who is in an affirmative action movement knows, it takes time to make progress and to get there. This is proven by the situation that despite the fact that from its inception Canada was composed of men and women in equal numbers, today there is only one woman judge on the Supreme Court.

Senator Frith: Two.

Mr. Caccia: Two, thank you. Therefore, that is an indication of a certain dynamic progress, and I would hope that in due course minorities, visible and invisible, will also find a voice on the Supreme Court by virtue of proven ability and jurisprudence skills, which will allow them to emerge in their particular discipline.

Senator Stewart (Antigonish-Guysborough): In the United States of America, where the Supreme Court of the United States has been very active in interpreting and re-interpreting the Constitution of the United States so that it does not become obsolete or anachronistic, great care is taken in the selection of the members of the court.

Under the Meech Lake Accord, there is a special arrangement with regard to justices coming from Quebec, but insofar as the remainder are concerned, when a vacancy occurs, the government of each province may, in relation to that vacancy, put forward names. From that point on the process will be the same as it is now, namely, that the Governor in Council will appoint. We are to have an appointed body, an appointed Supreme Court, which is going to be the supreme authority interpreting and re-interpreting the Constitution of Canada.

The body most active and powerful in determining the constitutional law of this country is to be selected by appointment.

Do you not think that, given the new work and power conferred upon the Supreme Court of Canada in 1982 and by the Meech Lake Accord, it would be appropriate that there should be some confirmation process, a process which would help assure that the members of this all-powerful body, this Constitution-reforming body, would be appropriate in every way, a process which would help assure, for example, that the several parts of the country are adequately represented, and, indeed, that all the major groups in the country are adequately represented?

Mr. Caccia: Mr. Chairman, the process the senator is referring to is not a novelty south of the border. We had some evidence as to what it can do, in a very positive sense, I would say, with the candidacy of Justice Bork.

Whether we as Canadians should adopt a similar methodology I am not sufficiently qualified to say. Certainly, the senator makes an interesting point, that you would want to have on an appointed body that is not only going to make decisions on interpretation but, as he said, that would be writing the Constitution in the future, by virtue of what is being proposed in the accord, men and women who do understand the make-up of Canadian society and the values that propel this society.

One day there may be a screening of proposals by joint committees of justice of the House of Commons and the Senate. That might be a very interesting approach, but that is all I can say at the present time in commenting on Senator Stewart's thoughtful intervention.

Senator Stewart (Antigonish-Guysborough): Let me ask one final question on this point.

Given the fact that the Supreme Court in 1982, and now under the Meech Lake Accord, is being given a role which is quite different from the normal adjudication role of a final court of appeal on statutory law, the civil law and the common law, and given the fact that it now becomes a body which will informally, but effectively, change the Constitution—certainly the court in the United States has done so—are you content that we should be content to leave this paramount power in the hands of an appointed body, whose members are appointed by the Prime Minister and his colleagues, albeit after passage of the Meech Lake Accord, a body appointed from lists of nominees put forward by provincial premiers, with at least six of the nine nominated by the premiers of two of the ten provinces? Do you think, indeed, it would be legitimate to have this vast power lodged in such a body?

● (1640)

Mr. Caccia: Mr. Chairman, that will teach me a lesson about writing a letter requesting to appear before the Senate.

Senator Frith: Don't spread the word!

Mr. Caccia: I am disturbed by the trend that we are witnessing—and it is not just with respect to the accord, I must admit—whereby more and more the judiciary will be making decisions which ought to be kept in the political arena. This is what the senator is evidently stressing in his question. Therefore, the answer must be that one should not be content with the present system of the appointment of judges to the Supreme Court in light of this new dynamic that is emerging. But in agreeing with him, I do not yet know, frankly, what the procedure is that we should set in place in order to screen these men and women in a manner that will be satisfactory so that, in future, their performance will reflect the true nature of Canadian society. I would certainly be glad to join Senator Stewart in any effort or initiative in which he might engage in exploring the ideas that he has put forward this afternoon.

Senator Frith: Mr. Caccia, I want to ask about your concern with section 1 of the Constitution Amendment, 1987, which deals with proposed subsection 2(1). You have told us, if I understand you correctly, that you feel that that section does not reflect contemporary Canadian reality. What I want to know is this: Is it wrong, in your view, or is it just incomplete? It states:

> 2.(1) The Constitution of Canada shall be interpreted in a manner consistent with
>
> (a) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a—

"a", not "the"

> —fundamental characteristic of Canada;

Do you agree that that is "a" fundamental characteristic—not "the" but "a" fundamental characteristic—of present Canadian reality?

Mr. Caccia: I must refer the senator to the amendment that I submitted jointly—

Senator Frith: I mean to ask you about that specifically, but is it part of your concern that a part of present-day Canadian reality is not correctly stated in paragraph (a), or do you think it is incomplete?

Mr. Caccia: The definition of Canada as put forward in proposed subsection 2.(1), as a whole, is unacceptable to me for the reasons that I have given. If we were to analyze bit by bit the proposed definition in the accord, we would, I suppose, engage in a very interesting exercise. Basically, however, what I am saying is that Canadian society consists of aboriginal and multicultural peoples. That notion is completely overlooked in the definition as presently put forward in proposed subsection 2.(1).

Senator Frith: I am not sure whether you are therefore saying that it is incomplete or just incorrect. It is incorrect if it means to be all-inclusive, but it is correct if it is only meant to make a statement that is partially correct. However, we will leave that.

Mr. Caccia: One should not read proposed subsection 2.(1) without also reading subsection 2.(3); namely, the reference to the distinct society. Unfortunately, I do not have the text

before me. One has to read the totality of that proposed section in order to engage in a constructive discussion.

Senator Frith: Yes, I am coming to that. We do not have to go as far as subsection (3) to get to the distinct society; it appears in paragraph (1)(b), which, to read the introductory part again, reads as follows:

> The Constitution of Canada shall be interpreted in a manner consistent with—

"(a)" I have already read

> (b) the recognition that Quebec constitutes within Canada a distinct society.

As you have said, (3) then states:

> The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(b) is affirmed.

Do you feel that Quebec does not constitute a distinct society within Canada?

Mr. Caccia: Correct, yes; I would argue that New Brunswick could constitute a distinct society if we wished to define it along provincial lines. I could also argue that Newfoundland constitutes a distinct society if we do not wish to argue along provincial boundaries. This is a sociological rather than a political concept.

Senator Frith: From the answers you have given I get the impression that you think the definition is incomplete. If it is incomplete and, as you say, does not represent present-day Canadian reality, have you a wording that you think would reflect present-day Canadian reality? If so, would you put it on our record?

Mr. Caccia: Yes, I have such a wording, senator. It is on the record of the House of Commons, and I would be glad to put it on the record of this house at the appropriate moment. I do not have the text with me.

In reply to your earlier question on whether I would agree with paragraph 2.(1)(a) as to whether that description constitutes "*a* fundamental characteristic" or "*the* fundamental characteristic," here I must ask myself how many fundamental characteristics a nation can have. I fear that once you have defined one fundamental characteristic there is very little room left for others. Therefore, whether the indefinite article "a" or the definite article "the" precedes "fundamental" becomes more a legalistic debate, which, to me, has very little political significance.

Once you have gone for a fundamental characteristic you have gone for virtually all fundamental characteristics, and the game is over. That is why I would urge senators to consider alternatives to paragraph 2.(1)(a). I would be glad to forward my version of that definition to the Senate through the proper channels, Mr. Chairman. There is only one basic way in which a nation can be defined. Once it is done one way, describing "a fundamental characteristic," I doubt whether there is room for other fundamental characteristics.

Senator Frith: Mr. Chairman, I would like that definition, into which I know Mr. Caccia has put a good deal of thought, placed on the record. If I am not mistaken, Mr. Penner is associated with him and together they developed that definition. I would prefer the definition to be on the record rather than in some separate place. It would not take Mr. Caccia long to get it to us. It could then go to the *Hansard* reporters and be placed in the record—because I would not want to have to look through supporting papers to find the defintion should I wish to refer to it again. If Mr. Caccia will do that, and if we agree that it can be inserted into the record, then I have no further questions to ask.

● (1650)

The Chairman: Is that agreeable, honourable senators?

Hon. Senators: Agreed.

Senator Phillips: You are really saying that you do not want to read Mr. Caccia's speech.

Senator Frith: No, that is not what I am saying at all. I followed through his speech, as you did, with him. Senator Phillips appears to totally misunderstand what I am asking for. Since the chairman of the Committee of the Whole will be putting the question whether it is agreeable that the definition be included in the record, I think that Senator Phillips should understand that before he gives his consent, or refuses it on the basis that I do not want to read a particular speech, because that is not the point.

Senator Doody: I'm glad you got that cleared up!

The Chairman: Is it agreed, honourable senators, that we accept Senator Frith's proposal that the definition be inserted in today's proceedings as we receive it?

The definition is as follows:

> 2.(1) The Constitution of Canada shall be interpreted in a manner consistent with the recognition that Canada constitutes aboriginal and multicultural societies, with English and French as the official languages of Canada, French-speaking Canadians being centred in Quebec but also present elsewhere in Canada and English-speaking Canadians concentrated outside Quebec but also present in Quebec.

Hon. Senators: Agreed.

The Chairman: I now call on Senator Haidasz.

Senator Haidasz: Mr. Chairman, my questions were raised by Senator Frith and I believe they have been adequately covered.

The Chairman: I call on Senator Watt.

Senator Watt: Mr. Chairman, my questions are directly related to those that I asked of Dr. Forsey. Mr. Caccia, your comments seem to imply that, in your opinion, you sincerely believe that under the Meech Lake Accord the Métis, Inuit and Indian people of this country have been forgotten; is that the case?

Mr. Caccia: Yes, it is, Mr. Chairman. I purposely read into the record the quotation from Chief Georges Erasmus when he appeared before the joint committee. He made that point so

vividly and passionately, and in a manner that is so relevant to our present day history, that it becomes a compelling document, perhaps one of the most compelling documents which have been exhibited and produced this summer.

Senator Watt: So, in your opinion the process is already in place to totally assimilate the aboriginal people, including the other ethnic groups; is that your opinion?

Mr. Caccia: The process is launched, but it would not be completed if just one premier were to bring it to a grinding halt. Therefore, there is still hope; but, of course, as time progresses that hope diminishes. But certainly there are reasons to be worried about the fact that the process could be brought to an end within the prescribed time unless a newly elected premier, for the reasons I gave earlier, were to take an initiative that would bring this momentum to a grinding halt and reopen the whole question.

Senator Watt: Thank you, Mr. Caccia.

Senator Bosa: Mr. Caccia, I wish to thank you for appearing before the Senate and giving us your views on this very complicated and important document. Can you tell me if there is anything good in the accord on which we can agree? Can you give me one aspect of the accord where we would be in agreement?

Mr. Caccia: Mr. Chairman, there must be something good in it, but I have had difficulty in discovering it so far.

The Chairman: Does that conclude your questioning, Senator Bosa?

Senator Bosa: Yes.

The Chairman: That concludes the questioning. Mr. Caccia, we thank you for being with us today and for sharing your views. That concludes the work of the committee for today. I expect that we shall next meet on Wednesday, November 18, depending on the sittings of the Senate.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

REPORT OF COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake Accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

The Hon. the Speaker: Honourable senators, when shall the committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again on Wednesday, November 18, 1987.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, November 5, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PRESENTATION OF PETITIONS

Hon. Jack Marshall: Honourable senators, I have the honour to present petitions on the matter of the National Film Board's production "The Kid Who Couldn't Miss."

Before I table the documents, I want to tell you that there are 337 sheets which contain a total of 14,164 signatures of individuals from right across Canada. I also advise honourable senators that in addition there are authorized executive representatives of various organizations who spoke up on behalf of a further 57,312 members.

An example of the support from this type of organization is a telegram that I received from Colonel J.M. Lowndes of Toronto, chairman of the Corps of Commissionaires, which reads:

> All 960 Governors and members of the Corps of Commissionaires from the Toronto Division wholeheartedly support your protest of the National Film Board's production of The Kid Who Couldn't Miss. The thought of having the reputation of Billy Bishop VC, one of Canada's recognized hereoes, destroyed by unsubstantiated innuendo should be abhorred by Canadians in every way.

Honourable senators, I want to put on the record what the petition reads. It states:

> TO THE HONOURABLE THE SENATE OF CANADA, IN PARLIAMENT ASSEMBLED
>
> The petition of the undersigned residents of Canada who now avail themselves of their ancient and undoubted right thus to present a grievance common to your petitioners in the certain assurance that your Honourable House will therefore provide a remedy.
>
> HUMBLY SHEWETH
>
> WHEREAS the National Film Board of Canada, a body created and financed by an Act of Parliament and presently responsible to the Minister of Communications, has caused to be made and distributed in Canada and abroad a film entitled "The Kid Who Couldn't Miss", and
>
> WHEREAS a Committee of Your House found this film to be full of historical errors, to be a highly dramatized and one-sided account of the life and exploits of Air Marshal William Avery Bishop, VC, DSO and Bar, MC, DFC and, by the use of questionable film techniques, to give a false and misleading authority to rumour and unpublished speculation, and
>
> WHEREAS the film has done grievous damage to the reputation of Air Marshal Bishop, caused grief to the surviving members of his family, and demeaned Canada as a nation and the sacrifice and heroism of Canadian Veterans everywhere.
>
> WHEREFORE the undersigned, your petitioners, humbly pray and call upon Parliament to urge the Government that the Minister of Communications instruct the National Film Board
>
> 1. To add after the titles of the film, the following disclaimer: "This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.
>
>   Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne."
> 2. To take action to eliminate from the film the unproven allegations, charges and innuendoes against the integrity of Billy Bishop.
>
> And as in duty bound your Petitioners will ever pray
>
> DATE: November 5, 1987.

That, honourable senators, is the demand that 14,164 individuals have signalled to me to represent them in this matter. I intend to represent their view in continuing dialogue.

I pay a tribute to the members of the Subcommittee on Veterans Affairs, who have been supportive. I have been encouraged by the response to my petition, and I will continue tabulating them as they are returned to me. I see it now as my clear duty to ensure that the feelings of those who have taken the time to write will continue to be represented. It is my intention to continue to cause the National Film Board to take action which will clear the name of Air Marshal William Avery Bishop, VC, an officer whose reputation has been tarnished without a single shred of evidence.

Hon. Senators: Hear, hear!

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

REPORT OF TWENTY-EIGHTH MEETING HELD AT VANCOUVER, BRITISH COLUMBIA, TABLED

Hon. R. James Balfour: Honourable senators, with leave, I have the honour to table the final report of the Canadian

delegation to the Twenty-Eighth Annual Meeting of the Canada-United States Inter-Parliamentary Group held in Vancouver from June 4 to 8, 1987.

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

Hon. Senators: Agreed.

Report tabled.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO STUDY ELEMENTS OF CANADA-UNITED STATES FREE TRADE AGREEMENT AND AGREED TEXTS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

> That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon elements of a Free Trade Agreement between Canada and the United States, tabled in the Senate on October 6, 1987 (Sessional Paper No. 332-589), and texts subsequently agreed to; and
>
> That the Committee present its report no later than March 29, 1988.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am totally in favour of this motion, but I wonder whether it is essential that it pass today. If it is, I shall sit down. If it is necessary for the organization of the committee and to see that the organization is completed at an early date to have this done today, I will not say anything, but I would have appreciated an opportunity in other circumstances to make some comments.

Senator Doody: I am sorry if I have violated a protocol. I had no intention of trying to deny anyone the right to speak on this particular subject.

Senator van Roggen, the chairman of the committee, and I have discussed the dates of meetings and the wording of the motion, and we finalized this to his satisfaction. I am under the impression that he will be holding an organization meeting some time next week, but I do not know how important the timing is in terms of the passing of this motion.

I feel reasonably certain that if Senator MacEachen wishes to stand this matter or to have me substitute a notice of motion it will not cause the committee to go off the track completely.

I can introduce this as a notice of motion rather than as a motion with leave.

Senator MacEachen: Honourable senators, I will waive my interest in making a speech on this item so that all early preparations can be made.

Senator Doody: Peace in our time!

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

Hon. Senators: Agreed.

[Senator Balfour.]

Motion agreed to.

• (1410)

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, at this time I usually put the standard adjournment motion. This particular adjournment motion is not quite standard, but, with leave of the Senate, I will put it and will be most pleased to give an explanation of it if the Senate so requires.

With leave of the Senate and notwithstanding rule 45(1)(*g*), I move:

> That when the Senate adjourns today, it do stand adjourned until Monday next, 9th November, 1987, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Senator Doody: As all honourable senators are undoubtedly aware, the rather contentious and well publicized Bill C-22 is being voted on this afternoon in the other place. I understand that a vote is scheduled for three o'clock.

An Hon. Senator: It is scheduled for 3.30.

Senator Doody: Is it 3.30 now? The Order Paper indicated three o'clock. I was about to say that that vote may be delayed because of the funeral in Quebec City.

In any event, we were told that the Senate would receive that message this afternoon. This bill has been dealt with at great length in the Senate. In order to give honourable senators an opportunity to move on with the debate if they so wish, or to deal with the bill, I think it would be appropriate to give every senator an opportunity to have his say. In order to do that I suggest that we come back on Monday to get on with it.

I realize that the House of Commons is scheduled to take its break next week, and that we would, obviously, have difficulty arranging Royal Assent, but I think that that should in no way slow down our deliberations on or our interest in the bill nor should it reduce our opportunities to discuss the bill. We could have two or three days' debate on this bill next week, if we have to, and could arrange Royal Assent the following week.

I should also mention that Wednesday is Remembrance Day, and I am sure that honourable senators will wish to observe Remembrance Day. So if honourable senators are agreed, we could return on Thursday and continue until we have disposed of that particular item.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I heard the same information about the other place and realized that there is a good chance we will receive that message this afternoon, if we are still sitting. However, I point out to honourable senators that according to my research this is the first time that a message has been sent back a third time. The first message accompanied the bill, the second

message referred to our amendments, and now we will receive a third message. On all previous occasions there had been a conference and some resolution reached betweentimes. I also remind honourable senators that when we sent our last message to the other place, the House took almost a week before it even started to deal with it.

Because the House of Commons will not be sitting next week, I believe it would be appropriate for the Senate to take more time in considering the message.

Therefore, I move, in amendment to the motion before us now:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, 17th November, 1987, at two o'clock in the afternoon.

Senator Doody: Honourable senators, if I may, there seems to be some slight contradiction in the comments of Senator Frith. I agree that the Senate should take time to deal with the matter. Indeed, I do not think that any matter has ever taken more time to deal with than has this particular one. So it was my intention, or my hope, that we would return on Monday and devote the time that is needed to deal with the matter. Honourable senators opposite now seem to want to take a week off before they even get to it.

Senator Olson: No, that's not so.

Senator Doody: Senator Olson says, "No, that's not so." If the pretence is that we are going to take a few days off to study the bill, then I say that we must have had an awfully low retention capacity if we have not really gathered the contents of that bill by now. Everyone in this place, I submit, is totally familiar with the bill, with every facet of it, and with all of the amendments, and to deny the Senate the opportunity to deal with it starting on Monday is to deny the due process to which this bill is entitled.

Senator Frith: Honourable senators, I understand the strength and depth of Senator Doody's concern, but I point out to him that what we will be considering is not the bill but the message, and the Senate has not yet seen the message.

The Hon. the Speaker: Honourable senators, in amendment to Senator Doody's motion it has been moved by Senator Frith, seconded by Senator Perrault:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, 17th November, 1987, at two o'clock in the afternoon.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, the farce orchestrated by Senator Frith and authored by Senator MacEachen goes on. There is no doubt about that. It has been like this since the beginning. Last week when I referred to delays—I beg your pardon?

[*English*]

Senator Frith: A whole lot of personal comments!

Senator Flynn: Pardon?

Senator Frith: We are going to hear a whole lot of personal comments.

Senator Flynn: It is nothing personal. It is what you are doing in this chamber. Do you not want me to refer to what you are saying or what you are doing? What did I say that was personal?

Senator Frith: You are being personal—

Senator Flynn: Come on, speak up if you have something to say about that.

Senator Frith: The first thing you said about the motion—

Senator Flynn: I said it was—

Senator Frith: Listen. You asked the question; listen to the answer. The first thing you said about the motion, which is a motion concerning adjournment, was to name a couple of senators.

Senator Flynn: Sure, but what is personal about mentioning that you were the mover and that Senator MacEachen was the designer? What is personal about that?

Senator Frith: What has that to do with the motion?

Senator Flynn: You have become so simple-minded when we are dealing with what you are doing here. I am not being personal. I am not talking about something outside of the Senate. I am speaking of what you are saying and doing in this place and nowhere else. There is nothing personal about that.

Senator Frith: Give us a sign when you start talking about the motion so that we can pay attention.

Senator Flynn: I was about to do that when you interrupted.

[*Translation*]

As it happens, I said that this motion is very much in keeping with the filibuster tactics to which the Liberal opposition in this chamber has been resorting since April 8 this year.

[*English*]

Senator Olson: Wrong, wrong, wrong!

Senator Flynn: Another simple-minded argument—"Wrong, wrong, wrong!" What is wrong with saying that we have had this thing since April 8? Is it true or not? Is it wrong when I say we have had this since April 8?

An Hon. Senator: No.

An Hon. Senator: Yes.

Senator Olson: Carry on.

Senator Flynn: If you can't contest that, then shut up.

Senator Perrault: Don't get political.

Senator Flynn: I like that. At least there is some sense of humour somewhere, thank God.

[*Translation*]

I wanted to get back to what I said last week when Senator Denis contested the fact that the Senate is filibustering this bill.

Senator Denis: A point of order.

Senator Frith: Leave him alone.

Senator Flynn: No, this is not a point of order.

Senator Denis: Speak to the motion.

Senator Flynn: I am talking about the motion designed to delay—I am talking about delays; you are unable to make the connection—

Senator Guay: Go on with your comments.

Senator Flynn: Will I have to draw you a picture?

Senator Denis: You said April 8, yet we got the bill on April 30.

Senator Flynn: That is precisely the point. You say that we got the bill on April 30. If only Senator Denis could make a more intelligent contribution. I can see he is here, but if only he knew what is going on—

Senator Denis: Let the complainer have his say.

Senator Flynn: Last week's *Hansard* relates the ups and downs of Bill C-22 in the Senate. I urge Senator Denis to read the debates. He will see that the bill came before the Senate on April 8 through a motion to refer the subject matter to committee. In any case, everything is there in detail. But I repeat that proceedings have been delayed for over seven months. I challenge Senator Denis to put on the record any facts which contradict that.

So we cannot, according to Senator Frith who is coaching Senator Denis—because he tries to run everything—and advising him not to say a word because I am only making personal attacks, because I mention what Senator Denis does in the Senate. That is very personal.

Senator Guay: He told him to forget it.

Senator Flynn: What I am talking about is the behaviour of Senators MacEachen and Frith—and incidentally about that of Senator Denis who is trying to keep silent on this bill because he has yet to take a stand. As a result of all this we are witnessing systematic and partisan obstruction which absolutely poisons the climate in the Senate. If you enjoy it, that is your business. But I suggest there is utter lack of honesty. We can no longer work constructively, honestly, and know where we are going. It is always the same system of petty mysteries and collective hypocrisy. You are an accomplice, my dear Senator Olson, because you in the majority cannot agree among yourselves on the way to behave like people who know what honesty and collective integrity are all about.

● (1420)

[*English*]

Hon. H.A. Olson: Honourable senators, Senator Flynn has made the best possible argument for taking a few more days. What we are faced with now shows the sense, the very good common sense which Senator Flynn has demonstrated over the years and which I have grown to respect, in that he demonstrates the need for taking a little bit of time. He always used to say, "Why do we have to do it today when we can do it tomorrow?" That has always been his philosophy.

Senator Flynn: "Tomorrow" and "ten days later" are not the same thing.

Senator Olson: Never mind. What we are faced with now is the House of Commons sending back Bill C-22. The bill as we amended it was not accepted by the Commons. I think everyone understands that.

Senator Doody: Come back on Monday, and we will see!

Senator Olson: Therefore, we need a conference. It is the next stage. We have not received the bill yet, though we may receive it later today. However, some months ago the House of Commons accepted a House order that they would take next week off. It is an order, and it will not be changed. Therefore, it is impossible for the House of Commons to have a conference with the Senate next week.

Senator Perrault: That's right.

Senator Olson: Honourable senators, we now have to have a conference to determine whether or not a reconciliation can be reached between the position taken by the other place and the position that we take, that the amendments that were offered to the other place when the bill was sent over there were sensible, legitimate amendments.

I hope that all members of this chamber see the logic and the common sense involved in the amendment that Senator Frith has made to this motion.

Senator Flynn: Perhaps we should withdraw Senator Doody's motion and sit tomorrow.

Senator Frith: The mover of the motion can ask leave to withdraw it, but you cannot do that.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt Senator Frith's motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

• (1430)

Motion in amendment of Senator Frith adopted on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	LeBlanc (*Beauséjour*)
Anderson	Le Moyne
Argue	Lewis
Barrow	MacEachen
Bonnell	Marchand
Bosa	McElman
Corbin	Molgat
Cottreau	Neiman
Davey	Olson
De Bané	Perrault
Denis	Petten
Everett	Robichaud
Fairbairn	Rousseau
Frith	Stewart (*Antigonish-Guysborough*)
Gigantès	Turner
Graham	Watt—35.
Guay	
Hays	
Leblanc (*Saurel*)	

NAYS

THE HONOURABLE SENATORS

Asselin	Macdonald (*Cape Breton*)
Atkins	Marshall
Balfour	Muir
Bélisle	Nurgitz
Bielish	Phillips
Cogger	Robertson
David	Rossiter
Doody	Spivak
MacDonald (*Halifax*)	Walker—18.

ABSTENTIONS

THE HONOURABLE SENATORS

Macquarrie—1.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, on a question of privilege.

Four of my colleagues and I were in the reading room. There were also three Liberals, Senator Denis. We were not warned that the bells would stop ringing at a certain time. Needless to say, if I had known, I would have been here to vote against the motion.

I think I can say that Senator Doyle would have done the same, and that Senators Thériault, Haidasz and Lefebvre would have been here to vote for the amendment.

Hon. Azellus Denis: On a point of order, honourable senators. It is not true we have to stop at a certain time in order to vote.

Senator Flynn: I never said that.

Senator Denis: You are wrong—

Senator Flynn: I never said that.

Senator Denis: Go on lying, go on lying, Senator Flynn.

Senator Flynn: I beg your pardon! Your Honour heard what Senator Denis said. He seems to think he has a monopoly on truth. He just used a word I think he will have to withdraw unconditionally, or else I will move a motion to that effect.

Senator Denis: Honourable senators, what I said is far removed from what Senator Flynn said himself before the vote. When he says we are to be warned the bells will stop ringing, nothing could be further from the truth.

Senator Flynn: My point is that Senator Denis used the expression "lying". He said that I was lying. Your Honour, I move that this question be referred immediately to a committee on privilege unless Senator Denis withdraws his words unconditionally, here and now.

Senator Denis: It is not a lie to say it isn't true that when a vote is to be held here, we should be warned when the bells will stop ringing.

Senator Flynn: I move—

Senator Denis: The truth is that he was wrong.

Senator Flynn: I move that Senator Denis' comments be examined immediately on a question of privilege. If Senator Denis does not unconditionally retract his statement, I will move that the Senate immediately form a committee on privileges to consider his behaviour.

I will move my motion, your Honour.

Hon. Louis Robichaud: Honourable senators,—

Senator Flynn: A question of privilege is moved immediately. I cannot help it if Senator Olson is not familiar with the rules of the Senate, but the case is quite clear. It is very easy for Senator Denis to withdraw his words. If he does, I will withdraw my motion. I quote rule 33 of the rules of the Senate:

> 33. When a matter or question directly concerning the privileges of the Senate, of any committee thereof, or of any senator, has arisen,

Are you listening, Senator Olson—

> . . . a motion calling upon the Senate to take action thereon may be moved without notice and, until decided, shall, unless the debate be adjourned, suspend the consideration of other motions and of the Orders of the Day.

● (1440)

[*English*]

Your Honour, that is quite clear, and I so move.

Hon. H.A. Olson: Honourable senators, Senator Flynn knows very well that he has no right to do that.

Senator Flynn: I have made the motion and I ask the Chair to put it before Senator Olson rises.

Senator Olson: On a point of order, Senator Flynn knows well from looking at the rules and those authorities who have written about procedures in Parliament that, first of all, there has to be a *prima facie* case of privilege established.

Senator Flynn: Sure!

Senator Olson: He has not established that. What is more, Senator Denis has already indicated that what Senator Flynn is alleging, namely, that he called him a liar, is not true. He said that something Senator Flynn said was not in compliance with the truth.

Senator Flynn: No; you do not understand—it was in French.

Senator Olson: That is the fact; so he does not have any right to make a motion to refer this as a question of privilege—it was just voted down. But this playing loose with the rules by Senator Flynn should stop. I ask him to stop.

Senator Flynn: I ask the Chair to put the motion, and then we will call the official reporter to read the words that he used. If there is no doubt about it, he only has to withdraw his remarks.

Senator Olson: No; he does not have to withdraw.

[*Translation*]

Senator Denis: Honourable senators, would the honourable senator be satisfied if I said that he strayed from the truth?

Senator Flynn: I agree you can say that. I am asking you to withdraw what you said. That is all I am asking you.

Senator Denis: I replace what I said by: he strayed from the truth. It is not correct to say that we are warned that the bells will stop ringing before a vote. Therefore everyone knows that it is not the truth. When it is not the truth, it is a lie.

The Hon. the Speaker: Before putting his motion, would Senator Flynn allow me to make a comment? Honourable senators, perhaps Senator Denis might say that he does not consider it to be the whole truth as he sees it? Would that be satisfactory, honourable senators?

Senator Flynn: I would like him to withdraw the word "lie".

The Hon. the Speaker: Honourable senators, while withdrawing the word "lie", Senator Denis, perhaps you might say that you do not consider it to be the truth as you conceive truth to be. I believe that might solve the problem.

Senator Denis: Honourable senators, I am quite willing to do that to accommodate Mr. Speaker, but not Senator Flynn.

● (1450)

[*English*]

Hon. L. Norbert Thériault: Honourable senators, although I do not want to get involved in these discussions, I do want to make a point.

I was in the reading room and, although I cannot speak for the other senators that were there, I was disappointed that no one informed me that the bells would ring for five or ten minutes. As a matter of fact, I did not hear the bells ringing. I am not making any accusations. I simply want to say that had I been here I, naturally, would have voted for the amendment. I hope that the whips would take my remarks into consideration so that this will not happen again.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt Senator Doody's motion, as amended?

I understand that we voted on the amendment, and that now we have to vote on the motion as amended.

Some Hon. Senators: No, no!

The Hon. the Speaker: The main motion has not been dealt with.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the main motion has been dealt with by the fact that the main motion was amended and was put to the Senate as amended. So the amended motion carried, and that takes care of the main motion. The question on the main motion should not be put again. The motion was not that the motion be amended; the motion was in amendment, so we voted on the amended motion, and that carried. We do not have to vote on it twice.

Honourable senators, although I know it is not really in order to talk about the proceedings in the House of Commons, there is something I feel I should put on the record, if possible, before the House of Commons votes on it. I want to be sure this is on the record in case a result follows from a precedent from Lord Campion, a former Clerk of the House of Commons.

The title of the book I wish to quote from is *An Introduction to the Procedure of the House of Commons*, and I quote from page 230, where the kind of situation we are engaged in now is discussed—that is, messages between the houses and the amending of bills.

The reference, of course, is to the House of Lords because of the fact that this is a British text. I quote as follows:

> If the House agrees to the Lords Amendments, the proceedings on the Bill are complete and the Bill returns to the Lords to await the Royal Assent. If, however, it—

that is, the House of Commons

> —has amended a Lords Amendment or disagreed to a Lords Amendment, then in respect of such Amendment

> further exchanges take place between the two Houses, and this process continues until every amendment made by one House is agreed to by the other (when the Bill is ready for Royal Assent)—

I should like to highlight the next part, which states:

> —or until one House insists upon its disagreement to an amendment made by the other House. In this latter case the Bill is lost for the session.

I hope that the message we receive from the other place is drafted by someone who knows about that provision.

Senator Doody: I doubt if they will get the message in time.

Senator Frith: You might tell them.

The Hon. the Speaker: Question Period!

Senator Doody: Honourable senators, Senator Murray is in Nova Scotia today—

Senator Frith: Can I complete that point?

Senator Flynn: No.

Senator Frith: I have another quotation.

Senator Flynn: I rise on a point of order.

Senator Frith: I refer to *Erskine May*, at page 586.

Senator Flynn: I rise on a point of order. Senator Frith is not speaking to any question. He can make his argument in ten days since he is in no hurry. He just asked the Senate to adjourn until November 17. He should be logical in his approach.

Senator Frith: That is fine, but do not say anything on November 17 if the bill dies, because this was drawn to your attention. You will have killed it by not doing anything about it.

Hon. John B. Stewart: Honourable senators, on the same point of order raised by Senator Flynn, may I say that—

Senator Flynn: We should behave like civilized people.

An Hon. Senator: Oh, be quiet!

Senator Stewart: —it would be unfortunate if the majority in the other place, either intentionally or inadvertently, killed their own bill. That is the clear implication of the quotations from Lord Campion and *Erskine May*.

Senator Flynn: If you want to speak to the other chamber, go ahead.

Senator Stewart: I am speaking to your point of order.

Senator Flynn: That is not a point of order at all.

Senator Perrault: We are trying to help you.

Senator Flynn: I know that!

Senator Stewart: You raised the point of order.

Senator Flynn: Not at all.

The Hon. the Speaker: Question Period!

Senator Frith: Do I understand that a ruling has been made that my colleagues in the Senate do not want me to add the reference from *Erskine May*, which says the same thing? The reference is found at page 586.

Senator Flynn: Order!

Senator Frith: It simply says:

> If, however, the Commons—

Senator Flynn: Order!

Senator Frith:

> —insist upon their disagreement, without offering—

Senator Flynn: Order!

Senator Frith:

> —alternative proposals, the bill would normally be lost.

Senator Flynn: That is unfair. That is totally irregular. That is the way in which Senator Frith always proceeds, and I object entirely to this method of flouting the rules of the Senate.

Senator Olson: Senator Flynn is always interrupting everybody.

Senator Frith: From someone so impeccably regular as Senator Flynn!

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, as I was starting to say, Senator Murray is in Nova Scotia today and will not be with us for Question Period.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, on Senator Doody's comment, am I to understand that if a message were to be received from the House of Commons and if we were sitting, Senator Doody would be making a motion today, in the absence of Senator Murray?

Senator Doody: It would be my intention to put a motion, yes.

Senator Olson: We should get the adjournment right away.

Senator Doody: We should.

Senator Flynn: We could recall the Senate!

ROYAL CANADIAN MINT ACT
CURRENCY ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-46, to amend the Royal Canadian Mint Act and the Currency Act.

He said: Honourable senators, Bill C-46, to amend the Royal Canadian Mint Act and the Currency Act, is now before us. The bill proposes to consolidate within the Royal Canadian Mint Act and to modernize the authorities concerning all technical matters pertaining to coins. The Currency Act will continue to address matters such as what is the monetary unit of Canada, and what constitutes legal tender and the currency for the keeping of accounts or contracting in Canada. Several proposals are included in the bill to improve the financial structure for the Mint and to give it more operational flexibility while still maintaining the checks and balances appropriate to a crown corporation.

When the Mint was originally established as a crown corporation, no provision was made for share capital investment by the government. Bill C-46 authorizes the issuance of up to $40 million in share capital. The shares can only be purchased by the Minister of Supply and Services on behalf of the government and are not transferable. There is also a provision for the minister to request the Mint to redeem share capital in future, if the scope of the Mint's business changes and the level of investment proves to be excessive.

Proposed amendments to the borrowing powers in the Royal Canadian Mint Act will increase the limit to $50 million from the present $35 million. This will also allow borrowing from private sector lenders as well as from the government. However, in either case the terms and conditions will be subject to the approval of the Minister of Finance.

Several modifications are proposed that will assist the Mint in continuing its successful marketing endeavours and will provide a framework for new initiatives. In this regard, I must state that our Royal Canadian Mint derives better than 80 per cent of its revenues from outside Canada, from sales of its bullion and numismatic coinage and production services. It is a major Canadian exporter, and the proposed amendments will enhance its ability in this area.

Finally, the bill contains a few amendments of an administrative and housekeeping nature. Included is an amendment authorizing an increase in the size of the board of directors from seven to eleven members and removing the present requirement that three of the directors be public servants. This change will provide a board of directors of a size that is comparable to those of other companies of the Mint's scope and size. It will also bring a broader range of expertise to the direction of the Mint's activities, a move consistent with the Mint's growth over the years.

Honourable senators, I have before me a lot of interesting information on the Royal Canadian Mint. It tells us about the sales of gold coins in terms of the great volume and increases over the years. It indicates the number of countries for which Canada mints coins and metals. Over 60 per cent of Canada's annual gold production is refined by the Royal Canadian Mint. Many mines from foreign countries also ship their gold deposits to the Mint for refining. The Mint has also made continuous efforts to obtain more international refining business. The marked success of the gold maple leaf coin has been built partially on the reputation of the Mint as a refiner of gold. The Royal Canadian Mint refinery has serviced the Canadian gold mining industry since 1911. During the last 75 years the refinery has processed about 9,000 tonnes of gold-containing material, an average of 3.9 million troy ounces per year.

In relation to Canadian circulating coinage, the Mint has always concerned itself with the cost to the government of coinage as well as the high quality of its production. In that regard, the bill proposes certain amendments that will enable the Governor in Council to approve minor changes to the size or metal content of our coinage while retaining for Parliament the authority for changes.

The proposed changes are the result of a thorough review of the Mint's legislative environment. It recognizes the accomplishments of the Mint to date and provides a legislative mechanism for similar success in the future.

I ask all honourable senators to join in supporting the passage of Bill C-46. In so doing I am convinced that we will be taking an important step to assist our national Mint and to help ensure that it has the tools to remain successful and stay in the forefront of the world's mints.

On motion of Senator Bosa, debate adjourned.

CONSTITUTIONAL ACCORD, 1987

CONSIDERATION OF REPORT OF SPECIAL JOINT COMMITTEE—ORDER STANDS

On the Order:

> Consideration of the Report of the Special Joint Committee on the 1987 Constitutional Accord (Sessional Paper No. 332-571A).—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this order stands in my name, but I think it would be more appropriate if it were to stand in the name of Senator Tremblay who tabled the report, and who will speak to it in time.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands in name of Senator Tremblay.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I had hoped to present the motion to concur in the amendments made to Bill C-22 by the House of Commons today, but the message has not yet arrived. The votes will not likely take place for another 15 minutes. I

suggest that we adjourn to the call of the bell and when the message arrives that we return to deal with the motion.

The Hon. the Speaker: Honourable senators, is it agreed?

Some Hon. Senators: No!

Senator Doody: In that event, with some reluctance and no bitterness I move that the Senate do now adjourn.

The Senate adjourned until Tuesday, November 17, 1987, at 2 p.m.

THE SENATE

Tuesday, November 17, 1987

The Senate met at 2 p.m., the Honourable Rhéal Bélisle, Acting Speaker, in the Chair

Prayers

CITIZENSHIP ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-254, to amend the Citizenship Act (period of residence).

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Macquarrie, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN CERTAIN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON CERTAIN SENATE AMENDMENTS—DEBATE ADJOURNED

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

> That a Message be sent to the Senate to acquaint Their Honours that this House agrees with amendment 18(b) made by the Senate to Bill C-22, An Act to amend the Patent Act and to provide for certain matters in relation thereto, but disagrees with all other amendments except amendment 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and amendment 16(a) because this House believes that amendments 4(b), 11, 12, 15(a), (b) and (c), 16(b), (c), (d) and (e), 17(a) and (b) and 18(a) are in contradiction to the fundamental principles of the bill and undermine the objectives of the policy.

More specifically:

Amendments 4(b), 11 and 12 change the coming into force of the sections thereby jeopardizing all the research and development commitment of the industry, and are therefore not acceptable;

Amendments 15(b), (c) and 18(a) remove flexibility from the Patented Medicines Prices Review Board inconsistent with the design of such regulatory agencies and are therefore inconsistent and not acceptable;

Amendment 15(a) arises out of Senate amendments 13 and 14 and is therefore inappropriate;

Amendments 16(b), (c), (d) and (e) and 17(a) and (b) arise out of amendments 13, 14 and 16(a) which are proposed for further amendment by this House in this Message. Therefore the Senate amendments are inappropriate.

And that Senate amendments 13(a), (b), (c), (d) and 14(a), (b), (c) and (d) be amended to read as follows:

That Clause 15 of Bill C-22 be amended,

(a) by adding, immediately after line 36 on page 13, the following:

"(1.1) Where, in the opinion of the Board, a patentee of an invention pertaining to a medicine has, within such period as is prescribed, increased the price at which the medicine is sold in any market in Canada by a percentage in excess of the percentage increase in the Consumer Price Index, as published by Statistics Canada under the authority of the Statistics Act, for that period, the Board may, by notice in writing, require the patentee to provide the Board with such information and documents concerning the costs of making and marketing the medicine as the Board may specify and as is available to the patentee in Canada or is within the knowledge or control of the patentee, and on the receipt of any such notice, the patentee shall comply therewith within such time as the Board may specify."

(b) by striking out line 45 on page 13 and substituting the following:

"tion (1) or (1.1),"

(c) by adding, immediately after line 33 on page 17, the following:

"(5.1) Where, in the opinion of the Board, a patentee of an invention that is a medicine has, within such period as is prescribed, increased the price at which the medicine is sold in any market in Canada by a percentage in excess of the percentage increase in the Consumer Price Index, as published by Statistics Canada under the authority of the Statistics Act, for that period, the Board may, by notice in writing, require the patentee to provide the Board with such information and documents concerning the costs of making and marketing the medicine as the Board may specify and as is available to the patentee in Canada or is within the knowledge or control of the patentee, and on the receipt of any such notice, the

patentee shall comply therewith within such time as the Board may specify."

(d) by striking out line 42 on page 17 and substituting the following:

"accordance with subsection (5) or (5.1),"

(e) by striking out line 17 on page 20 and substituting the following:

"purpose of the report referred to in"

(f) by striking out lines 2 and 3 on page 23 and substituting the following:

"shall contain

(a) a summary of pricing trends in the pharmaceutical industry; and

(b) the name of each patentee to whom a notice under subsection 41.15(1.1) or 41.16(5.1) was sent during the year and a statement as to the status of the matter in respect of which the notice was sent."

(g) by striking out lines 4 and 5 on page 23 and substituting the following:

"(2) The summary referred to in paragraph (1)(a) may be based on information and".

And that Senate amendment 16(a) be amended to read as follows:

That Clause 15 of Bill C-22 be amended by adding, immediately after line 17 on page 19, the following:

"(12) Where an order is made under paragraph 6(d) in respect of a medicine, the prohibitions set out in subsections 41.11(1) and 41.14(1) cease to apply in respect of the medicine effective on the date of the order."

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

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, now.

I move, seconded by the Honourable Senator Doody:

THAT the Senate concur in the amendments made by the House of Commons to its amendments 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and 16(a);

That the Senate do not insist on its amendments 4(b), 11, 12, 15(a), (b) and (c), 16(b), (c), (d) and (e), 17(a) and (b) and 18(a); and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Murray, seconded by the Honourable Senator Doody:

THAT the Senate concur in the amendments made by the House of Commons to its amendments 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and 16(a) ;

That the Senate do not insist on its amendments 4(b), 11, 12, 15(a), (b) and (c), 16(b), (c), (d) and (e), 17(a) and (b) and 18(a); and

That a Message be sent to the House of Commons to acquaint that House accordingly.

Honourable senators, is it your pleasure to adopt the motion?

Some Hon. Senators: Agreed.

Senator Murray: Honourable senators, I hope to be brief and non-controversial, as usual, as the circumstances warrant. I do not rise for the purpose of debating the merits of Bill C-22. Goodness knows, this has been done extensively in this chamber and in two committees of this chamber for many months. I rise for the purpose of saying a few words to the motion that I have just proposed, which is that we concur in the message we have just received from the House of Commons.

In so doing I remind honourable senators that on August 26 last—almost three months ago—at a time when the other place was discussing amendments that had been made to Bill C-22 by this chamber, the Right Honourable John Turner, Leader of the Opposition, said as follows:

> Our position is quite clear on the jurisdiction of the Upper House. We want an elected Senate. We want fundamental reform, but as long as the Senate remains a nominated Chamber, as long as it remains a non-elected Chamber, no matter who appoints them—giving the Premiers the powers of appointment is no significant reform—at the end of the day the elected House of Commons must prevail. That is a clear position of the Liberal Party.

Honourable senators, I have proposed the motion to concur in the message from the House of Commons, because in my judgment we have arrived at "the end of the day," to use Mr. Turner's expression. The bill has been to two different Senate committees, as I have pointed out; it has been under consideration in this place and in its committees for more than six months. It is one year ago next week since the matter of Bill C-22 first arose in this chamber in the course of the oral Question Period when I had suggested a pre-study of the bill. At that time the Deputy Leader of the Opposition demurred, saying:

> There are some perhaps temporary problems about the pre-study of Bill C-22.

Senator Frith: Well said, sir!

Senator Murray: In the five months that ensued the government made every reasonable effort to persuade honourable senators that a pre-study should be given to this bill. Finally, it was read the first time in this place on May 7, yet it took another three months for senators to decide on amendments to propose to the other place.

The message came back from the House of Commons, and at that time I indicated that I thought the moment had come for the Senate to decide what to do with this bill. Instead,

honourable senators chose to send it to another committee of the Senate, where it remained for another two months.

Senator Frith: No, not true; we sent the message, not the bill.

Senator Murray: Following another series of amendments proposed by the Senate, the House of Commons returned a message to us the week before last only to find that the senators had decided to take a one-week recess.

Well, honourable senators, I simply want to remind you that the government and the House of Commons have been quite accommodating of the Senate and its various committees on this bill. Of the first batch of amendments that was proposed by the Senate in August the government and the House of Commons accepted one amendment, accepted the intent of but redrafted another, and amended further a Senate amendment.

In the second group of amendments in early November the government and the House of Commons again accepted one amendment; accepted the intent of but redrafted another; and amended further a Senate amendment.

As I say, I have no intention of debating the merits of Bill C-22. What this has become, as I indicated some days ago here, is clearly, in the broadest sense of the term, a constitutional issue as it relates to the relationship between the two houses of this Parliament.

I draw to your attention a statement made in the course of another debate more than a year ago by no less an authority than our colleague, the Deputy Leader of the Opposition. On July 24, 1986, we were discussing a message we had received from the House of Commons with regard to Bill C-67, an act to amend the Parole Act and the Penitentiary Act. On that occasion Senator Frith said the following:

> Now I will come to the one reason why we should not insist upon it.

He was referring to the Senate amendment. He went on to say:

> Notwithstanding that we are right and they are wrong, notwithstanding all of these reasons to insist, the fact is that we are not an elected body. It is our job—and I believe that we classically fulfilled our job in this case—to expose the weaknesses of this bill. We proposed an amendment. We drew to the attention of the people of the country and to the media the weaknesses of this bill. We passed a good amendment, an amendment that we can be proud of. If the majority of the elected representatives still give us the back of their hand, then I suppose they should get away with it. Among the many reasons why we should insist there is that one reason why we should not.

Senator Frith: You are reaching for a very high authority.

Senator Murray: Honourable senators, the authority is not only high and esteemed but, I trust, will be instrumental in persuading honourable senators to support the motion that I have just proposed.

It is, as I say, now a constitutional issue as to the rapport which should exist between this house and the other place.

After all these months it seems to me that the questions before us are two. The first question is: Shall the Senate allow this matter to come to a final vote? Shall the Senate finally indicate how it wishes to dispose of this bill? The second question is: Shall the elected chamber prevail over the will of the appointed chamber?

It seems to me, honourable senators, that those are the issues. I think there is no need for me to elaborate on them. I appeal to honourable senators to support the motion that I have just proposed and to concur in the message from our colleagues in the House of Commons.

Some Hon. Senators: Hear, hear!

Hon. Ian Sinclair: Honourable senators, I do not know that I will be as brief as the Leader of the Government, but I will try.

He said that he was not going to be controversial. I guess he does not have the same impression of the meaning of that word as I do, because he certainly made statements that are controversial.

At the outset let me get away from one thing in which he seemed to take a great deal of delight, and that was quoting Senator Frith. All I have to say about that is to recall to all honourable senators what a very great Canadian said, which was, "There is nothing I have less use for than my opinion of yesterday." That is my comment on the comment of Senator Frith that was quoted by the Leader of the Government.

● (1410)

Senator Frith: And even less use for someone else's opinion of yesterday!

Senator Sinclair: Honourable senators, let me take a look at the timing. Senator Murray seems to think that the Senate has taken a rather long time over this issue. As I recollect its history, it has been with us for some nine years. In 1983 a white paper on the matter was issued by the government then in power. It was discussed between parliamentarians and representatives of the industry. The government decided to appoint a royal commission. The Eastman Royal Commission studied the matter and made its report. However, the present government did not like the Eastman report. Therefore, in June of 1986 it put together what it thought might be an appropriate bill. The government, however, did not proceed with that bill. The legislation was not introduced until November of 1986, and there are significant differences between the bill that was first proposed in June and the bill that eventually saw the light of day in November.

Therefore, honourable senators, this government has spent many more months dealing with this issue and changing positions than have ever been spent as a result of studies taking place in committees of the Senate and discussions in this chamber.

I am sure that all honourable senators must have the same feeling I have in hearing this message. I am not going to comment at all; I do not want to use pejorative language. All I am going to say is that the minister in the other place certainly did not help his colleagues, as far as I am concerned and as far

as the people of Canada are concerned, in using some of the language that he felt was appropriate. I say that it was most inappropriate.

What does this message do? It does not deal in any way with the substance of the clear-cut issues dealt with by the Senate amendments, which were embodied in the nineteenth report of the Standing Senate Committee on Banking, Trade and Commerce which was adopted by this assemblage.

What do we now have? We have one group of people who have looked at this issue taking one view and another group of people, equally having looked at this issue, taking a contrary view. In other words, honourable senators, we have an impasse. Senator Murray has said that as far as he was concerned this raises a constitutional issue. I accept that statement that such an impasse raises a constitutional issue. I think all honourable senators should thank Senator Murray for putting matters so squarely on that issue. What are we going to do to resolve this constitutional issue? In the time-honoured way, he suggested, of establishing a rapport between the two houses of Parliament.

Fortunately, honourable senators, there is a procedure that will enable that rapport to be enhanced. That procedure is a conference. Where there is an impasse constitutional convention supports the setting up of a free conference; and, honourable senators, I believe the time has come in this issue to say that in order to maintain that rapport, to apply the proper technique, to use the constitutional requirements that are there, and to meet the question asked by Senator Murray: "When shall we vote on this?", the answer is clear—after a conference.

Honourable senators, I suggest that that is the proper course to take. I suggest that a conference is necessary. I hope that all honourable senators will take this opportunity of supporting that. I suggest that we defer consideration of the motion moved by the Leader of the Government until such time as we deal with the issue of a conference.

Some Hon. Senators: Hear, hear!

Senator Sinclair: I might add that a lot has been said about the time of day. I have had something to say about how that should be interpreted; but certainly, based on constitutional prerogatives, constitutional convention, constitutional matters, the time of day cannot be before a conference.

I move the adjournment of the debate in my name.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker in the Chair.

[*Translation*]

Hon. Pietro Rizzuto: Honourable senators, with your permission, I should like to speak before the debate is adjourned, please.

[*English*]

Hon. Heath Macquarrie: Honourable senators, if, in fact, we are not adjourning the debate, then I also would like to say a word or two.

[*Translation*]

Hon. Paul David: Honourable senators, I should like to express my views before the debate is adjourned. However, I wonder whether it should not instead be turned into an emergency debate.

[*English*]

The Hon. the Speaker: Honourable senators, different views have been expressed. We have a motion by Senator Sinclair to adjourn the debate, but other senators would like permission to speak before the motion is put. Is it your pleasure, honourable senators, to allow those honourable senators to speak, or shall I put the motion to adjourn the debate?

Senator Sinclair: I would ask Your Honour to put my motion to adjourn the debate in my name.

Hon. Royce Frith (Deputy Leader of the Opposition): Senator Sinclair is not closing the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Sinclair, seconded by the Honourable Senator Stewart, that further debate on this motion be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Sinclair, debate adjourned.

CITIZENSHIP

PETITION OF FOREIGN SERVICE COMMUNITY ASSOCIATION ON BILL C-254 TABLED

On Presentation of Petitions:

Hon. Heath Macquarrie: Honourable senators, I would like to have leave of the Senate to table a petition from the Foreign Service Community Association in reference to the Citizenship Act, dealing particularly with Bill C-254, with which the Senate will be dealing on Thursday. This is a highly informative and well-presented document, and I ask for leave to have it tabled.

● (1420)

Hon. Eymard G. Corbin: Honourable senators, it is standard practice to read the petition if it is not too long. I am not asking that the name of the petitioners be read, but we ought to know what it is the honourable senator is tabling at this time. What is the text of the petition?

Senator Macquarrie: Honourable senators, I have a 12-page document presented by these distinguished Canadians who have been most involved with problems arising from the Citizenship Act as it relates to spouses of foreign service officers. This is exemplified by the difficulties experienced at the time that two of our distinguished diplomats involved in the Iran situation were presented with the Order of Canada. Their spouses, who had served loyally on behalf of our country at that very difficult time, were excluded from the honours, because the Citizenship Act did not treat their service abroad

in a Canadian embassy as contributing to their eligibility for Canadian citizenship.

I thought it would be helpful to honourable senators when dealing with Bill C-254 on Thursday to have this document available. In the other place, although it is not necessarily what the Senate should do, they not only accepted this document but printed it as part of their record. It would be presumptuous to have it printed as part of the record at first reading, so I thought I would help my colleagues by tabling this very splendid document at this time.

Senator Corbin: Honourable senators, I thank Senator Macquarrie for his explanation, but I understood when he arose initially that he wished to table a petition. My question to Senator Macquarrie is: In his opinion does that document take the usual, standard form provided under our rules for petitions? I am not asking the honourable senator to make a judgment but to tell us *grosso modo* whether it respects the usual form for petitions presented to one of the houses of Parliament.

Senator Guay: Is it in the two official languages?

Senator Macquarrie: The question from my colleague prompts me to reply that, although I am not a lawyer, I have taken counsel and there is no order in our proceedings in reference to tabling of documents, and that the procedure in the Senate is that after the true, real and precise petitions have been presented, as my house leader did with immaculate ease a few moments ago, the best place to table documents is under the same order. That is why I am availing of this opportunity. If we had another order for tabling documents, that is where I would be tabling them.

However, I would like the Senate to have these documents. It does not reflect on me if the Senate does not want them. They are available.

Senator Corbin: Honourable senators, I am not arguing with respect to wanting or not wanting the documents. I may be mistaken, and I stand to be corrected, but I understood that when Senator Macquarrie uttered his first words he referred to a document which he called a petition. Is it or is it not a petition? That is all I want to know.

Senator Macquarrie: Honourable senators, I may be very casual in my language, but I cannot recall using the word "petition." I certainly recall using the word "document." It was the Speaker who used the word "petition."

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

Hon. Senators: Agreed.

Document tabled.

[*Translation*]

THE ESTIMATES, 1987-88

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc: Honourable senators, I have the honour to present the thirteenth report of the Standing Committee on National Finance regarding Supplementary Estimate (B) tabled in Parliament for the fiscal year ending March 31, 1988.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 2174.*)

The Hon. the Speaker: When shall this report be taken into consideration, honourable senators?

On motion of Senator Leblanc (Saurel), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

WAR VETERANS

BENEFITS LEGISLATION—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Thursday next, November 19, 1987, I will call the attention of the Senate to the advisability that the government amend the legislation pertaining to the War Veterans Allowances Act and the Civilian War Pensions and Allowances Act or introduce other equitable legislation which would result in the qualification for war veterans allowances of those members of the Canadian Forces who: i) volunteered for unrestricted active duty; ii) served for a period of no less than 365 days; iii) were assigned to service within the boundaries of Canada; and iv) are 65 years of age or over.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. George van Roggen, Chairman of the Standing Senate Committee on Foreign Affairs, with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

> That the Standing Senate Committee on Foreign Affairs have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

[*Translation*]

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

EXTENSION OF DEADLINE FOR PRESENTATION OF FINAL REPORT

Hon. Gildas L. Molgat, with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

That, notwithstanding the Order of the Senate adopted on Monday, 14th September, 1987, the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to present its final report to the Committee of the Whole no later than Tuesday, 8th December, 1987.

Honourable senators, we are only seeking a one-week extension. The Task Force was to present its final report on December 1, but it is seeking leave to present it no later than December 8, 1987.

Motion agreed to.

[*English*]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at three-thirty o'clock in the afternoon tomorrow, Wednesday, November 18, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Hon. Orville H. Phillips: Honourable senators, may I direct a question to Senator Sinclair? I saw his motion on today's scroll and had no objection to it. However, the proceedings this afternoon may have raised a problem in this regard. The honourable senator moved the adjournment of the debate on Bill C-22, which I presume will resume at approximately this time tomorrow afternoon. However, I would not want the debate on Bill C-22 delayed because Senator Sinclair is chairing a committee. I would like some assurance that the debate on Bill C-22 would take precedence over the committee meeting.

● (1430)

Senator Argue: He has a good deputy chairman.

Senator Sinclair: With the consent of the house, perhaps the first order tomorrow could be the resumption of the debate that was adjourned in my name so that there will be no conflict.

Senator Phillips: That would be agreeable.

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

Senator Phillips: Agreed.

Motion agreed to.

The Hon. the Speaker: Honourable senators, is it further agreed that the adjourned debate on Bill C-22 will be placed on the Orders of the Day as the first item of business for tomorrow?

Hon. Senators: Agreed.

QUESTION PERIOD

[*English*]

DIEFENBAKER CENTRE, UNIVERSITY OF SASKATCHEWAN

FINANCIAL CRISIS—RESPONSE OF GOVERNMENT TO REQUEST FOR ASSISTANCE

Hon. Sidney L. Buckwold: Honourable senators, I would like to express my appreciation to the Leader of the Government in the Senate and his cabinet for responding to the urgent needs of the Diefenbaker Centre in Saskatoon by announcing a substantial contribution, which will ensure the operation of that important institution for a period of two or three years.

Hon. Senators: Hear, hear!

Senator Buckwold: I wanted to bring some joy to the heart of the Leader of the Government and tell him that his efforts are appreciated. I must say that the announcement was greeted with a good deal more enthusiasm than many of the government announcements that come from Ottawa.

CANADA-UNITED STATES FREE TRADE AGREEMENT

EFFECT ON TWO-PRICE SYSTEM FOR WHEAT—GOVERNMENT POLICY RE COMPENSATION TO FARMERS

Hon. Sidney L. Buckwold: Honourable senators, on October 14 I asked the Leader of the Government in the Senate a question on the effect of the Free Trade Agreement on the two-price system for wheat. The response by the Leader of the Government was:

Honourable senators, the Free Trade Agreement between Canada and the United States does not provide for any change in the two-price system for wheat in this country.

On October 22, 1987, in response to a question asked by Senator Argue on the same subject Senator Murray said:

Honourable senators, the two-price system for wheat is still in place.

Senator Argue, I and others who are involved in the agricultural industry in a province that economically depends substantially on that industry are concerned, because this is a $280 million to $300 million benefit to the farmers of western Canada.

On November 7, 1987, the *Globe and Mail* printed an article which said, in part:

The federal Government intends to end the two-price system for wheat as part of the free-trade agreement with the United States, Grains Minister Charles Mayer says.

The higher domestic prices are worth an estimated $280-million to $300-million a year to Prairie producers.

Farmers, however, are not going to lose that income, at least not immediately. "The Government will provide

compensation to producers to make up the difference," said Gordon Bacon, Special Assistant to Mr. Mayer.

The Legislative Report issued by the Saskatchewan Chamber of Commerce on November 2, 1987, read as follows:

> Premier Devine confirmed, under opposition questioning, that the two-price system for wheat will be dropped under the agreement. He expected this would take place early in the ten year period in which the sections of the agreement will be phased in. The two-price system, worth about $280 million to Canadian farmers according to the Premier, gives farmers a higher price for wheat sold to millers in Canada. The Premier said, however, farmers would be fully compensated by the Federal Government for any loss of income . . .

I do not want to leave the impression that the Leader of the Government in the Senate has given us misleading information. My question is this: What is the policy of the government? It has been indicated that such loss of income would be fully compensated, and I am asking what is the program of the government to compensate farmers in western Canada for this very substantial loss of income as a result of the proposed trade agreement with the United States.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, before coming into the chamber today I carefully read the replies that I gave to my honourable friend and to Senator Argue some days ago in light of the announcement that was made several days ago by my colleague, the Minister of State for Grains and Oilseeds. The answers I gave on those occasions were correct. The honourable senator has quoted me as saying that the two-price system for wheat is still in place. Indeed, it is still in place.

The Free Trade Agreement does not take effect until January 1, 1989. Even after that it may be some time before we reach the stage where Canadian import controls on wheat would be lifted because the support levels for this commodity on both sides of the border had become equivalent. That is the situation.

I should tell the honourable senator that an announcement was made by my colleague, Mr. Mayer, on November 6 indicating the government's intention to change the two-price wheat policy.

In his announcement he said:

> The policy will be altered in such a way that farmers will continue to receive support while processors will continue to be able to compete in both domestic and international markets as various provisions of the Bilateral Free Trade Agreement . . . come into effect.

That is the answer to the question.

Senator Buckwold: Honourable senators, with respect, I hardly consider that an answer. It was a statement. There was no answer.

The question I asked was: What process is envisaged and what are the plans of the government to compensate farmers for a substantial loss of income which will come about as a result of the proposed Free Trade Agreement? The honourable leader has indicated that he was right in his answer, that there has been no change. I agree that that is the case until the agreement is signed and comes into effect. On a very technical basis he is correct.

However, I suggest that the Leader of the Government in the Senate has been misleading this chamber by giving the impression that the Free Trade Agreement has no effect on the two-price system.

Senator Murray: With respect, that is not what I said.

Senator Argue: It was not a very full answer.

Senator Buckwold: The question that I would ask the Leader of the Government in the Senate is this: What will the plans of the government be to compensate farmers for this loss of income?

Senator Murray: Honourable senators, in answer to that question let me again remind the honourable senator that Mr. Mayer has stated that the policy would be altered in such a way that farmers would continue to receive support. Further to that, I may say that Mr. Mayer is meeting today with people from the various relevant sectors. Our position is that until we have had an opportunity to consult fully with all of the interested groups, it is premature to give a definitive answer as to how the policy will be altered. It is not a technical matter that we have until January 1, 1989 at least—and present indications are that the circumstances under which the two-price policy would become inviable will not take place until perhaps considerably after the January 1, 1989, date.

● (1440)

Further to that, I may tell the honourable senator that there is a sector advisory group on international trade dealing with food, agriculture and beverages. They recognize that some adjustments and trade-offs would be necessary as tariffs were reduced or eliminated over the ten-year period. They have made some recommendations to the government on this matter, which we will be considering, as well as further recommendations from the various SAGIT subcommittees that were specifically set up to consider grains and oilseeds in light of the Free Trade Agreement.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—POSSIBILITY OF REFERENDUM

Hon. M. Lorne Bonnell: Honourable senators, I have a question for the Leader of the Government in the Senate. I have been asking the Leader of the Government in the Senate some time now about a connecting link between New Brunswick and Prince Edward Island. He told me that an announcement would be made soon.

Last week the Minister of Public Works came down to Prince Edward Island, held a press conference, and made the announcement. As a consequence, the minister in charge in the

Senate did not have an opportunity to tell me first, because the Senate was not sitting. I know he would have done so if that had not been the case. As I read the headlines of our Prince Edward Island newspapers there is an article in *The Guardian*, which states:

> Federal Public Works Minister Stewart McInnes said seven consortia have been "short-listed" to compete for the potential contract. The lowest cost proposal will be accepted if Islanders want the fixed crossing—

My first question is: Does he propose to have a referendum on the island to find out if Islanders want the fixed crossing?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators, we do not propose to have a referendum, although, as my colleague indicated, Public Works Canada will be conducting public meetings in local communities on the island to explain the results of the environmental studies and to provide an opportunity for the public to express their views.

I should also say that the government that is most directly concerned with those issues, the Government of Prince Edward Island, will also be consulting the people of Prince Edward Island on the matter. How they assess public reaction will be up to them. Whether they have a referendum, a public opinion survey or town meetings is a question that perhaps would be better directed to Premier Ghiz.

PROPOSED FIXED CROSSING TO MAINLAND—BASIS OF AWARDING CONTRACT

Hon. M. Lorne Bonnell: My second question to the Leader of the Government in the Senate concerns this statement by Mr. McInnes, who said:

> Once the proposals meet this criteria—

which, I suspect, means the studies and the approval of the people of Prince Edward Island—at least I hope that that is one of the criteria—

> we will then ask the developers to price their solutions and we will award on the basis of price—

Is that correct? For $1 will they put up something that will wash away in the first storm? Will they not construct something other than on the basis of price?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Well, honourable senators, first of all, the short list of seven consortia that was arrived at was made on the basis of their competence and their financial ability to undertake and to complete this project.

Second, the question of the lowest bid will be an important factor and, other things being equal, one assumes would be the decisive factor.

PROPOSED FIXED CROSSING TO MAINLAND—AVAILABILITY OF STUDIES TO MEMBERS OF PARLIAMENT

Hon. M. Lorne Bonnell: My third question to the Leader of the Government in the Senate is: Since, apparently, there have been some studies carried out so far by the Government of Canada—either environmental, engineering, economic or cost, and so on—will those studies be made available to Parliament? Can we, as senators, have copies of those studies so that we can inform our people of the values of and the pros and cons of hooking New Brunswick to Prince Edward Island?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure whether those studies deal with that question, which is more in the metaphysical realm, but I will see whether the studies can be made available; I will inquire of my colleagues.

Senator Bonnell: Honourable senators, and Mr. Leader of the Government in the Senate, do you not think that perhaps in order for the people of Prince Edward Island to have a complete understanding of the future—because this will probably be a permanent link if it is ever done—

An Hon. Senator: I hope so!

Senator Bonnell: —that their representatives in Parliament should understand and see their studies so that they can talk to the people whom they represent here in Parliament and tell them what they think about the environment and the fisheries? Perhaps it will even change the whole temperature of Prince Edward Island. Maybe we will have a haven there with easy access for criminals to come across. Now we can catch them on the boat, but if we get a causeway perhaps we will not be able to catch them anymore.

There are a lot of things that we have to consider if we want to protect our little province of Prince Edward Island, because the quality of life on Prince Edward Island and our culture is important. We do not think those studies should be made in secret. At least they should not be withheld from the representatives of the people.

Senator Murray: Honourable senators, I do not at all exclude the possibility of bringing these studies that the honourable senator referred to into the Senate and tabling them here. I have undertaken to speak to my colleagues about this matter.

I do want to remind him, on the basis of our experience in Cape Breton, that the construction of a fixed link has been an immense spur to progress over the past 30 years or so and has not at all diminished the capacity of the Cape Bretoners to preserve their unique culture.

Senator Bonnell: Honourable senators, let me say to the Leader of the Government in the Senate that Cape Breton is no longer an island, it is now a peninsula; the unemployment rate in Cape Breton is just about as high it is now in Newfoundland and Prince Edward Island; and the government had to initiate all kinds of incentives in order to get people to come to Cape Breton to try to get some initiatives going there and to get employment developed. Prince Edward Island could be destroyed—and that might be good, I am not saying that it is bad—

Senator Frith: Oh, you are not?

Senator Bonnell: —but we need to know the facts.

PROPOSED FIXED CROSSING TO MAINLAND—RAILWAY LINK

Hon. M. Lorne Bonnell: Let me ask another question of the Leader of the Government in the Senate. We had a fellow by the name of the Honourable Stewart McInnes come down to Prince Edward Island one week before the last provincial election and promise us a Litton plant with 400 jobs. A month afterwards he said, "No, it is going to Nova Scotia," and he lost the election.

Senator Barootes: Because the premier turned it down.

Senator Bonnell: Let me go further and ask another question. First, can we go by the Honourable Stewart McInnes' word?

● (1450)

Honourable senators, I wish to quote from the British North America Act, which states:

> Efficient steam service for the conveyance of mails and passengers to be established and maintained between the Island—

Honourable senators will notice that it says, "the" Island. It is the only one.

Senator McElman: There is none other.

Senator Bonnell: It goes on to state:

> —and the Dominion, winter and summer, thus placing the Island in continuous communication with the Intercolonial Railway and the railway system of the Dominion.

Honourable senators, those are the words used in the Terms of Union with Canada.

Will there be a railway on the causeway or through the tunnel or the combination of both?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I suggest that the honourable senator allow me to take that kind of question as notice and report back.

PROPOSED FIXED CROSSING TO MAINLAND—CREDIBILITY OF GOVERNMENT

Hon. M. Lorne Bonnell: Honourable senators, I have a further question on this issue, which is so important to my province.

On April 9, 1885, Liberal Senator George William Howlan of Alberton, Prince Edward Island, in a Senate speech suggested a causeway or a tunnel be built. On June 2, 1886, an act was passed to incorporate the Northumberland Straits Tunnel Railway Co., and there was a suggestion that the railway go through a tunnel or across a causeway.

On February 19, 1891, Sir Wilfrid Laurier said, "Every man . . . must admit that such a tunnel must be constructed if the thing is reasonably practicable."

[Senator Bonnell.]

On June 24, 1891, Sir John A. Macdonald said that the tunnel would receive favourable consideration if the cost were reasonable. Honourable senators, this was just prior to an election.

On May 17, 1906, Joseph Pope, according to an inscription on the title page of a book written by the Rev. A.E. Burke, pastor of Alberton's Sacred Heart Parish, and whose father, William Henry Pope, was a Father of Confederation, and whose uncle, James Colledge Pope, was the premier of P.E.I., was against a causeway being built.

On April 17, 1962, Prime Minister John George Diefenbaker told the House of Commons that he would support the construction of a causeway. He called an election on June 18. That was his "northern vision."

On July 8, 1965, Prime Minister Lester B. Pearson announced that tenders would be called for the construction of a combined tunnel, bridge and causeway worth about $148 million. We even had them turn the sod with a bulldozer.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): You did not invite Walter Shaw, and that is where you went wrong!

Senator Bonnell: Walter Shaw was the Liberal leader at the time!

Senator McElman: He was not a Liberal; he was a Tory.

Senator Bonnell: Walter Shaw was a Tory.

On March 5, 1969, Prime Minister Pierre Trudeau told the Commons:

> The government should have liked to be able to assist at the same time in the construction of a causeway linking the Island to the mainland, but there is a limitation to the resources of Canada.

Honourable senators, last Monday the Honourable Stewart McInnes said that a causeway or tunnel will be built in 1993. He is the same man who made promises respecting the Litton plant a week before the provincial election in 1986.

My question to the Leader of the Government is: Can we believe the government of today? Can we believe the Prime Minister, and can we trust him?

Senator Murray: Honourable senators, I would like to know where the honourable senator stands on this issue, because he has certainly been rather ambivalent in his pronouncements today.

I hope that he will find it possible to support this project. While he has placed before the house something of the long and colourful history in this regard, he has omitted to point out that what we are discussing here is a project which will be undertaken by the private sector, with certain undertakings to the Government of Canada and the people of Prince Edward Island.

I remind my honourable friend, in all seriousness, that this project, upon its completion, will be extremely important to the people and the economy of Prince Edward Island in, among other things, getting their produce to the expanded

markets which will be available to them under the Free Trade Agreement with the United States.

I would also remind him that it is an enormous project, one that truly deserves the description "megaproject," which, during the construction period, will create thousands of jobs indirectly and directly throughout the Atlantic region.

I hope that, notwithstanding his jaded view of the history—the ancient history now—of this project, he will welcome the firm intention to proceed with it.

Senator Bonnell: Honourable senators, like 90 per cent of Prince Edward Islanders, before I make my mind up as to whether I am for or against I like to know the facts. That is why I am asking that we have the studies that the government has made available to themselves so that we can have the same information and make our judgment accordingly. If it is that good, let us have the information.

Furthermore, I should like to tell the Leader of the Government that he has the facts backwards. He said that this would result in a boost to the economy of Prince Edward Island. It may provide a better boost to the economy of Canada.

PROPOSED FIXED CROSSING TO MAINLAND—AVAILABILITY OF STUDIES—GENERAL DESIGN OR CONCEPT

Hon. John B. Stewart: Honourable senators, I should like to ask a question on this matter.

The Leader of the Government in the Senate has told us that the government will make public the various studies which have been prepared.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Let me stop the honourable senator right there. I do not even know to what studies my honourable friend, Senator Bonnell, is referring. The undertaking I have given to him and to the Senate is that I will make inquiries of my colleagues as to what studies are in the possession of the government, are available, and are appropriate to table at this time.

Senator Stewart: Yes, we are to have a list of the studies that have been made and also a list of those that are appropriate to be tabled in the Senate. I understand that point.

As honourable senators can well imagine, many fishermen are extremely concerned about the nature of the design or concept for a permanent crossing in the Northumberland Strait. There are several reasons for their concern, such as the effect upon the tidal regime, the effect upon water temperatures, the effect upon migration of fish stocks, and the like. For this reason it is important not only to the people of Prince Edward Island, for whom Senator Bonnell has been speaking, but to the people in Antigonish County, Pictou County and Cumberland County, Nova Scotia, and in New Brunswick, to know what studies have been made with regard to the impact of the proposed permanent crossing on the fisheries.

We are told that this is to be a private-sector project and that seven companies or consortia have been invited to submit tenders. What I now want to ask the Leader of the Government in the Senate is whether he will arrange to make available to those senators who are interested in this matter the general design or concept on which the government has invited these companies or consortia to tender. Is it to be mainly a tunnel? Is it to be mainly a bridge? Is it to be a combination of causeway, artificial island, tunnel, and bridge as was proposed some 20 years ago? I think we really need to have that kind of information, not on the detail of the design but on the general concept, together with the earth and water studies, hydrographic studies, to which Senator Bonnell referred.

• (1500)

Can we have the government's general design or concept, the one it has made available to the seven companies or consortia?

Senator Murray: Honourable senators, I appreciate the point raised by Senator Stewart. I will make inquiries and bring forward as much information as is available on this matter.

PROPOSED FIXED CROSSING TO MAINLAND—POSSIBILITY OF REFERENDUM

Hon. Heath Macquarrie: Honourable senators, I will not use the preambular possibilities used by my colleague, Senator Bonnell, but I do not recall Senator Bonnell ever dissociating himself from his then Premier Matheson, or my predecessor in the House of Commons, Neil Matheson, who was a strong advocate of the causeway, as it was then called, nor did he dissociate himself from the views of the Honourable George McIlraith, who came to Charlottetown with the most up-dated, thoroughly documented items of research on what the government of the time had learned, and it had learned a great deal.

In essence, I would ask the Leader of the Government, who has been involved in negotiations with reference to the Atlantic area—and who has been doing a splendid job thereat—whether it has been intimated that a referendum to ascertain the views of the people of Prince Edward Island is a *sine qua non* before construction proceeds. If that is the case, I think it is a very important matter. Is the will of the people of Prince Edward Island, as demonstrated by a provincially sponsored referendum—and only they could do it, as I see it—a part of the entire discussion of the prospects of the construction of this megaproject for our region?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, without having the documentation in front of me I have the impression that Premier Ghiz had at one point alluded to the possibility of holding a referendum on this question. He may have referred to it yesterday, if my reading of the press reports is correct. I think it is fair to say that he is determined to have the widest possible consultation with Islanders on the matter. While he was generally supportive and positive about the project yesterday, he has not, as I under-

stand his position, given a final and unequivocal "yes" to the proposition.

THE SENATE

QUESTION PERIOD—POINT OF ORDER—POSSIBLE REVISION OF RULE 20

Hon. Hartland de M. Molson: Honourable senators, I rise on a point of order. Some years ago there was no Question Period provided for under our rules. I raise this matter now because I see that the chairman of the Standing Committee on Standing Rules and Orders is in his place. When the rules of the Senate were revised, a Question Period was provided for, and the rules governing Question Period were fairly clearly spelled out. If we look at the clock today we realize that, at least by practice, the Senate has chosen to change all of the rules, such as they are, governing the Question Period. We are not following the original principle as it was spelled out under the rules.

If that is the wish of the house, which it may well be, then I suggest that the Rules Committee take this matter under consideration and bring in a revision to rule 20 and all of its various parts. The Question Period has gone from a quick series of questions to debates. Matters that frequently come up now should be the subject of inquiries, and quite proper inquiries. I am not questioning what is desirable to discuss in the chamber. I am merely suggesting that we follow our rules or, if we want to continue with the present procedure, that we revise rule 20.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—RELATIONSHIP OF ANNOUNCEMENT TO FEDERAL ELECTION

Hon. George van Roggen: Honourable senators, I have a question for the Leader of the Government in the Senate. In view of the uncanny timing in years gone by of announcements relative to a crossing to Prince Edward Island preceding by only a matter of weeks a federal or provincial election, can we take it from the announcement last week that we can anticipate a call for a federal election in the next few weeks?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think my honourable friend can get on with the work of the Foreign Affairs Committee in studying the Free Trade Agreement with the United States with some prospect that it will be able to do so undisturbed.

PARLIAMENT HILL

CONDITION OF SIDEWALKS—QUICK CORRECTIVE ACTION OF GOVERNMENT

Hon. Charles McElman: Honourable senators, my observation to the Leader of the Government also has to do with construction. Honourable senators will recall that on October 20 I drew his attention to the deplorable condition of the walkways on the Hill. Perhaps he would accept that I have some concern that the government might fall through the cracks. In any event, my purpose today is to ask him to accept my compliments for the quick action that he took and the results that he obtained. The work, sir, has been done.

[Senator Murray.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am delighted to have that information and I will convey the honourable senator's compliments to my colleague, the Minister of Public Works.

CONDITION OF ROADWAYS—REQUEST FOR ANSWER

Hon. Peter Bosa: Honourable senators, I have a supplementary question. I, too, put a question to the Leader of the Government some time ago concerning plans for repaving the roadways on Parliament Hill and any plans for fixing the state of the sidewalks. The government leader has never replied to that question. Can he expedite a response from the Minister of Public Works in this regard?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I will do so, honourable senators.

PATENT ACT

BILL TO AMEND—DISTRIBUTION OF GOVERNMENT BROCHURE—USE OF MINISTERIAL POWER

Hon. Stanley Haidasz: Honourable senators, only yesterday I received a letter from a pharmacist in Toronto, who, in that capacity and in his capacity as a member of the Health Committee of the Consumers Association of Canada, objected to a letter from the Honourable Harvie Andre, which was accompanied by a propaganda brochure called "Bill C-22 The Patent Act Amendments."

This pharmacist stated in his letter:

> If this was not a Ministry foul up, one would be led to conclude that government has failed to adhere to proper legislative procedures. The pharmacies who should have received this package, not being experienced in proclamation of federal laws would assume that the amendments to Bill C-22 are in effect. For your information, there are approximately 6,000 pharmacies in Canada.
>
> My major objection is that the information contained in the brochure is of questionable validity and presents a distortion of the actual facts.

I would like to ask the Leader of the Government in the Senate whether he would be disposed to investigate this use of ministerial power? In view of the alleged unfounded assumptions and misleading statements in this brochure, would the government leader also ask the Minister of Consumer and Corporate Affairs to halt the distribution of this material and to withdraw all copies of it?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Haidasz has not specified the alleged errors or inaccuracies in the brochure. I have not read the brochure, but I can tell him that 200,000 copies have been distributed to 20,000 doctors and 5,700 pharmacists in the country. This is absolutely the first word I have heard suggesting that there was anything amiss. I shall examine the documentation which the honourable senator has sent to me to see what specific misstatements, if any, have been alleged.

• (1510)

Senator Haidasz: As a supplementary, since Bill C-22 has been amended and re-amended—and possibly will be re-amended further in a conference between both houses of Parliament—does the Leader of the Government believe that such propaganda is fair and proper; and, if not, would he state his opinion?

Senator Murray: Honourable senators, I made a promise to myself today that I would not be provocative or inflammatory on this issue. I think I will decline to express the opinion which has been sought of me by the honourable senator, and which, in any case, would be contrary to our rules.

BILL TO AMEND—DISTRIBUTION OF GOVERNMENT BROCHURE BEFORE POSSIBLE ENACTMENT OF LEGISLATION

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would like to express a point on that question, and I, too, will try to be non-controversial and non-provocative. Is it now the practice of the government to issue explanatory material on bills which have not yet become the law of the land? I take no exception to informing the public about a law that has been enacted, but here is a bill that is still a bill; it has not been passed by the Senate; it has not received Royal Assent. What would happen if it were amended or, indeed, if it were defeated? I am wondering whether it is now standard practice or whether it is a mistake by the department in putting out the pamphlet before the bill has been enacted or given Royal Assent.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is a matter which received a good deal of attention in the media and elsewhere. It is clear that the Department of Consumer and Corporate Affairs thought that it was necessary and in the public interest to do exactly what the honourable senator has suggested, which is to put out a brochure explaining the purpose of the amendments, what they are, why a change was needed, how consumers would be protected, how the Patent Act amendments would help employment, and, of course, the importance of medical research, which will be increased once these amendments are passed.

So the short answer to the question posed by the Leader of the Opposition in this case is "Yes".

Senator MacEachen: Is the minister saying that it will now be standard practice to put out explanatory material in this form on bills which have not yet become law; and, if so, would it not be fair to ensure that those who are opposed to the bill have an opportunity, at public expense, to express their views before it has become law? Once it becomes law it is quite a different matter. But this is not law, and it might well never become law.

Senator Murray: Honourable senators, for a rather modest budget this pamphlet was authored and published by the government. Again, without wishing to be controversial, I think it is fair to say that the budget that was provided to the Senate committee—which was considerably in excess of the budget for this pamphlet—certainly gave the opponents of the bill an opportunity to make their views known.

BILL TO AMEND—SUGGESTED INACCURACY OF STATEMENTS IN GOVERNMENT BROCHURE

Hon. Ian Sinclair: Honourable senators, I should like to draw the attention of the Leader of the Government to two statements made in this pamphlet. It says that the purpose of the Patent Act amendments is:

> To require Canada's pharmaceutical companies to double their investment in research and development to a projected $3 billion.

I would like the Leader of the Government to recollect that there is no such requirement in the Patent Act as passed by the House of Commons. When the conference results in the acceptance of what we have suggested, then that statement will be correct.

Another statement is that:

> There is nothing in the new amendments . . .

As passed by the House of Commons:

> . . . that will increase the price of any drug now available to consumers.

I suggest that that statement is wrong, definitely wrong, because there is one generic, at least, that will have to come off the market.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Once again, the honourable senator is attempting to debate the bill on the basis of taking objections to statements that are made in the pamphlet. He will have an opportunity to elaborate on those points when he completes his speech tomorrow, and we will have an opportunity to reply.

Senator Sinclair: Then I will put a question: Is it the purpose of government to issue in the thousands and at public expense statements that are incorrect?

Senator Murray: Honourable senators, the answer to that question, of course, is "No". This strikes me as being an excellent pamphlet. It gives a good summary of the bill, the purpose and the effect of the bill. The honourable senator may put his own interpretation on some of the statements, but that is his business. We will have an opportunity to debate these matters tomorrow.

Senator Sinclair: Would the Leader of the Government consider amending it so that it clearly states what the facts are?

Senator Murray: Honourable senators, the pamphlet does clearly state what the facts are. The problem is that my friend quarrels with them.

Senator Sinclair: I have just drawn the Leader of the Government's attention to two misleading statements, particularly to one that is absolutely wrong, positively wrong.

BILL TO AMEND—DISTRIBUTION OF GOVERNMENT BROCHURE BEFORE POSSIBLE ENACTMENT OF LEGISLATION

Hon. Hazen Argue: Honourable senators, I should like to ask the Leader of the Government how Parliament can function or exercise its prerogative—and by "Parliament" I mean to include the opposition parties in the Commons as well as in the Senate—if the government is going to announce before any particular piece of legislation becomes law what, in fact, is going to be in that law. It seems to me that this is the greatest possible contempt of Parliament, that the government should say in this pamphlet what the final act will be before the law is, in fact, on the statute books.

This is a blatant kind of propaganda. I can imagine what the late Right Honourable John George Diefenbaker would say if he were faced with an issue like this: A government with the largest majority in the history of Canada spending public money on propaganda before a bill is passed, which says that the opposition and the House of Commons no longer matter, but only the government; that the government has the power and the government will rule, and the government will spend millions on propaganda before the law becomes the law—but it will tie its own hands by saying, "Here is what the amendments will contain."

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I suggest to the honourable senator that there is quite ample precedent—including ample precedent under his own government—for the expenditure of public funds to explain public policy to the people of Canada before Parliament had taken a decision on the matters in question. He obviously forgets the "flying geese" to which we were treated for so long.

Senator Argue: Now that is no answer at all. This is a pattern which this government is adopting, for which this government is responsible. It says, "We have the biggest majority in history; we will do what we like."

[*Translation*]

ROYAL CANADIAN MINT ACT

CURRENCY ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Phillips, for the second reading of the Bill C-46, An Act to amend the Royal Canadian Mint Act and the Currency Act.—(*Honourable Senator Bosa*).

[Senator Murray.]

Hon. Peter Bosa: Honourable senators, I am pleased to take part in this debate. First I should like to commend Senator Doody for his very clear and very eloquent presentation of this bill.

We agree with practically everything he said. Still, we do have a few questions to ask him and we hope Senator Doody will be able to respond in his usually clear manner.

[*English*]

Honourable senators, I have a couple of questions that I would like to put to Senator Doody in relation to the amendments proposed in this legislation. Clause 7(2) proposes to increase the number of directors from six to nine. I would like from Senator Doody a clearer explanation as to why there is the necessity to increase the board of directors from six to nine. I hope that there are no political reasons, such as wanting to appoint friends of the government—as has happened in the past—behind this amendment.

• (1520)

Clause 7(6) deals with the conditions of eligibility of members of the board of directors. It reads as follows:

> Each director appointed under subsection (2) must have experience in the field of metal fabrication or production, industrial relations or a related field.

This clause changes the wording in the previous act but not the substance. In fact, Senator MacEachen received correspondence from a gentleman by the name of Robert Aaron, who is an expert in numismatics, and who is a frequent contributor in the media on related matters.

Senator Doody: He is a what?

Senator Bosa: A numismatic expert. The letter he sent to my leader reads as follows:

> I am writing to you on behalf of Canada's Coin Collectors concerning the pending legislation to amend *The Royal Canadian Mint Act* and *The Currency Act*. I anticipate that this letter and your reply (or relevant parts) will be published in my column in the *Toronto Star* and *Canadian Coin News*.
>
> For reasons set out in a recent column which I wrote, a copy of which is attached, it is my opinion and that of many of my fellow collectors that the legislation is seriously flawed by continuing a prohibition of coin collectors as such sitting on the Board of The Royal Canadian Mint. I can find absolutely no justification for preventing an educated, sophisticated businessman who happens to be a coin collector from sitting on the Board of the Royal Canadian Mint, and I strongly recommend that that section which continues the prohibition be deleted from the final version of the Bill. I look forward to receiving your early reply.

I would like to put on the record Mr. Aaron's letter as well as an article that he has written recently. Not only does the article deal with the bill from a different perspective but it also outlines the reasons why he believes that clause 7(6) should be amended. The column reads as follows:

Coin collectors and dealers may still be barred from sitting on the Board of Directors of the Royal Canadian Mint under new governing legislation which has already been given second reading or approval in principle by the House of Commons.

A major overhaul of the Royal Canadian Mint Act and the Currency Act recently received all-party support. It was sent to committee and reported back to the Commons on October 1, 1987.

Final approval in the form of third reading, followed by Senate confirmation, was expected within a few days.

The new Bill C-46, an Act to amend the Royal Canadian Mint Act and the Currency Act, received first reading in the House of Commons on March 24, 1987.

The bill improves the Mint's financial operating arrangements, and consolidates in one Act all legislation concerning the production of Canadian coins. It also provides a better legislative framework for the Mint's ongoing marketing activities.

One significant change which has not been made in the new legislation and is sure to antagonize collectors across the country is the continuation of the apparent prohibition against a collector or coin dealer sitting on the Mint's board.

The controversial clause in Bill C-46, which was carried over from the old legislation, continues the requirement that each director "must have experience in the field of metal fabrication or production, industrial relations or a related field."

The question is whether the word "related" refers to the words which precede it, metal fabrication or production and industrial relations, or whether it refers to any field related to the Mint's work. Until now, the wording has been interpreted very strictly to refer only to metal work and personnel fields, but a slight loosening of the interpretaton occurred recently with the appointment of a director whose background is in marketing.

Nevertheless, in the Mint's 18-year history as a Crown Corporation, no collector has ever been seated on the Mint's board. Unfortunately, the appointment process is strictly political, and coin collectors seem to have little clout in this arena.

Perhaps the legislation should be amended prior to passage to require appointment of a representative of the hobby to the Mint's board, especially now that it is being increased from seven to 11 members.

Collectors are bound to ask what harm could result if the president of a local coin club, the curator of the Bank of Canada Currency Museum, a past-president of the Canadian Numismatic Association, or the editor of *Canadian Coin News* sat on the board of the Mint?

There has even been some grumbling in the collector community that there is no guaranteed collector seat on the committee which selects designs of new Canadian coins. Even the membership of the committee is secret.

It is obvious that the Royal Canadian Mint is very successful in its collector programs and in its marketing of coins to non-collectors, but it is similarly apparent that the Canadian government does not want any serious hobby input into the Mint's decision-making process.

With a view to the possible introduction of a platinum Maple Leaf coin some time in the future, some changes have been enacted in the way coins receive government approval. As well, the authority for production of new coins has been transferred from the Currency Act to the Royal Canadian Mint Act.

In order to give the Mint's marketing team more flexibility to respond quickly to market pressures, new gold, silver or platinum coins can be initiated by the Mint and receive faster authorization than was previously possible.

Bill C-[46] establishes two new categories of Canadian coins—precious metal coins and base metal coins. Precious metal coins are coins which contain at least 50 per cent gold, silver, platinum or the platinum group of metals. Any other coin is a base metal coin.

Under the new Royal Canadian Mint Act, Parliamentary approval will not be required for any new or altered precious metal coins. Now, the federal cabinet acting upon a Mint request, will be able to authorize the issue of any new precious metal coins or alter the size, weight or design of the existing ones.

These provisions are similar to the old Currency Act, but give the cabinet wider authority to approve new precious metal coins without waiting for parliamentary approval.

I would like to ask Senator Doody what harm would it do if we had on the board of directors of the Mint an expert in coin design or in numismatic pursuits. Would that person not be able to contribute to and broaden the experience of the board of directors? Would that person not bring a new dimension to the decision-making process and thereby make a greater contribution, which may be denied under the present situation because there is no such person on the board of directors?

I have a couple of other questions I would like to put to Senator Doody. I would like to take advantage of this occasion to find out how we are progressing with the marketing of the one-dollar coin. If I recall correctly, when we passed last year the legislation to produce the one-dollar coin there was a provision that the one-dollar bills would be withdrawn within one year. I do not know what stage we are at now, but it seems to me that I am not seeing as many "loony" one-dollar coins around as was anticipated. I read somewhere that it has been a success, but I fail to see the evidence of that. Even when you pay a bill in our own cafeterias and parliamentary restaurants you are not given back any one-dollar coins; you are given back one-dollar bills.

● (1530)

Further, I would like to congratulate the Royal Canadian Mint on the success that it has experienced in the marketing of gold coins. I read a recent article in the *Toronto Star*, which reads as follows:

> Canada has sold a record 140,000 gold coins for the 1988 Calgary Olympics . . .
>
> The total sold so far breaks the previous record of about 55,000 gold coins sold for the 1984 Winter Olympic Games in Sarajevo, Yugoslavia.

That is indeed something to be proud of.

The article continues:

> To help offset the cost of the Olympics, the federal government is selling 350,000 gold coins for $255 each and silver coins for $42 each.
>
> Robert Huot, the mint's vice-president of marketing, noted yesterday that Canada now holds the sales record for both gold and silver Winter Olympic coins.
>
> More than 3 million of the silver coins have been sold, and the mint expects to sell as many as 4 million. The previous record—held by Sarajevo—was 745,000.

Honourable senators, that is quite an achievement, and I wish to congratulate the managers of the Mint, particularly those who are engaged in marketing and design.

Hon. Senators: Hear, hear!

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Doody speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Doody: Honourable senators, I thank Senator Bosa for his prompt and in-depth attention to this bill. I congratulate him on his research, and I am pleased to have him ask these pertinent questions today. Needless to say, I do not have the answers with me at the present time, but I would be most pleased to get those answers and provide them to Senator Bosa before third reading. There were one or two points that he raised which perhaps could be dealt with, but not in the depth in which he would like, and, as I say, I would prefer to have an opportunity to deal with the appropriate and knowledgeable authorities before we concluded.

On the question of the eligibility of the directors and why more directors are being appointed, I think the reason is quite obvious. The Mint wants to expand its board to reflect the size and scope of its operation. It is today a much bigger and more business-oriented enterprise than it was at its inception. Also, in order to take advantage of the opportunities of the marketplace the Mint wants to attract to its board people who are knowledgeable in marketing and merchandising and who have knowledge of the markets of the world in this particular field. Whether or not those new directors will be friendly or unfriendly towards this government is relatively unimportant. What is important is that they will be in a position to advise the management of the Mint on the course and direction they should take in terms of their business enterprises over the coming years.

As to the advantages or disadvantages of having a coin expert on the board, and in reply to the posed question: "What harm would it do?", I suspect that it would do no harm. The question that remains is: Should a director's seat be guaranteed to a coin expert, or is it possible to have the advantage of the knowledge of people in that area of expertise without actually assigning a board seat? I do not pretend to know the answer to that, and I will obtain another opinion. I would suspect that the opinions of coin experts can be sought and would be accepted without having to go through the actual process of assigning a board seat to experts in that area.

On the progress of the one-dollar coin, I honestly do not know the answer. Like Senator Bosa, I have read that it has been widely accepted. He says that they seem to be very scarce. I can say that in my experience that is true of most coins and bills! They seem to be getting scarcer all the time. It does not seem to be exclusively a "loony" situation; it is just that there does not seem to be enough to go around in terms of my ability to find them.

Therefore, without meaning to be facetious, I want to thank Senator Bosa once again and assure him that I will do everything I can to get the answers to his questions before third reading.

Senator Bosa: Honourable senators, perhaps Senator Doody would consider referring this bill to the appropriate committee so that we could have some representatives of the Mint attend and answer these questions. It seems to me that Senator Doody has made the case for having someone on the board of directors who may contribute to the expertise in this area.

Senator Doody: I do not think I made a case. I said I doubted if it would do any harm. Certainly, everyone who is harmless does not deserve a seat on the board of directors of a corporation. If that were the case, we would have many much larger boards, and a lot of the people who are harmful and who now sit on these boards would obviously have to be removed.

However, I have no hesitation in referring this matter to a committee. I suspect that the appropriate committee would be the Standing Senate Committee on Banking, Trade and Commerce. I notice a look of glee and anticipation on the face of Senator Sinclair, who is just so happy to have another little nugget for consideration by his committee. Perhaps Senator Sinclair could comment on the matter and tell us whether he feels that his workload at the present time is such that he would prefer to have this matter referred to another committee. We may be able to take advantage of the absence of some other chairman and assign it to his committee.

Hon. Ian Sinclair: I certainly would accept that suggestion with glee.

Senator Doody: With leave of the Senate, perhaps we could refer it to the Standing Senate Committee on National Finance. That might be the appropriate committee. In any event, I will so move after second reading.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that this bill be referred to the Standing Senate Committee on National Finance.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just to be technically correct, perhaps Senator Doody should ask for leave to refer the matter to that particular committee.

Senator Doody: Perhaps I will rephrase my motion.

With leave of the Senate and notwithstanding rule 45(1)(*e*), I move that the bill be referred to the Standing Senate Committee on National Finance.

Motion agreed to and bill referred to Standing Senate Committee on National Finance.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the Canada-U.S. Free Trade Agreement.—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, when last I spoke on this issue I expressed great fear for my country and yours because of the so-called free trade deal, which I shall hereafter refer to as the Washington accord. I said at that time that what we seem to be heading towards is a North American trading bloc, and the argument that has been made to us is that either we opt in or we stay out in the cold and suffer greatly.

This is not a fanciful fear on my part. I cited eminent U.S. economists who believe that this is what we are moving towards and that this is what we should be moving towards in North America.

• (1540)

In the latest issue of *Maclean's* they cite an eminent Canadian financier, Mr. Jarislowsky, who manages a great deal of funds, who says that we are going into a North American trading bloc which will have to levy tariffs in order to compensate for the much lower wages that are paid in the Pacific rim countries—$1.50 an hour in Pacific rim countries compared to $20 an hour in North America. The writer of the article says either we join in this trading bloc through a free trade agreement or we shall suffer the consequences.

If we enter into a free trade agreement, it is extremely important that we enter into an agreement that will protect us as much as possible. The fear of not being protected as much as possible is not mine alone. I have considered the sayings of some eminent experts on this issue. For instance, one of these experts said:

> Unrestrained free trade with the United States raises the possibility that thousands of jobs could be lost in such critical industries as textiles, furnitures and footwear. Before we jump on the bandwagon of continentalism we should strenghten our industrial structure so that we are more competitive.

Another expert said:

> It (referring to bilateral free trade with the U.S.) is silly. Canada must improve relations and trade with the United States, of course, but our natural destiny is to become a global leader, not America's weak sister.

Yet, another expert said:

> Bilateral free trade with the United States is simplistic and naive. It would only serve to further diminish our ability to compete internationally.

I have a final quotation from another expert:

> Canadians rejected free trade with the United States in 1911. They would do so again in 1983. Canada must increase its share of total world trade.

You may have recognized these experts. They are all members of the Mulroney government: Mr. Clark, Mr. Crombie, Mr. Wilson and Mr. Mulroney, himself. These gentlemen, who have looked at this issue because, after all, they are statesmen and members of this government, have expressed extreme anxiety about what free trade might do to us.

They are not the only ones who have expressed anxiety. Let us take, for instance, the energy deal. We are supposed to give proportionate access to the Americans. Supposing the Americans get to the point where they are taking, say, 30 per cent of our oil and 45 per cent of our gas, and then there is a shortage and we have to curtail production by 25 per cent, we will curtail what we send to them by 25 per cent and we will curtail what we consume by 25 per cent. That would reduce total U.S. supplies by 2 per cent and would reduce our supplies by 25 per cent.

In this deal we have given up the right to reserve our energy wealth for ourselves. Moreover, we have given the right to American companies to come to Canada and invest, without any conditions. Bill C-22 is an example of that. I really believe that there was an agreement and the government did not want any conditions to force the pharmaceutical companies to keep their promises under penalty, because they had agreed that under the free trade deal no such conditions would be enforced. However, there is no reciprocal protection for us. There is a recent example of that. GM is shutting down an inefficient plant in the United States and many people are

being laid off. They are also shutting down an equivalent amount of production in Canada in an efficient GM plant. The GM spokesman said, "Well, I have a social responsibility to my country."

So, the Americans are not playing by the rules of utter free market. They have the power and they exercise the power to do things which are better for them and do not pay any heed to what is good for Canada. Whenever one says such a thing, one is immediately accused of being anti-American.

Did someone comment on this? I love being heckled. Would someone please comment?

We are accused of being anti-American. It is not being anti-American to face the facts. It is not being anti-Quebec, either. That is the new slogan! If you are against giving money to the Ghermezian brothers, you are anti-Quebec! Our wonderful colleague tells the press that he hates us because the press likes to hate us.

Senator Simard: Don't get distracted.

Senator Gigantès: One of the experts has said this:

> What is equally important to keep in mind is the reluctance in the United States to accept the verdict when U.S. interests do not win a case.

We are not dealing with just anybody. We are dealing with a nation that will not accept a loss. They are sore losers.

This same expert said:

> We see that in the softwood lumber case we won the case in 1983. We then faced a number of legislative initiatives seeking one way or other to limit our exports to the U.S. We then faced a fact-finding investigation and yet another counterveil action this year. Now the threat is that if the U.S. industry does not get what it wants there will be the likelihood of more congressional action.

What we have here is a description of Americans as sore losers—these partners we are being urged to join forces with. In case anyone thinks I invented this, this quote is from the Honourable Pat Carney, the Minister for International Trade, and she should know. It is found in *Hansard* of October 9, 1986, page 254, if you want to check. A minister of the Crown was even saying that we are getting into very dangerous waters.

One has to ask: Why are we taking this risk? Is it because Mr. Mulroney, Mr. Wilson, Mr. Crombie, Mr. Clark and Ms. Carney suddenly saw the light and decided that the Americans are angels, and they are no longer afraid of that? Is it only because they are afraid we might be left out in the cold that they did not play our strong cards, which are that the Americans do need our resources if they are going to go into a kind of commercial fortress America.

I submit that there is one more reason. I will only mention it now and talk more about it the next time. I believe the reason is that this government and people who support it, such as the Chamber of Commerce of Quebec, have given up hope of getting Canadians to give up our social security net and our predilection for a government role in the economy. They do not think they can make us abandon this through the ballot box. What they are trying to do—and it is their right; this is a democracy—is make us abandon our Canadian habits through a trade deal with the United States. We hear this in the cold words of people such as Mr. d'Aquino, who says that—and he said it in front of the Special Joint Committee on Canada's International Relations—"we need this trade deal in order to discipline ourselves."

● (1550)

Senator Cogger: He is a good Liberal, Mr. d'Aquino!

Senator Gigantès: Well, he is a good Liberal, like Mr. Crosbie is a good Liberal. Mind you, I like Mr. Crosbie very much; I think he is a fine man. I do not want to criticize him in any way. Let's not get into this business of who is and who is not a good Liberal.

Senator Haidasz: He is a great storyteller!

Senator Gigantès: Thank you, sir.

I promised Senator Frith—and I have been diverted from this—to finish in ten minutes. I have now reached eleven minutes, and he will blame me for it.

Senator Frith: No; you do not have to fulfil that promise.

Senator Gigantès: I leave you with the promise that next time I speak on this I will expand on this business of trying, through free trade, to make us change our habits; to make us reduce our unemployment insurance; to attack our health care; and to make it difficult for us to have a national program of childcare or even a guaranteed annual income. This is what this trade deal as now put together from the document that was distributed to us will do to us.

I would like the Senate's permission to adjourn this debate in my name.

Hon. Douglas D. Everett: Honourable senators, before we adjourn the debate I would like to reply to some of the points that the honourable senator has made, if I have your permission.

Senator Gigantès: Senator Everett, I would be grateful if you would let me lay it all out. I will then summarize it all in writing and give it to you, which will make it easier for you to answer those points. I did not ask to interrupt you when you were defending the trade debate, I let you speak to it, and I will continue my speech if you do not mind. I beg your indulgence on this.

Senator Everett: Surely, honourable senator, I made my speech in one stand. However, as you are going on with a serial program about this, it is within my competence to intervene. You might adjourn this for three or four months from now.

You have raised an issue. If, indeed, you wanted to make a speech and carry it to a conclusion, then I would not interrupt. I do not call this an interruption. You have made some provocative points here, senator, and I am not sure that we should allow them to stay unanswered. If you want to stand up and complete the speech, there is no time limit in this body. There is no such thing as a "ten-minute rule." If you want to

continue and complete your speech, by all means, do so, but I do not think that I should be precluded from dealing with the issues that you have raised when you wish to adjourn the debate in your own name.

Senator Argue: There is a motion to adjourn the debate.

Senator Gigantès: Honourable senators, I will deal with this issue at the next sitting of the Senate again, and the one after that. I expect to be finished—by breaking it up in ten-minute segments—in about six sittings of the Senate, which I think is more humane to my fellow senators than to keep them sitting here waiting to hear me speak for a total of two hours. Also, there are committee meetings that I would like to attend. However, it is up to the Senate. If the Senate does not want to give me permission to adjourn the debate, I shall continue.

The Hon. the Speaker: I believe, honourable senators, that Senator Gigantès has the right to adjourn the debate, but I feel that if that is so, then Senator Everett is entitled to ask some questions on what has been said so far.

Senator Frith: If he wishes to ask them.

Senator Argue: You mean with the permission of the Speaker.

The Hon. the Speaker: With the permission of the Speaker, yes.

Senator Gigantès: Honourable senators, I have already answered that. I said that I would rather complete my speech, and then Senator Everett can answer all of the points that I have made—if the Senate allows me to adjourn. If the Senate does not allow me to adjourn, I shall continue speaking.

Senator Tremblay: Continue to speak, then!

On motion of Senator Gigantès, debate adjourned.

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.,:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its report to the Senate no later than twelve months following its establishment.—-(*Honourable Senator Flynn, P.C.*).

Hon. Hazen Argue: Honourable senators, I have a question on this motion. This motion is adjourned in the name of the Honourable Senator Flynn. It has been adjourned in Senator Flynn's name for some considerable period of time. We on this side are not endeavouring to preclude Senator Flynn from taking part in the debate, but it has been before the Senate for a long time and we are anxious to proceed and get to the vote. I just hope that Senator Flynn might make his remarks at an early date, that is all.

Hon. Jacques Flynn: I will speak on it tomorrow.

Senator Argue: That is fine. Thank you.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 2160*)

STANDING SENATE COMMITTEE ON NATIONAL FINANCE
THIRTEENTH REPORT

REPORT ON SUPPLEMENTARY ESTIMATES (B) LAID BEFORE PARLIAMENT FOR THE FISCAL YEAR ENDING MARCH 31, 1988

TUESDAY, November 17, 1987

The Standing Senate Committee on National Finance has the honour to present its

THIRTEENTH REPORT

Your Committee, to which Supplementary Estimates (B) laid before Parliament for the fiscal year ending March 31, 1988, were referred, in obedience to the Order of Reference of Friday, August 28, 1987 submits its report as follows:

The Committee heard evidence from the following witnesses:

From the Treasury Board:
Mr. Allan Darling, Deputy Secretary, Program Branch.

From the Office of the Comptroller General:
Mr. B.A. Gorman, Assistant Comptroller General, Government of Canada Reporting Division.

From Price Waterhouse:
Mr. David Webber, Partner;
Mr. Pierre Mantha, Partner;
Mme Huguette Bertrand, Senior Manager.

Introduction

Supplementary Estimates "B" are special estimates tabled on August 27, 1987. They seek authority for expenditure by three organizations:

	$(millions)
Atlantic Canada Opportunities Agency	126.6
Indian Affairs and Northern Development Western Diversification Office	100.5
Regional and Industrial Expansion	466.0
Total	693.1

Atlantic Canada Opportunities Agency and Western Diversification Office

The creation of the Atlantic Canada Opportunities Agency and the Western Diversification Office was announced by the Prime Minister in June and August 1987 respectively. The Atlantic Agency is a new organization and is the responsibility of the Minister of State (Federal-Provincial Relations). The Western Office is the responsibility of the Minister of Indian Affairs and Northern Development. Both organizations were established to stimulate regional economic development relating to small- and medium-sized businesses. This is interpreted to mean that individual firms with projects costing $20 million or less can be supported by these initiatives; a project larger than this amount can be supported through the regular programs of the Department of Regional Industrial Expansion.

The Atlantic Agency is expected to be financed by the government from new funds, up to $1.05 billion over a five-year period. The Western Office is expected to be financed also from new money, up to $1.2 billion over five years. In addition, there may be some further transfers of money from DRIE to these initiatives later this year when the DRIE reorganization is completed. These will be detailed in the final supplementaries in March 1988.

Regional and Industrial Expansion (DRIE)

DRIE is requesting $466 million in these special supplementaries. Of this, $8.4 million is needed for operating costs, $110 million for a non-budgetary loan to General Motors and $347.6 million to supplement the department's Vote 10 - Grants and Contributions.

This $347.6 million is over and above the $849 million approved in the main estimates bringing the total, if approved, to $1196.7 million. Three of the larger programs, requiring supplementary spending authority under Vote 10, are briefly described:

The first, the *Industrial and Regional Development Program* (IRDP), requires $178 million to cover additional projects costs for the remainder of the year. This program, established in June 1983, delivers direct financial assistance to private sector manufacturers and processors in all parts of Canada. It is aimed at projects, industries and technologies with the greatest potential for economic return, sustained growth and international competitiveness. The elements of the program may be applied to reflect local opportunities and meet the particular needs of each applicant.

The second, the *Economic and Regional Development Agreements* (ERDA) with the provinces, requires $50 million which is expected to cover the program needs for the remainder of this fiscal year. The ERDAs are long-term vehicles for federal-provincial planning and co-operation in economic development. The purpose of these agreements is to provide for the special economic development needs of each province while reducing regional disparity.

Each ERDA is supposed to outline a broad development strategy and priorities for action. Each agreement should also form a framework for the development of specific subsidiary agreements and memoranda of understanding tailored to the needs of the region, and with the intention of ensuring effective consultation and co-ordination between the federal and provincial governments.

The third, the *Defence Industry Productivity Program* (DIPP), requires $25 million for ongoing activities. DIPP operates in support of Canada's international defence sharing agreements on research, development and production. Agreements have been signed with the United States, the United Kingdom, France, the Netherlands, Italy, Sweden, Norway and the Federal Republic of Germany. These arrangements enable the Canadian armed forces to purchase major weapons systems abroad, while facilitating access to foreign markets for products of the Canadian defence industry.

Of the $347 million requested to supplement DRIE's Vote 10, $80 million is required to meet the overexpenditure from this vote which took place in 1986-87. The remainder of the report focusses on this overexpenditure.

Overexpenditure by Regional and Industrial Expansion

On August 27, 1987 immediately after Supplementary Estimates (B) were tabled, the Honourable Michel Côté, then the minister responsible for DRIE, made a statement with respect to the financial management of the Grants and Contributions budget (Vote 10) of DRIE. He stated that in 1986-87, his department had spent $80 million more than had been appropriated by Parliament and that for 1987-88 his department would require an additional $466 million --- $347.6 for Vote 10, $8.4 million for operating requirements and $110 million to make a non-budgetary loan to General Motors.

At the same time, Mr. Côté tabled two auditors' reports on his department's Grants and Contributions expenditures under Vote 10 --- one by Price Waterhouse and the second by the Operations Audit Branch of DRIE.

The following table summarizes the current state of Vote 10:

Vote 10 --- Grants and Contributions
($ millions)

1986-87	
Appropriations:	
Main Estimates	789
Supplementary Estimates	10
Total	799
Expenditures:	
From previous year commitments	757
From 1986-87 commitments	122
Total	879
DEFICIT	80
1987-88	
Appropriations:	
Main Estimates	849
Supplementary Estimates	347
Total	1,196

The Committee's review of this overexpenditure included hearing from two groups of witnesses --- officials from the Treasury Board and representatives of Price Waterhouse. The first issue facing the Committee was how DRIE could spend $80 million more than has been committed and where would the money come from?

Treasury Board officials indicated that there is a special policy entitled Payable At Year End (PAYE) to account for such an eventuality. This policy stipulates that when goods or services are received prior to the end of the fiscal year the Government leaves the books open until May 15, so that when the invoices are paid, the amount can be recorded as an expenditure in the old year. The cash outlay, however, is a charge to the new fiscal year. This charge then becomes the first

draw against new year appropriations. In DRIE's case, expenditures of $80 million from Vote 10 in 1986-87 became the first charge against Vote 10 in 1987-88. It was the view of the Committee that this is a very adequate way of ensuring that expenditures are drawn from appropriated amounts and not spent without parliamentary approval.

The Committee then focussed on the overrun itself, its cause, and the reasons for the apparent alarm. Price Waterhouse representatives indicated that the problem with the overrun was not that it occurred, but that it was known too late in the fiscal year for DRIE to request additional monies through final supplementary estimates.

From both the external audit report by Price Waterhouse and the internal audit reports by the Operations Audit Branch of DRIE, this overrun of $80 million was discovered too late in the year because of inadequate procedures in three general areas: forecasting, budgeting, and financial reporting.

Forecasting

DRIE has not been very accurate in forecasting its expenditures with respect to Vote 10 over the last five years. Its expenditures under this vote differed significantly both from voted amounts and from forecasts. The amounts involved, expressed in millions, are illustrated in the following table:

	Initial Forecasts	Voted Amounts	Actual Expenditures	(Under) Over-Expenditures $	(Under) Over-Expenditures % of Voted Amounts
1982-83	N/A	$972	$685	$(287)	(30%)
1983-84	N/A	998	757	(241)	(24%)
1984-85	$ 955	970	773	(197)	(20%)
1985-86	1,027	930	710	(220)	(24%)
1986-87	1,081	799	879	80	10%

Source: Price Waterhouse Report to Department of Regional Industrial Expansion, August 1987.

A major reason for mismatching forecasts and actual outlays is that, under the provisions of its programs in previous years, DRIE had made multi-year commitments to thousands of clients with the consequence that the timing of the expenditures relating to these commitments was difficult to predict accurately. In 1986-87 more was spent under these multi-year commitments than was expected. Also, because few contracts had an explicit time limit for the receipt of invoices, DRIE had little control over when clients would spend the money. Furthermore, DRIE's clients are usually small businessmen who are not able to predict, with any degree of accuracy, when they will submit invoices for compensation. According to the internal audit report the amount of money spent in 1986-87 on previous years' commitments was $767 million, leaving only $22 million for expenditures or new commitments for 1986-87.

Price Waterhouse is critical of the project managers at DRIE's regional offices. It claims that because managers were not close enough to the individual projects, they were unable to anticipate the timing of the expenditures. Senators should be aware that DRIE generated approximately 3,000 new projects in 1986-87 financed through Vote 10.

Budgeting

For 1986-87, Parliament approved an expenditure of $789 million for DRIE's Grants and Contributions budget — Vote 10. In addition, the department followed the practice of over-budgeting, giving managers the authority to commit more than Parliament authorized.

> The use of this technique in DRIE, as in other government departments, operates on the assumption that final spending will be less than the allocated budget. (Internal Auditor's report, p.8)

Price Waterhouse reports that at the beginning of 1986-87, the internal budget of DRIE was set at $810 million, $21 million over the voted amount. This over-budgeting would not have been a problem in past years because there had always been significant lapsing of funds. Also there was a growing resistance by Treasury Board to permit the reprofiling of budgets to future years as slippages in forecasted expenditures were identified. This meant that lapsed budgets of previous years were not being carried over to the future years.

This over-budgeting and the anticipated lapse of funds was working against DRIE. The internal auditor reports indicates that:

> There was an expectation internally and among central agencies that lapses would

continue.... As a result, DRIE appropriation was increasingly used by the Cabinet Committee on Economic and Regional Development as a secondary policy reserve to fund projects in other departments. (Internal Auditor's report, p. 13)

Reporting

Beginning in September 1986, monthly financial reports were being submitted to DRIE's Management Committee. A sample of the comments from these monthly reports follows:

September 1986:
For Grants and Contributions in 1986-87, the budget should be sufficient to handle proper requirements including major items....

October 1986:
For Grants and Contributions a year-end surplus is now forecast, taking into account spending under regular program projects and special initiatives....

November 1986:
For Grants and Contributions in 1986-87, a year-end deficit of $19 million is now forecast . . . A forecast deficit of this magnitude is not considered significant given the usual margin of forecasting error.

December 1986:
For Grants and Contributions a year-end deficit of $7 million is now forecast at year end and will be required to avoid over-utilization.

January 1987:
For Grants and Contributions, in fiscal 1986-87, a year-end deficit of $20 million is now forecast.... A 'steady as she goes' approach to claims processing is appropriate at the present time.

February 1987:
A year-end surplus of $4 million is now forecast.

March 1987
A year-end overexpenditure of $46 million is now forecast for 1986-87.

The considerable variation in the monthly forecasts of anticipated expenditures would indicate one of three possibilities:

- first, the forecasts were so unreliable as to be a waste of time; or
- second, forecasting expenditures could never be accurate because of the lack of specificity in the arrangements with clients as to when invoices would be submitted; or
- third, a combination of the above.

Observations and Conclusions

From the information presented in the two annual reports, the Minister's statement, and the testimonies of Treasury Board officials and representatives from Price Waterhouse, there is little doubt that there were obvious weaknesses in the forecasting, budgeting and reporting. The Committee did not feel, however, that DRIE's late identification of the overexpenditure was something that should have been unexpected. If the cause of the late identification was due to weaknesses in forecasting, budgeting and reporting, then these same problems should have been raised in each of the past five years when DRIE lapsed significant amounts. The Committee feels that if the late identification of the overexpenditure is a problem, then late identification of lapsed amounts is a problem of equal magnitude. If DRIE is criticized for a relatively small overrun in 1986-87, then they also should have been reprimanded for the large lapses of previous years. The one exception is the lapsing of money due to improved efficiency; this obviously should be encouraged.

The large lapses in the past should have caused senior management of DRIE and Treasury Board to look into its causes and request changes. Instead, the only apparent response of Treasury Board was to propose to Parliament that the voted amounts for DRIE be significantly lower than DRIE's forecast.

The Committee concluded its review of the overexpenditure with two observations:

1) DRIE should improve its forecasting, budgeting and reporting, but that this should have been required of them years ago when it was first observed that DRIE's forecasts significantly exceeded its expenditure. It is the Committee's view that excessive lapses, that are not a result of due economy and efficiency, are as bad as overruns.

2) The Government of Canada should recognize that when programs are established to provide multi-year grants or contributions with uncertain timing as to when invoices would be received and pay outs made, it is impossible to avoid variable lapses and overruns and that the Payable at Year End policy is well designed to deal with them.

Finally, the Committee wishes to remind Senators that the supply bill for this supplementary is not expected until late November or early December. Treasury Board officials noted that the tabling of these estimates in August was necessary for two reasons:

1) Allow Parliament the time to scrutinize the audit report on Regional Industrial Expansion's overrun of $80 million;

2) Because of DRIE's anticipated expenditures in 1987-88 to meet previous commitments and because of the requirement to meet the past year's overrun out of current year allotment, DRIE has fully utilized its commitment authority for Vote 10. If DRIE is to continue to make commitments at least until the normal tabling of supplementaries in late November or early December, Section 25(1) of the *Financial Administration Act* requires the tabling of an additional appropriation in Parliament.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

THE SENATE

Wednesday, November 18, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

PATENT ACT

BILL TO AMEND—MOTION TO EXPLORE POSSIBILITY OF FREE CONFERENCE ADOPTED

Hon. Ian Sinclair: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*i*), I move:

> That the Leader of the Government in the Senate on behalf of the Senate ascertain whether his Cabinet colleagues would agree to a conference between the Senate and the House of Commons on Bill C-22; and
>
> That the Leader of the Government be asked to report back to the Senate whether his said colleagues are so favourably disposed.

Some Hon. Senators: Hear, hear!

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Sinclair, seconded by the Honourable Senator Stewart, with leave of the Senate and notwithstanding rule 45(1)(*i*):

> That the Leader of the government in the Senate on behalf of the Senate ascertain whether his Cabinet colleagues would agree to a conference between the Senate and the House of Commons on Bill C-22; and
>
> That the Leader of the Government be asked to report back to the Senate whether his said colleagues are so favourably disposed.

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

Hon. C. William Doody (Deputy Leader of the Government): Explain!

Senator Sinclair: Honourable senators, I think it important to indicate to colleagues in this assembly why such a motion should be made.

We have here at this time a legislative impasse caused by—

An Hon. Senator: You!

Senator Sinclair: —the government's having introduced legislation to amend the Patent Act. That legislation has not been received here with the feeling that it should be passed without amendment by this assembly. That view has not found favour until now with the other place.

It is not the first time that such disagreement, such a legislative impasse, has occurred between the two houses, and on other occasions it has been resolved through the technique of a free conference. In 1947 it was used in relation to the Criminal Code, and it was used on an earlier occasion, in 1938, in relation to the Farmers' Creditors Arrangement Act.

Sometimes people may wonder why it has not been used since 1947. The answer is that in the interim period there evolved a technique of pre-study of bills and conferences which were carried on *in camera*—that is, "behind the scenes," to put it in another way. However, in this case that procedure was not possible, so we have this legislative impasse.

As honourable senators know, the rules of the Senate provide that in this kind of situation a motion such as I have put is in order, and it is for that reason I ask all honourable senators to support it.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, at the outset I should make the point that this motion asks me to ascertain whether my cabinet colleagues would agree to a conference between the Senate and the House of Commons.

If the Senate requests such a conference, it is, of course, not for my cabinet colleagues alone to respond; it would be for the House of Commons. Nevertheless, the government would express a view on the matter, and, the realities being what they are, one would expect that the government view in the present House of Commons would prevail.

I should also point out that this is not a request for a conference. The honourable senator, the chairman of the Standing Senate Committee on Banking, Trade and Commerce, who spoke yesterday called for a conference, but he did not put his view to the test of a vote in the Senate. He did not move a motion calling for a conference. He did not attempt to amend my motion, the motion which the Senate is now seized of. He did not attempt to amend it by calling for a vote on a conference between the two houses.

That being the case, we are left in the situation where Senator Sinclair is not formally asking for a conference. He is seeking to know what the answer would be before he asks. He is seeking to know what the likely reply of the government would be to any formal request for a conference.

Honourable senators, for my own part, I wish to remind him and other senators that in the course of Question Period a week or ten days or more ago I indicated my views as to the utility or, indeed, the futility of a House of Commons-Senate

conference on this matter at this time, and I will not elaborate on that matter today.

When the honourable senator raised the question of a conference in the course of his speech yesterday, I began to consider what the implications would be if he or other members of the opposition had formally moved for a conference. It seems to me that if such a motion had been presented and if, indeed, such a motion had passed, we would be heading into waters which are very murky and uncertain, indeed. Some authorities state that while such a conference is taking place, both the House of Commons and the Senate would have to suspend their sittings. *Beauchesne's* Fifth Edition, for example, states at chapter 17, page 242, citation 819.(1):

> When the time comes for the conference, the names of the managers for the House are called over and they leave for the meeting. While the conference is meeting, the sittings of both Houses are suspended.

One can imagine how members of the House of Commons would feel at this stage of the session if they were called upon to adjourn their sittings, perhaps indefinitely, for purposes of a conference with the Senate.

Senator Argue: They can have breakfast together.

Senator Murray: Let me read citation 819.(2):

> The managers for the House of Commons come first to the conference and stand uncovered at the table.

Senator Frith: Oh, they can wear a hat!

Senator Doody: Nobody has mentioned anything about hats.

Senator Murray: The citation continues:

> The Senate managers remain sitting and covered during the conference except when receiving the message from the Commons or while speaking during a free conference. Sir Erskine May, Treatise on The Law, Privileges, Proceedings and Usage of Parliament—

and so on. In this parliamentary democracy in 1987 one can readily imagine the response of the House, the elected chamber in this country, to such an invitation.

More seriously, it is a fact that the sittings of the House of Commons and the Senate could conceivably be suspended indefinitely during such a conference, because there is some indication that once into such a conference there is no way out of it except by agreement. I put it to honourable senators that in a situation where three representatives from either house meet, with no chairman and no provision that I can find for any clear rules governing the conduct of such a conference, it is at least theoretically possible that parliamentary business could be paralyzed indefinitely by the holding of this conference.

Senator Argue: Get serious!

An Hon. Senator: You are exaggerating!

Senator Guay: Maybe there will be an election!

Senator Murray: Senator Guay raises the possibility that the holding of such a conference and the paralysis of parliamentary business indefinitely could lead to a general election.

[Senator Murray.]

An Hon. Senator: Good!

Senator Murray: Perhaps that is what Senator Guay has in mind; perhaps that is what Senator Sinclair has in mind; perhaps that is what honourable senators opposite have in mind, but that is a rather indirect and, I think, a rather illegitimate way in our democracy in the year 1987 to proceed to the dissolution of Parliament and the calling of a general election.

Some Hon. Senators: Hear, hear!

Senator Murray: Further to that, some authorities—and I can cite at least one—claim that if a conference fails to come to an agreement the bill in question dies. Again, some honourable senators would be accomplishing indirectly what they did not, perhaps, wish to accomplish directly, which is to defeat the bill.

In any case, failure of a conference to come to an agreement resulting in the death of a bill would mean that the Senate and all members of the Senate had not had an opportunity to vote on the bill in question.

I do not necessarily accept all of these authorities, but I can assure honourable senators that they exist and that they state what I have just conveyed to the Senate.

● (1410)

The honourable senator who has just spoken pointed out that in 1947 there was such a conference having to do with the proposed amendments to the Criminal Code and that there had been a previous one in 1938. But the precedents are not very helpful. Indeed, I am told that the last time this procedure was invoked in the United Kingdom was in the 1830s. I repeat that the precedents are not helpful. The rules are incomplete and the authorities, at best, are contradictory.

Various points were mentioned. Yesterday if Senator Sinclair had made a motion for a conference, or if he had tried to amend my motion, I would have made those points in stating that if any such motion had been made the Senate would readily understand, in view of what I have just said, why I and supporters of the government would be obliged to vote against such a motion. We would be heading into very uncertain and, I believe, uncharted waters.

Nevertheless, this is not a motion calling for a conference. This is a motion asking me to find out what the answer would be, at least from my cabinet colleagues, if such a motion were to pass the Senate. I think the motion is harmless enough, and therefore, under the circumstances, I will accept it. I will consult with my colleagues, and I should think that I would be in a position to report back to the Senate on this matter when we meet tomorrow.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the Leader of the Government has in effect accepted that the motion should pass. Concerning some of the points that he raised, it would be worthwhile to point out the extent to which his comments underline how prudent is Senator Sinclair's motion. It is a motion asking him to consult—in

other words, to find out what the answer would be—so that some of the murky waters about which he is concerned could be avoided.

The Leader of the Government is quite right in some of the authorities he quoted. I know about them. In fact, I have had occasion to discuss some of them with him. We share some doubt as to whether the bill would automatically die in the event that there is not an agreement, and there is some doubt about the necessity of some of the more musty procedures to which he referred. The important thing to remember, it seems to me, is that we do not know the answer to a lot of these questions, because so far as I have been able to ascertain the conference has always worked; and it could very well be that the reason why it has worked—if not always, then certainly on most occasions it has worked—is because the same prudent approach that is now being taken was taken then, although not so openly.

In all cases that I was able to discover at least one of the managers sent by the House of Commons was always a minister of the Crown. Further, in all of the cases that I was able to discover it was the House of Commons that requested the conference, and not the Senate—sometimes with a message and sometimes without. In any event, there does not seem to be any doubt that the Senate is perfectly entitled to ask for a conference.

Another important thing to remember is that the precedents are quite clear that neither the House of Commons nor the Senate is entitled to insist on a conference. They can ask for it, but they cannot insist on its taking place. It is in that context that I believe that Senator Sinclair's motion is very prudent, and I am glad to see that it has been accepted by the Leader of the Government. I therefore see no reason why we cannot dispose of it now.

Hon. Daniel A. Lang: Honourable senators, might I ask a question? On page 67 of our rules there is a paragraph which says:

> If the House of Commons insists on its amendment(s), it may ask for a conference.

Does that not, by interpretation, exclude the Senate?

Senator Frith: I would think not. That is a possible interpretation, and the memorandum which I had prepared makes that very point. However, it is just as well Senator Lang asked that question. He cites the rule accurately. However, it is stated in *Beauchesne's*, at citation 815(1):

> Either House may demand a conference upon the following matters:

And then it includes:

> to offer reasons for disagreeing to, or insisting on, amendments;

Bourinot Fourth Edition states at page 274 that "either house may demand a conference", and extracts from the rules and from those two citations are available.

I temporarily came to the same conclusion as Senator Lang, but then found that, notwithstanding that rule, there was authority for either house to ask for a conference. But in every case I was able to find it was the House of Commons that asked for the conference.

Senator Murray: Honourable senators, with the indulgence of the house and in view of Senator Frith's claims that these conferences have usually succeeded, I would like to share with him and with the Senate this brief exchange from the *House of Commons Debates* of August 2, 1940. Mr. Ilsley, the then Minister of Finance, was reporting that the free conference had failed. He said:

> I regret to report that the free conference between the managers appointed by the House of Commons and the managers appointed by the Senate to consider the amendments made by the Senate to Bill No. 25, to amend the Farmers' Creditors Arrangement Act, was not productive of any result. The managers were unable to come to an agreement, and I am afraid that with the Senate insisting upon its amendment and the house finding itself unable to accept that amendment, the result will be that the bill will not pass.

Just for the amusement of honourable senators, a little later Mr. Coldwell said:

> I would ask the Prime Minister, in view of the difficulty that has arisen, whether he will consider his long-promised reform of the Senate at the next session of parliament?

Senator Frith: We all know how that came out!

Senator Murray: Mr. Mackenzie King said:

> That is something I have been considering all my life.

Senator Frith: Spoken like a true Prime Minister. No Prime Minister likes a Senate.

Hon. John B. Stewart: Honourable senators, I wonder if Senator Murray would deal with a question. He has told us about one of the two cases since 1904 when the occasion for a conference arose in which a successful conference did not take place. Would the honourable senator deal with the other nine instances, the instances in which successful conferences took place? Would he deal with those examples?

Senator Murray: Honourable senators, perhaps the honourable senator has studied those conferences, but I would like to know how many of those are at all comparable to the present situation in which the Commons has dealt with this bill now on three occasions.

Senator Stewart: I wonder, honourable senators, if the Leader of the Government would deal with another of these interesting historical questions. We know that the election of 1911 was fought largely on the naval question. Nevertheless, the Senate of that day defeated that bill after the election. How relevant is that to the situation today? But let us not talk too much about those murky waters. The truth of the matter is that in Canada we have an established series of precedents showing how to deal with legislative impasses of this kind. There is no reason why we should not make use of the conference technique.

We can go back to some of the earlier instances. For example, let us go back to 1904, the first time a conference took place. It took place because the Liberal majority in the House of Commons was confronted with a determined Conservative opposition in the Senate. The agents for the two houses appeared in morning clothes and were not authorized to negotiate freely. Well, very soon they realized that this was foolish. The next time there was occasion for a conference—in 1910—they appeared in the clothes of ordinary mortals and with authority to work for an agreement or compromise. I have no reason to believe that sensible Progressive Conservatives and Liberals in 1987 would insist on going back to the morning clothes of 1904.

● (1420)

Senator Sinclair: Particularly Senator Murray!

Senator Stewart: Yes. He is a modern man. The truth of the matter is that something of a legislative impasse had developed, but there is a technique by which it can be dealt with efficiently and quickly. There is no reason to expect that the managers on both sides are going to attend in morning clothes or dredge up all the other appurtenances of the remote past to deal with a relatively simple problem in 1987. Let us deal with this impasse simply and directly by means of a conference conducted in a modern way.

Senator Murray: Honourable senators, I read that particular citation. I trust that honourable senators, if they are attending such a conference, would not insist that the members of the elected chamber come and stand before them at the conference table.

However, there are other more serious problems, including the citation that I referred to a few moments ago to the effect that if a conference fails the bill dies, and again I would say—

Hon. Allan J. MacEachen (Leader of the Opposition): Whose citation? What authority states that the bill dies?

Senator Murray: The Honourable Leader of the Opposition need look no further than the *Rules of the Senate*, Appendix I, "Forms and Proceedings", where, in talking about a conference, it says:

> When a conference is held, business is suspended in both Houses.

Then it says:

> *See Bourinot, Fourth Edition, p. 280.*

It then continues:

> The results of the conference are reported to the Senate. If no agreement is reached, the bill dies. If agreement is reached, appropriate procedure is followed to bring the matter to a conclusion in accordance with the nature of the agreement.

There are other authorities that I do not have in front of me indicating that if a conference fails the bill dies.

Those are rather serious consequences to contemplate, and, as I pointed out, I do not necessarily accept these authorities. However, I do say that, at best, the authorities are contradictory; the precedents are not really very helpful, and the rules are incomplete on the matter. For those reasons, if a motion had been put calling for a conference on these matters, I and the senators on this side of the house would have voted against such a motion.

[Senator Stewart.]

Senator Frith: We will make our own.

Senator Murray: Yes, but, in any event, such a motion is not before us at the moment. In the motion presented by Senator Sinclair I have been asked to consult with my cabinet colleagues and to report back as to what their answer would be in the hypothetical situation were such a request to be made. That is an unusual but not an unfair request under the circumstances, and I have agreed to do it.

Hon. Paul Lucier: Honourable senators, Senator Murray seems to have a great fear that such a conference might succeed. If the government is as anxious to pass Bill C-22 as they keep suggesting they are, and thereby please the 10 per cent of Canadians who are in favour of Bill C-22, why are they not searching out ways to make it work? This suggestion has been made by Senator Sinclair in an attempt to arrive at a deal on Bill C-22 so that the bill can pass. If that does not work, there is a good chance that Bill C-22 could be defeated.

Honourable senators, I, for one, will be one of the ones who will try to have that bill defeated. I have never made a secret of that. However, if the government is as anxious as they have been pretending to be for all these months to have Bill C-22 pass, why do they not accept this offer and—

Senator Doody: He has accepted it!

Senator Lucier: He has accepted it very reluctantly, and in accepting it he said that he had no problem in accepting it because he knew it was not going to work, and he therefore has no fear in taking it to his colleagues because he knows that they will not accept it. My point is: Why are you not looking for a solution if you really want one?

Senator Murray: Honourable senators, this is not Question Period. It is, I believe, discussion on a motion that was put forward by Senator Sinclair, requesting that I consult my cabinet colleagues on a matter. I shall do so.

The honourable senator speaks about the fate of the bill. My desire and my effort now for many months has been to decide the fate of the bill one way or the other. My request to honourable senators yesterday was that they allow the matter to come to a vote in this chamber. That is still my request, and it is in the hope of expediting that at long last that I have agreed to do what Senator Sinclair asks me to do and what this motion asks me to do, which is to ascertain from my cabinet colleagues what their answer would be in the hypothetical situation where a request was made for a conference.

Senator MacEachen: Honourable senators, I am pleased that the Leader of the Government proposes to discuss the possibility of a conference with his colleagues. I think that is positive, and I hope that it will be underlined to his colleagues that the purpose a conference would serve would be to secure an accommodation between the two houses and reach a conclusion satisfactory to both houses.

There is some possibility—maybe an expectation—that out of a conference, consisting of four persons from each house a good result would be achieved. The honourable senator has referred to the conference which Mr. Ilsley attended in 1938.

Senator Murray: In 1940.

Senator MacEachen: He also attended a conference in 1938 with two of his cabinet colleagues: Mr. Euler and Mr. Crerar together with Mr. McLean. The following senators attended the same conference: Arthur Meighen, John Haig, Raoul Dandurand and Charles-Philippe Beaubien.

I believe that the recollection of these names would immediately suggest that the process was a serious one and was not engaged in by frivolous or insignificant persons. That is what we would expect in this case, that there would be serious persons on both sides making an effort on substance to reconcile some of the differences. As Senator Stewart has stated, that has happened in the past. It may be that the government will decide that it does not wish to change its present position on the bill in any way. That would be a decision of substance. However, I hope that the government will not decide on a conference on the grounds which the Leader of the Government has used in his statement, namely, that if the conference failed the bill would die. If the conference were held and it failed, the situation would be precisely as it is now and the Senate would have to deal with the motion made by the Leader of the Government in the Senate.

On the basis of any rule, there is no speaker who would declare that the bill is dead. Certainly, I think that would be absurd, and I assure the Leader of the Government that that is not the attitude that would be taken on this side of the house if the conference failed. The *status quo ante* would prevail. The Leader of the Government said that he was doubtful if that was the case. I would like to remove that doubt insofar as I am concerned.

Another point I would like to make is that if we had a conference the sessions of both houses would be suspended. The Leader of the Government said that if that occured we might head into a general election. I understand that he was not entirely serious. Surely a conference of this kind could be held at times when neither house was in session. Much business is accomplished in the morning and the evening, and that could be done, so there would be no threat to the continued sitting of either house. Indeed, if it were necessary to suspend the sittings for an afternoon, persumably the public interest would not be damaged irreparably.

● (1430)

I say to the Leader of the Government: Please consider the matter on its merits; do not bring up old, hoary procedural arguments that would never stand up to any critical examination. I think we have to look at this as a modern situation, demanding the application of the rules in a reasonable and sensible way. It is beyond belief to think that because two houses met in a conference and failed to agree a bill would die.

Senator Murray: No, I just suggested—

Senator MacEachen: That does not make sense.

Senator Frith: We should change it!

Senator MacEachen: I invite the leader to remove that fear from his mind, because the situation would be quite as it is now if such a conference failed.

An Hon. Senator: You are converting them!

Hon. Sidney L. Buckwold: Honourable senators, my concern is about the position of the Leader of the Government, who seems to be walking down the aisle as a reluctant lover, with no determination to use his influence with his colleagues to try to resolve this situation.

Senator Murray: I was not asked to use my influence with my colleagues.

An Hon. Senator: Order!

Senator Murray: A motion was put here asking me to consult with cabinet colleagues to see whether they would agree to a conference. I think I have gone some distance to accommodate the wishes of honourable senators—

Some Hon. Senators: Hear, hear!

Senator Doody: Leave it alone!

Senator Murray: —in agreeing to a motion that is, I suggest, probably without precedent, and certainly highly unusual and unorthodox. I am being asked to put a hypothetical question to cabinet colleagues and to come back here with a reply.

Senator MacEachen: There is nothing hypothetical about it.

Senator Murray: In an effort to try to defuse this situation somewhat, and to accommodate honourable senators who have asked me to find out what the answer would be if such a motion did pass, I have decided to ignore the unusual character of the motion and its unprecedented nature and take the motion and go down the hall and talk to my friends and come back here and report.

An Hon. Senator: Hear, hear!

Senator Murray: There is no suggestion that I am to go down there as an advocate of a conference. I trust I have explained fully that I am not an advocate of a conference. Nevertheless, I will draw to the attention of my colleagues the arguments that have been made by other senators on the matter.

Some Hon. Senators: Hear, hear!

Senator Buckwold: Honourable senators, I seem to have struck a raw nerve in the Leader of the Opposition.

Senator Nurgitz: Not "the Opposition," "the Government."

Senator Buckwold: The Leader of the Government; I was anticipating a bit.

Honourable senators, this is not a hypothetical request; this is a real thing.

Senator Doody: This is a hypothetical question.

Senator Buckwold: This is a request for the Leader of the Government in the Senate to discuss with his colleagues the possibility of a conference.

Senator Murray: Well, read the motion, senator; read the motion!

Senator Buckwold: I do not have the wording of the motion in front of me, but I am giving the gist of how I heard the motion.

Senator Murray: I have been asked to ascertain—

The Hon. the Speaker: Honourable senators, we have an order of this house that at three o'clock on Wednesdays we should go into a Committee of the Whole. Is it the pleasure of honourable senators to waive that order for today and to continue this debate, or should we adjourn and sit as a Committee of the Whole?

Senator Doody: Honourable senators, we have a slight problem here. Yesterday afternoon we agreed to a request of Senator Sinclair's for his committee to have permission to meet at 3.30 today on the assurance that debate on Senator Murray's motion would be Order No. 1 and would be dealt with as the first item of business today.

I would like to have some opinions or suggestions on that. Will we deal with Order No. 1 now, or will we stand it until we have finished with this new motion that is before us—

Senator Hicks: Yes.

Senator Doody: —and the request that has been put to Senator Murray that he consult with his colleagues?

Yesterday some people requested the right to speak on Senator Murray's original motion and that request was not granted. Senator Sinclair adjourned the motion in his own name on the assurance that he would take it up again here today. There are senators who have shown an interest in discussing this, so I would like to get the feeling of the Senate as to how they wish to deal with this matter.

Senator Frith: Honourable senators, I have the impression that the Senate is ready to deal with Senator Sinclair's motion. I know that that does not solve all of the problems, but it does deal with the first question.

We could put that question, and also defer—I am sure with unanimous consent—the Meech Lake matter until, say, half past three, and move immediately to Order No. 1, the adjourned debate on Senator Murray's motion.

I have discussed this with Senator Sinclair. I believe that while he would like to have an opportunity to speak again after his suggestion for a conference has been explored, he would be prepared to yield to other speakers in the meantime.

There is a suggested solution.

If the chairman of the Committee of the Whole feels that that would work, in view of the two witnesses we have, we could immediately vote on the motion now before us, agree to suspend all other items, and go immediately to Order No. 1 under Orders of the Day and give some other senators an opportunity to speak, as long as it is understood that Senator Sinclair could have the adjournment and yield again tomorrow if he were not ready to speak tomorrow.

[Senator Buckwold.]

Hon. Gildas L. Molgat: Honourable senators, if the suggestion is to defer the Committee of the Whole, I would then ask that we do it to a definite and not too distant hour—say, half past three—because, in fairness to the witnesses we have asked to appear, I do not think that we should establish a practice and then change it unilaterally at the last minute. But if it were a delay of only half an hour, I presume that we could ask them to defer for that time.

Senator Doody: I have no desire to incommode or embarrass the Committee of the Whole or the witnesses; it was simply my wish to draw the attention of the Senate to the commitment that was made yesterday afternoon, under which condition we allowed the situation to develop as it has. I repeat, several senators asked for permission to speak yesterday and they could not get that permission.

I do not want the message to go out from this place that we are stalling again and are not letting people speak. I do not think that anyone wants to give that impression.

Senator Frith: Is my suggestion acceptable, then?

Senator Doody: Sure.

Senator Frith: I suggest, then, Your Honour, that we agree to have the question put now on Senator Sinclair's motion and that we then immediately proceed to Order No. 1, continue with Order No. 1 until 3.30 p.m., and then proceed with the Committee of the Whole on the Meech Lake Accord.

The Hon. the Speaker: Honourable senators, I read the motion earlier. Shall I repeat it?

Hon. Senators: Dispense!

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

Hon. Senators: Agreed.

Motion agreed to.

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN CERTAIN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON CERTAIN SENATE AMENDMENTS—DEBATE CONTINUED

Leave having been given to proceed to Order No. 1:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

That the Senate concur in the amendments made by the House of Commons to its amendments 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and 16(a);

That the Senate do not insist on its amendments 4(b), 11, 12, 15(a), (b) and (c), 16(b), (c), (d) and (e), 17(a) and (b) and 18(a); and

That a Message be sent to the House of Commons to acquaint that House accordingly.—(*Honourable Senator Sinclair*).

Hon. Ian Sinclair: Honourable senators, I would be happy to yield to any other senator who wishes to speak at this time

with the proviso that after they have spoken I would like to have an opportunity to continue with my address.

The Hon. the Speaker: Is it agreed, honourable seantors?

Hon. Senators: Agreed.

● (1440)

[*Translation*]

Hon. Paul David: Honourable senators, for the third time the Senate is called upon to take a position on Bill C-22—eventually so, in any event. As I see it, the Senate Liberal majority has two options: either it accepts the bill as resubmitted by the elected members of the House of Commons, or it rejects it.

For seven months now the Liberal senators have clearly expressed their opposition to this bill in their capacity as spokesmen, so they say, for consumers, labour unions, and several provincial governments.

First, the special Senate committee chaired by Senator Bonnell recommended following up on the suggestions made by the Eastman Commission which altered the balance sought in the legislation between the expansion of the innovating pharmaceutical industry on the one hand, and consumer protection through the prices review board on the other hand. Secondly, the Senate Committee on Banking, Trade and Commerce under the chairmanship of Senator Sinclair proposed amendments which would keep innovating companies on a leash, a situation likely to perpetuate Canada's image of hostility towards such companies.

Once again allow me to speak on behalf of sick people, physicians, researchers, academics, medical, pharmacological, biological, physiological and clinical researchers, and the vast majority of Quebecers. In two earlier speeches I gave you my arguments based on 40 years of personal experience in promoting health and the use of more effective means to cure, bring relief, and improve the quality of life of heart patients.

This ideal was the foremost motivation of the Montreal Heart Institute which I headed for 31 years.

My pleas were similar to those of "witnesses" who would like Canadian researchers to be part of medical progress in this country. Ours is a minority voice which has yet to reach the ears of my Liberal Senate colleagues. Still, our objective is shared by the Canadian people who earnestly hope for the discovery of effective ways to prevent, relieve or cure the acute, subacute or chronic diseases of which they are or eventually will be victims. I should think we all agree on that basic consideration. The gap between us comes from diverging views on fluctuating prices. As a matter of fact, that pretty well sums up the only argument of the dispute.

The government has set up three price control mechanisms: a review board which will report annually to the minister responsible and each of the two houses, a government review of the consequences of this legislation after four years, and a mandatory parliamentary assessment in ten years.

Besides monitoring prices, these three levels of authority have been given the mandate to follow up on innovating company management promises to create 3,000 jobs in ten years, invest $1.4 billion, and earmark 10 per cent of their sales for research and development.

Honourable senators, it will be easy to follow the progression of this policy and to review the results. Meanwhile, we should let innovating companies demonstrate their good faith and let scientists meet the challenge of providing for active, imaginative and humanitarian research.

I maintain that with increased financial resources, Canada now has the human and material resources it needs to make a distinguished contribution to the "high-tech" sector of the pharmaceutical industry. The future of our country does not lie in merely copying indefinitely what has been done elsewhere. It is also having the imagination, patience and intelligence to take an active part in research and eventually discover therapeutic substances that will benefit our own population and people the world over.

After this long struggle, honourable senators on the Liberal side, I would suggest a compromise, and that is to accept this bill in the hope that my optimism will turn out to be warranted.

This act of faith in our Canadian researchers, who will use the grants of the innovating pharmaceutical sector, will help medicine in this country for the greater benefit of Canadian patients.

Your reluctant consent to vote in favour of this bill would be a strong incentive for innovating companies to honour their commitments and for researchers to prove their mettle.

Honourable Liberal senators, the decision is up to you. I hope it will turn out to be in the best interests of patients and medicine in this country, and of our democratic system.

This last compromise, namely to accept the will of those who are to go before the voters in the not so-distant future seems quite obvious.

From this perspective, we will all have won the same victory, a victory for democracy. That is why I have taken the liberty of addressing this bill one more time.

Yesterday's proposal for a conference, Senator Sinclair, has been somewhat watered down today to a proposal to see whether there will be a conference. But to stick to my prepared text, I feel that this approach to finding a possible solution to the conflict between the Liberal majority in the Senate and the Conservative majority in the House is a clever abdication of responsibility. It is another obstruction strategy, masquerading as a last attempt at conciliation. It means using one last pseudo-democratic procedure to delay a decision you are afraid to make . For these reasons, honourable senators, I will vote against this proposal which is really an artificial means of prolonging an agony that has gone on far too long already.

Hon. Philippe Deane Gigantès: Honourable senators, we all admire Dr. David. He is a man of great honesty and talent, a nationally respected scientist. This is why when he occasionally wanders into unfamiliar territory, such as the dramatic, he has certain shortcomings, which are indeed quite endearing on the part of a non-specialist, compared with a specialist such as

Senator Cogger, who has quite a flair for the dramatic. He speaks about those poor pharmaceutical companies which would be imprisoned by the proposal of Senator Sinclair. How would they be imprisoned?

Senator David: Honourable senators, I did not say "poor companies". I spoke about the innovative companies.

Senator Gigantès: I added the word "poor" myself because, according to the comments of Senator David, these companies would be imprisoned and, having been a prisoner of war, I believe that all prisoners are to be pitied.

What did Senator Sinclair propose? That the promises made by these companies be written in the Act. They are promising to spend a certain proportion of their sales on research. Therefore, if their sales go down, they would spend less. I do not see how they would be imprisoned.

What Senator Sinclair is proposing is simply a good contract. The government is suggesting that we give a monopoly to these companies for a number of years. It is as though we were building a large office complex with space set aside for a cafeteria and we gave a company a monopoly to operate this cafeteria without putting written guarantees in the contract. My lawyer would never allow me to do such a thing in a private transaction.

There is something else which Senator David did not mention, but which shocked many of us and which we found really unworthy of such a debate. I do not want to accuse anyone in this chamber. It is to state publicly that those who oppose this legislation are against Quebec. Yes, he is saying it again: you are against Quebec. One cannot disagree with Senator Cogger or his friend Prime Minister Mulroney without being against Quebec. In my opinion, to suggest that people who are questioning a policy are against this or that area of our country is like scratching an open sore on the body politic.

I have asked a number of historians to tell me whether there was another example of a prime minister having resorted to this tactic. They have told me that, in spite of their research, they have been unable to find even one. Nobody has been able to explain to me why the pharmaceutical companies will meet their commitments and carry out research in Canada if they are not committed to do so in writing. It would cost them a lot less to send a Canadian scientist to their fine laboratory facilities in Denver, Colorado than to have him do his research here. That is why Senator Sinclair and his committee have proposed that there should be written guarantees that these companies will keep their promises. Companies which are able to mount a misleading publicity campaign such as these have are not to be trusted.

Senator David has said: Let us make it possible for our scientisrs not to be just copiers. He is well aware that 87 per cent of all research investments made by the pharmaceutical companies which support Bill C-22, are for the purpose of copying drugs developed by other companies. They are always seeking ways to bypass patents and to make the same profitable drugs as their competitors. Such might be the kind of research expected of Canadian scientists.

[Senator Gigantès.]

Personally, I think we are looking into only one avenue to carry out medical research in this country. Yet, we have developed a Canadian health care system which is far better than the American system.

Our health system in 1985 cost the Canadian people $1,500 per year to provide medical care on a universal basis in this country. In the United States, the same level of care, that is doctors, hospitals and even non-prescription drugs, cost $2,200 Canadian dollars per year. Fifty per cent more. Only the very poor or the very old were covered by government medicare.

Under this system, there were, in fact there still are, incidents where someone who was stabbed in the stomach in Alabama . . .

Hon. Senators: Oh, oh!

Senator Gigantès: They put him in a police ambulance and took him to three hospitals, one after the other, where they refused to admit him because he had no credit card and no money. He died of loss of blood before he reached the fourth hospital. The reason I am giving these examples is that in Canada we have built something, and I am referring to this coordination of efforts by the State and professionals or the private sector to provide services that are essential to this country, including health services. This typically Canadian approach is far better than any methods used in any other country. We have reduced costs far more than any other countries have been able to do because our overhead here in Canada is only 4 percent. In the United States it is as high as 16 percent. The figures are from the Bureau of Labour Statistics in Washington and the New England Journal of Medicine.

We could have looked into the feasibility of applying this efficient and cost effective approach to financing pharmacological research in this country and providing our eminent scientists with the resources to do this research under the auspices of our health care system, instead of making this country a slave, and that is exactly what will happen, to the pharmaceutical companies which, before the legislation we are being asked to amend was passed, had been making Canadians pay the highest prices in the world for drugs. Thank you, honourable senators.

● (1450)

[*English*]

Hon. Daniel A. Lang: Honourable senators, I rise on a question of privilege under rule 33, which deals with the privileges of the Senate. Under the provisions of that rule—specifically, with respect to the privileges of the Senate—I would like to make a motion which I think will be self-explanatory. I would like to move my motion now, without notice, as is provided for under that rule. I move:

> That rule 20 of the rules of the Senate be taken into consideration by the Standing Committee on Standing Rules and Orders with a view to redrafting the same, to prevent the abuse of the meaning of that section by individual senators who use it to indulge in debate.

Senator Gigantès: May I ask a question of Senator Lang? Is he referring to what we are doing now?

Senator Lang: Nothing less.

Senator Gigantès: Honourable senators, I thought that this was a debate we were engaged in, not Question Period. Is it not?

Senator Petten: It is.

Senator Gigantès: I thought we were debating the motion by Senator Murray, that it was debated yesterday by Senator Sinclair, and that Senator David answered Senator Sinclair today. I then answered Senator David. This, if I am not mistaken, is proper and traditional Senate procedure.

Hon. Royce Frith (Deputy Leader of the Opposition): What we are debating now, by agreement of the Senate, is the motion of Senator Murray. Senator Sinclair took the adjournment of the debate yesterday. He yielded to Senator David and to any other senator who wished to speak. We are not in Question Period at the moment.

Senator Lang: I know. I rose on a question of privilege under rule 33.

Senator Frith: I know, but how is your privilege being affected?

Senator Lang: It is the privilege of the Senate under rule 33.

Senator Frith: I understand that rule 33 covers the reason for such a motion, but the explanation for the motion was that rule 20, which deals with Question Period, is being abused. I do not see how anybody's privilege is being affected when we are engaged in debate on a motion that is properly before us. That question of privilege refers to Question Period. We are not in Question Period. If the question of privilege were raised during Question Period when somebody was carrying on a debate, my inclination would be to agree to the motion. But it was not.

• (1500)

Senator Sinclair: Honourable senators, I move the adjournment of the debate. I understand that Senator Bosa has a matter that will take only a minute. It is 3.30, so there is no point in my starting now.

The Hon. the Speaker: Do I understand, Senator Sinclair, that you are moving the adjournment of the debate?

Senator Sinclair: Yes, unless some other honourable senator wishes to speak.

The Hon. the Speaker: I believe that Senator Lang has withdrawn his motion, that he has not insisted on it.

Senator Frith: Perhaps so, but I imagine he will put it again.

Senator Sinclair: Honourable senators, I will adjourn the debate unless some other honourable senator wishes to speak.

Hon. Michel Cogger: Honourable senators, may I ask a question?

Senator Sinclair: Certainly.

Senator Cogger: Under the previous motion the Leader of the Government is now mandated by the house to consult with his cabinet colleagues to see how they feel about the holding of a conference. However, they represent only 40 members of the House of Commons. I am wondering whether the honourable senator, in his capacity as mover of the motion, would undertake to tell the house how his colleagues in the Liberal caucus of the other place would react—what their reaction would be—so that tomorrow when we vote on the main motion we may have the benefit of both sides.

Senator Frith: Question!

Senator Sinclair: I don't understand the question.

Senator Cogger: I will rephrase the question and will preface it in this way: Presumably tomorrow Senator Murray will report back to the Senate that his cabinet colleagues would react either positively or negatively to the Senate's proposal to hold a conference. He will then speak on behalf of 40 elected members of the House of Commons. I am asking Senator Sinclair if he would undertake to tell us, during the course of the same delay, how his own colleagues from the Liberal caucus in the other place will react to the same request—because presumably they, too, will have to pass on it.

Senator Sinclair: Honourable senators, I am certain of one thing, that when Senator Murray enters the chamber he will say that after consulting with his cabinet colleagues they believe that to re-establish that long rapport—that is the term he used—between the two houses a conference would certainly be helpful; and I am sure that the question raised by Senator Cogger would then answer itself.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: It is moved by the Honourable Senator Sinclair, seconded by the Honourable Senator Stewart, that further debate on this motion be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Sinclair, debate adjourned.

CITIZENSHIP ACT

STATUS OF BILL C-254—REQUEST FOR SPEAKER'S RULING

Hon. Peter Bosa: Honourable senators, on a point of procedure, on April 14 I introduced Bill S-8, to amend the Citizenship Act (foreign spouses). That bill was given third reading on October 8, and it is now in the other place.

Yesterday Bill C-254 received first reading here, and on motion of Senator Macquarrie it was placed on the Orders of the Day for second reading at the next sitting of the Senate. Bill C-254, which has received third reading in the other place, contains the same objectives as Bill S-8.

I should like His Honour the Speaker to rule on the status of the bill which has now been introduced in the Senate. This may be beyond the purview of his authority, but I would also

like him to give us an idea as to what may happen to Bill S-8, which is now, as I said, in the other place.

Hon. Heath Macquarrie: Honourable senators, my interest in this has been mentioned. I did not know that the matter was going to be raised. I have the right to reply, but I am not going to comment at this time in view of the fact that the Senate, in a very hazardous way, has asked some very distinguished Canadians to appear before it today. We have already delayed them for half an hour, and if we are going to embark upon the exercise of attempting to forecast when an item of discussion will end, we will have to impose some kind of self-denying ordinance to accommodate those distinguished Canadians. I, for one, will not give my brilliant speech, which would result in further delaying those distinguished Canadians.

The Hon. the Speaker: I presume that Senator Macquarrie will rise on the point of order tomorrow.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, if the Committee of the Whole is prepared to proceed, may I say that it had been my intention to deal first with an item of business, namely, the Second Report of the Steering Committee, the Subcommittee on Agendas and Procedures. The report has been printed and will be distributed. In view of the delay in getting started, I suggest that rather than take the report into consideration now we try to do so between the first and second witnesses if there is no debate on the subject. Honourable senators will then, at least, have had a chance to read the report. We will therefore defer discussion of the report until later this day. In the meantime, it will be distributed. Is that agreed?

Hon. Senators: Agreed.

The Chairman: Our first witness this afternoon will be the Honourable John W. Pickersgill, P.C. He is already in the building and has been since the appointed hour of 3 p.m.

Senator Corbin: Honourable senators, may I inquire as to why we do not have the television cameras in the chamber today? We held quite a lengthy debate on whether we should allow television cameras in the Committee of the Whole. Therefore, I ask why we do not have the cameras in the chamber today.

Senator Frith: I am glad that the question has been raised by Senator Corbin, because if he is suggesting that we now have the Senate authorize the presence of cameras to televise the proceedings of the Committee of the Whole, then I would certainly be prepared to support such a motion so that we may have the cameras here each day for Committee of the Whole. All we have done up to now is authorize access to the news media. I am certainly ready at any time to move that forward into a situation where we have cameras in the chamber at all times for the Committee of the Whole.

Senator Corbin: May I ask the honourable senator if one could validly conclude that the press is not interested in televising the proceedings of the Committee of the Whole?

Senator Frith: When we agreed to allow them access we made it clear that it was up to them to decide whether or not they wished to televise the proceedings. I guess the inference which the honourable senator is drawing is a reasonable one, namely, that something else has occupied the services of those cameras at this time today.

Senator Bonnell: Mr. Chairman, if the national television people are not interested in covering this important hearing concerning an important matter affecting the future of this country, perhaps he would notify the local cable studios in this city—there are several here—who may be interested in recording our hearings. They could be taped and shown in the various constituencies and ridings by means of VCR or local cable companies for those members of the Senate who remain active in the political field and who would like to have made available what the witnesses are saying before this august body.

The Chairman: Thank you, Senator Bonnell. I will take that matter up with the steering committee and will see what might be done in that regard.

• (1510)

Pursuant to Order adopted on June 18, 1987, the Honourable John W. Pickersgill, P.C., was escorted to a seat in the Senate Chamber.

The Chairman: Our distinguished guest this afternoon does not require any introduction to the members of the Senate. He is a distinguished parliamentarian of longstanding, admittedly not from this place but from the other place.

Mr. Pickersgill, I am delighted to welcome you to the Senate. You may wonder somewhat about this seating arrangement, but we have done it this way so that the witness can face all senators rather than having some behind the witness. We are delighted to have you here this afternoon, and I might say, as a fellow Manitoban, how pleased I am to see you here. My colleagues may not be aware that you come from that great province.

Hon. Senators: Hear, hear!

The Chairman: I presume that you wish to start with some opening comments and then proceed to questions.

Hon. John W. Pickersgill, P.C.: If that is agreeable to the committee.

The Chairman: You may proceed.

Mr. Pickersgill: Honourable senators, this is the first time I have ever raised my voice in your honourable chamber and, of course, I deem it a great honour. Perhaps I could remind you that I very nearly became a member of this house in 1953, almost before some of you were born.

Senator Frith: Thank you.

Mr. Pickersgill: I would have come here at that time as the government leader, but Mr. Smallwood intervened and persuaded me to seek, I do not say greener pastures but different pastures.

I shall not repeat much of what I said to the joint committee of the two houses some time ago, because I feel sure that all honourable senators have read what I said there. I hope that some of you are even aware of an article I had published in the *Ottawa Citizen* setting out some of my views on the Meech Lake Accord. I will try not to repeat myself this afternoon.

The prime purpose of the accord, as I understand it, is to change the Constitution Act, 1982 to secure endorsement by Quebec and participation in future constitutional developments by the authorities of that province. I assume that all honourable senators, whatever they may think of the accord, favour that objective, as do the leaders of all three parties in the House of Commons, all the premiers and most Canadians. I say "all the premiers" after reading carefully what the new Premier of New Brunswick said at the joint committee meeting on August 25. Mr. McKenna began by saying that any changes "must not nullify the principles agreed to in the Langevin accord."

And he added:

> —any amendments should further advance or clarify the rights of Canadians—

In his written brief he said:

> If we want to survive as a united country, we cannot keep on indefinitely with one province politically removed from the Constitution and that constitutional process.

At that committee meeting, in reply to a question seeking a categorical statement as to whether he would accept the accord or oppose it if his misgivings were not met, Mr. McKenna said:

> Should I be the Premier of New Brunswick,—

At that time, of course, he was Leader of the Opposition.

> —I will do everything in my power to improve this accord—not to detract from it, but to improve it.

I was deeply impressed on reading his testimony by the constructive attitude of the gentleman who is now the Premier of New Brunswick.

I intend to spend a good part of what I have to say here today on Mr. McKenna's views as expressed before that committee, because so long as the other premiers carry out the solemn undertakings they gave at Meech Lake and the Langevin Block, Premier McKenna is the only person who could prevent the accord from being incorporated in the Constitution. Therefore, I think his views deserve special attention. I thought it might be helpful to this committee if I examined those concerns and the improvements he sought. He began by stressing the importance to New Brunswick and to the Atlantic provinces of "a strong national government with virtually uninhibited spending powers." He feared the proposed clause regarding spending powers was ambiguous and might prove restrictive.

In the past, as honourable senators, of course, know, Parliament has proceeded on the assumption that it possesses uninhibited spending power, even in areas of exclusive provincial legislative jurisdiction. In other words, Parliament cannot make laws for the provinces, but it can spend money on the subjects on which the provincial legislatures make laws. That assumption was confirmed by a decision of the British Privy Council many years ago. Honourable senators approaching my age—though none of you, of course, has reached it yet—will recall that the unrestricted right of Parliament to spend in provincial areas was repeatedly and unsuccessfully challenged in 1945 and 1946 by Premier Macdonald of Nova Scotia and Premier Campbell of Manitoba—perhaps the only time the Macdonalds and the Campbells ever agreed! Their objection was that it was an indirect distortion of provincial budgets for the federal government to be establishing shared-cost programs. Quebec, of course, refused to take any part in those shared-cost programs so long as Maurice Duplessis was the premier. More recently, during the First Ministers' Conference, proposals were considered for limiting federal spending power, but such proposals were never agreed to.

● (1520)

For the first time, the accord of 1987 would enshrine in the Constitution itself the right of Parliament to establish national shared-cost programs. This right is recognized in a back-handed fashion, I admit, by proposing that the Government of Canada provide reasonable compensation to an opting-out provincial government, provided that that government carries on a program or an initiative compatible with the national objective.

Mr. McKenna would prefer to have Parliament's jurisdiction set out more positively and explicitly. That, I think, would be fine if all parties agreed to such a change, but it would only be a change in words; it would not be change in substance. The basic principle of our parliamentary system is surely that neither the Constitution nor the courts of law can dictate to Parliament how it should appropriate money. Only Parliament itself could prescribe financial terms and other conditions of a shared-cost program or the conditions for providing reasonable compensation to an opting-out province. In practical terms, as there always has been, there would be consultation with provincial governments before a new shared-cost program was established, but Parliament would have the final word.

It is hard to imagine any federal government in future starting a new program without assurance that most provincial governments would participate, and also without some notion of the nature and extent of compensation for an opting-out province, as well as the degree of compatibility which would be acceptable before compensation would be provided by a parliamentary appropriation. In other words, the government and

the Parliament of Canada would, alone, finally determine both these questions, both what the shared-cost program would be and what the compatibility would be. Otherwise, no government would vote any money. In turn, the government and Parliament would, alone, be to blame if the conditions for compensation were so loose that money could be diverted by a provincial government to purposes that were not compatible with the shared-cost program.

Therefore, it seems to me that there is no practical political difficulty that could arise in this situation. Even without changing the language the accord would continue Parliament's uninhibited spending power which a strong national government can use. Whether or not there is a strong national government will depend upon the voters; not on the precise language of the Constitution.

The second concern expressed by Mr. McKenna was, and again I quote:

> The role and responsibilities in relation to fisheries was included as a specific subject, along with Senate reform, on the agenda of future annual constitutional conferences.

As honourable senators, no doubt, know, several fisheries organizations have expressed similar concern. The disproportion between Senate reform and the fisheries, as two items on the agenda, seems to me faintly ridiculous. However most of us, I believe, have a well-founded suspicion about why it is there. As a one-time Member of Parliament for a constituency in Newfoundland, and a continuing summer resident of a fishing settlement in Bonavista Bay, I would be deeply concerned if the jurisdiction over fisheries did not remain exclusively federal. However, I do not believe that there is the slightest chance that the jurisdiction will be changed. Moreover, the presence of fisheries on the agenda surely does not mean it will stay there in perpetuity. I hope it would be disposed of at the conference in 1988.

Mr. McKenna was properly concerned, especially as the prospective Premier of New Brunswick, about the rights of minorities, and linguistic minorities in particular—an area in which his province has such an enviable record. He contrasts "preservation and promotion" as related to Quebec with "preservation" alone in the case of Parliament and the other provincial legislatures. He would like Parliament to be charged with promoting—as well as preserving—the fundamental character of Canada with two official languages, but he did not think—and I was very much interested by this realism—that the Constitution could place similar obligations on provincial governments. Such an obligation, he thought, would have to be assumed by individual governments and legislatures, as was done in the case of New Brunswick.

I would be happy if all governments and legislatures agreed to charge Parliament with promotion, but doubt if several would agree. In any case, I ask myself whether it matters in practical terms. Ever since Mr. Pearson appointed the Commission on Bilingualism and Biculturalism every Prime Minister from Mr. Pearson on has actively promoted linguistic and cultural duality, language training in the public service, and the Official Languages Act being two outstanding initiatives of promotion by Parliament and the government.

[Mr. Pickersgill.]

All Leaders of the Opposition, from Mr. Stanfield on, have been equally strong on promotion, as has the NDP leader. The insertion of the word might have moral weight, but it could, I think, as far ahead as one can see, make no practical difference. It is hard to see how promotion, or even preservation—even if both words were included—could be legally enforced by the courts. All it is is an objective.

Parliament has been very forthcoming, and so have all of the governments from that of Mr. Pearson on. We can also think of many provincial governments that have taken steps in this direction, particularly Ontario. We have also noted that all of the protests about French on cornflake boxes have ceased.

● (1530)

The present Premier of British Columbia seems to be in a different mood these days.

French immersion has proceeded at an extraordinary pace. I happen to know about the situation in Gander, where there is a queue to get into the immersion classes. I know that because I have two grandsons in those classes. My own feeling is that missionary effort in this field is more likely to be effective than declarations in the Constitution.

Mr. McKenna echoed the concern of women's groups and others that clause 16 of the accord might diminish or negate other rights in the Charter; that the reassurance of aboriginal rights and multiculturalism might weaken the guarantee of other rights. Inclusion in clause 16 of the accord of a guarantee of section 28 of the Charter, which provides that all rights and freedoms apply equally to male and female persons, might be reassuring to some women's groups. But in view of the specific and categorical language of the Charter, this fear seems to me rather far-fetched. If in the future the government and legislature of any province, including Quebec, should be disposed to reduce the rights of women, they would surely use the "notwithstanding" clause 33 of the Charter, which the Trudeau government and nine provincial governments put in the Constitution in 1982, rather than base legislation on some fine-spun legal argument, which would almost certainly be declared *ultra vires* by the Supreme Court.

Nevertheless, a perception by several women's organizations that the equality of men and women might be legally threatened is there. As a one-time practical politician of some years' experience, I cannot imagine that any government or legislature would be foolish enough to reduce the legal status of more than half of the electors. It seems to me to be an illusion. But I say that if the new Premier of New Brunswick could persuade all the premiers and the Prime Minister to include a reference to section 28 of the Charter in clause 16 of the accord, it would provide many women's groups with reassurance. Even a unanimous agreement to include the proposal on the agenda of the 1988 First Ministers' Conference might substantially reduce opposition to the accord. I hope, honourable senators, that inability to achieve even this degree of change would not be regarded as justification for not approving the accord.

Mr. McKenna felt that mobility rights might also be reduced because of the limited scope of clause 16. It is hard to see how. I am not aware of a federal impediment to mobility of Canadians, but we all know that there are indirect provincial impediments—lawyers and medical doctors, in particular, know that. It is not easy to see how they could, in practice, be removed by constitutional change.

Mr. McKenna also expressed concern about aboriginal rights—not the extra reassurance in clause 16 but the failure to include aboriginal rights on the agenda for future First Ministers' Conferences. He does not see why Senate reform and fisheries should be permanent items on the agenda and aboriginal rights should not be. Personally, I do not interpret clause 13 of the accord to require any item to remain permanently on the agenda. It certainly does not say so. I expect Senate reform will be there for a long time. It has been around for a long time, in my experience. But I do not see why fisheries should not be disposed of at the very first meeting.

Unlike Dr. Forsey, I do not think that unanimous consent would be needed to put other items on the agenda. It seems to me that if any First Minister wanted an item on the agenda it would be very difficult to refuse him or her.

Mr. McKenna fears Senate reform will be placed in a constitutional straitjacket by the unanimity rule. I do not know that honourable senators would be too worried if that was true. Since both the composition and powers of the Senate were originally designed to safeguard the relative position of the provinces in the Senate and in the country, I asked myself whether fundamental Senate reform is conceivable without the acquiescence of all provincial governments.

Mr. McKenna does not favour, in his words, "the transfer of responsibility from the federal to the provincial governments for the appointment of Supreme Court judges." Neither would I if "transfer" were the right word, but surely it is not. Only the Government of Quebec has the exclusive right to nominate judges because of the requirements related to the Civil Code. Since no other province is a constituency for the Supreme Court for judicial appointments, presumably the Prime Minister can accept nominations from any of the other nine provincial governments. So there does not seem to be much additional provincial power there.

The vital point, it seems to me, is that the federal government has the final word in all appointments to the Supreme Court. If this procedure should not work or not work well—I believe it would—the Supreme Court could be put on the agenda for a future conference.

I have dealt especially with the misgivings of the new premier, because he is now the only person in a position to bargain for changes in the accord. When one of the Tory MPs tried to pin him down at the joint committee, his cagey replies were, I thought, worthy of Mackenzie King. You can refer to his testimony in the House of Commons committee report, issue number 12, pages 12 and 13. I do not think the old master could have done better.

I should now like to refer to two other sections of the accord that Mr. McKenna did not deal with. One item is immigration. It seems to me that all the objections I have seen betray ignorance of the British North America Act of 1867, which gave both Parliament and the legislatures jurisdiction, with the federal law to prevail in case of conflict. That provision is not changed at all. What the accord would do is to give constitutional recognition to agreements such as the Trudeau government made with the Government of Quebec. It does not seem to me to have balkanized the country yet.

• (1540)

The most substantial and frequent objections to the accord are to its central feature: the recognition of the province of Quebec as a "distinct society." The Premier of New Brunswick took no exception to the "distinct society," and recognized that it was essential to national unity to have Quebec within the constitutional process. As I said at the joint committee, describing Quebec as a "distinct society" in the Constitution will only confirm the decision of King George III, in 1774 and again in 1791, and repudiate once more Queen Victoria's decision, in 1841, to turn Quebec into an Anglophone society. I just mention those sovereigns to identify the reigns; they did not actually do it themselves.

It was to the glory of the Province of Canada that the use of the French language was restored by Parliament in that province with an Anglophone majority. That is one of the highlights about Canadian history. Queen Victoria herself recognized her mistake in 1867, when Quebec was separated from Ontario and recognized again as the "distinct society" it was first recognized as in 1774.

On the accord in general, if honourable senators do not object, I would like to quote from Mr. R.L. Stanfield's testimony at the joint committee. It is a relatively short quotation. He said:

> In 1982 we made fundamental constitutional changes in this country that were unacceptable to Quebec. I have heard a lot of rhetoric in my lifetime about one Canada and two Canadas, but in 1982 we created two Canadas, one consisting of nine predominantly English-speaking provinces, which accepted the constitutional changes that were made, and the other, Quebec, predominantly French-speaking, which did not accept the constitutional changes, and, one can say with considerable confidence, never would. We behaved as if the referendum in Quebec had settled the whole Quebec problem, the whole Quebec question. What the referendum had done, in fact, was to provide Canadians with a chance to achieve constitutional renewal, a chance we threw away. The country's response to the referendum was to try to shove important new constitutional change down Quebec's throat. Some renewal. I say to you that Laurier, King, St. Laurent, or Pearson would not have done that. That was not the way they saw Canada.
>
> We really shot ourselves in the foot in 1982.

He went on to say, "What a mess to get out of."

Well, Mr. Stanfield said that the Constitution of 1982 left a mess. I would not go that far. On one occasion I described the process of 1981-82 as "sleazy." Perhaps that word is a little strong, but several premiers seem to do double-crossing in a good cause. Patriation was essential in my view. I believe I would, to use the notorious phrase, "have held my nose" and voted for it. But at the time I deeply regretted the grievance expressed not just by the government but by the whole Legislature of Quebec—every member of it. I felt it was the duty of all Canadians to try to remove that sense of outrage at the first opportunity. In that sentiment, I agree substantially with the presentation of the Honourable Gordon Robertson, recorded in the joint committee Issue No. 3, which I will not bore you by quoting.

That opportunity to do something about it was presented by the moderate and reasonable proposals made by the Premier of Quebec for amendments to the Constitution and by the agreement in Edmonton of the other nine premiers to give constitutional priority to an attempt to agree on amendments which would make the provincial authorities of Quebec willing to accept the Constitution to which they had been obliged by law to submit.

The Prime Minister saw that opportunity and seized it by calling the Meech Lake conference. I am not impressed by the criticism that there was not time enough for public participation. Surely no form of public approval can compare with the unanimous approval of all 11 First Ministers, with majorities in their legislatures. Many of those representing special interests and academic and professional critics have implied, or even specifically stated, that elected politicians are concerned with their own political interests and not the public interest. Surely the supreme political interest of elected politicians is to retain or gain the support of the public.

I was impressed that the leaders of both opposition parties in the House of Commons at once recognized that the unanimity of Meech Lake was an amazing achievement. It seems to me that many of the critics do not realize, as I said at the joint committee—and I would like to quote this brief reference—that "the Constitution is not a Christmas tree on which everybody is entitled to get some kind of special recognition for some kind of special thing. It seems to me that most of the people who have opposed Meech Lake seem to assume that unless you get something in the Charter of Rights nothing can be done about it. They seem to think Parliaments and legislatures do not matter, and if they do they are against the people"—which seems to me to be pretty absurd since they have to get the votes of the people. It would be a great mistake to try to import into the Meech Lake Accord as revised in the Langevin Building anything substantial that is not already there.

I want to repeat one other thing that I said—I am practically concluding, honourable senators; I know that I have gone on too long, but that is what octogenarians are apt to do. On page 123 and 124 I say:

> I may say that if we can accomplish what Meech Lake sets out to do, that is to say, to get the willing and active consent and participation of the provincial authorities, both the government and the legislatures, in support of the Constitution, instead of asking them to submit to it, it will be a great achievement.
>
> I think that most of you know that I am not much of a supporter of the present Prime Minister, but I did respect two things that he has done. I respected his courageous stand against what I call "the bigotry" in Manitoba. I respected his determination to do everything possible to heal this wound to bring Quebec back into the constitution.

[Mr. Pickersgill.]

● (1550)

I read recently in a press comment the categorical statement that "clearly, the Meech Lake Accord will result in a much looser Confederation." In my opinion, that is not clear and it is not correct. The accord will confer no legislative jurisdiction on the provinces they do not already possess. On the other hand, the legislative jurisdiction of Parliament will be reinforced by the constitutional recognition of parliamentary spending power in areas of provincial jurisdiction.

The accord, it is true, will limit somewhat the exclusive patronage of the Prime Minister in two ways. I am not so sure that is a bad thing. However, in those two ways he will still have the final word. That is hardly loosening Confederation. I would like to be shown any way in which the accord would loosen Confederation. Up to now no one has been able to persuade me of that.

Surely Confederation will be strengthened if all the provincial authorities have willingly endorsed the Constitution. What I am sure of is that Confederation will be weaker as long as the government and Legislature of Quebec are relatively submissive instead of being willing partners.

The failure at this stage of any of the other parties to the accord to secure its acceptance will be a direct affront to the provincial authorities of Quebec. Another generation, at least, is likely to pass before there is another opportunity to remove the grievance, and it is never likely to be possible on such reasonable terms. Meanwhile, the rebuff to Quebec will give encouragement to such separatist sentiment as still persists whereas generous acceptance will discourage any such movement.

But encouragement of Quebec nationalism will not be the only consequence of rejection of the accord. It seems almost certain that as long as the authorities in Quebec have not willingly rejoined the constitutional family the refusal of any conceivable government of Quebec to share in the constitutional process will continue. No extension of aboriginal rights will be possible without Quebec. No Senate reform of any significance will be possible. No improvement in the Charter of Rights and Freedoms could be imposed on Quebec, and no new provinces could be established unless Quebec participated in the accord. In fact, without Quebec's participation Canada will be constitutionally paralysed.

Some Hon. Senators: Hear, hear!

The Chairman: Thank you very much, Mr. Pickersgill. I have a number of senators who would like to ask some questions. First on the list is Senator Lucier, and he will be followed by Senator Macquarrie.

Senator Lucier: Thank you, Mr. Chairman. Mr. Pickersgill, it is an honour to have you appear before our committee. I will ask you a group of questions, sir, and then ask you to reply to them.

You speak of all who agree with the Meech Lake Accord, sir, as it is presently written. Have you studied the accord with regard to its effect on the Yukon and Northwest Territories?

Mr. Pickersgill: As I read it there is nothing in the accord whatsoever about the Yukon or Northwest Territories. What it does say is that a new province could not be created unless all the provincial authorities agree to it.

Senator Lucier: By implication, what you are saying is that the Yukon can never become a province, and that is acceptable to you?

Mr. Pickersgill: I said nothing of the kind. Please do not misconstrue my words. I have said that as I understand it, under the accord no new province could be established without the agreement of all provincial governments.

Senator Lucier: Exactly.

Mr. Pickersgill: That is a very different thing from saying that no province could ever be created.

Senator Lucier: I will now go on to my next question in my series of questions.

You are aware that the Meech Lake Accord as it is presently written denies the Yukon ever having the right, as other Canadians have, to name senators or to put forward names of persons who could be appointed to the Supreme Court of Canada. Of you, sir, a great Canadian, I would like to ask: How can you support an accord that gives rights to Quebec—which everyone wants to see—by taking those rights from one third of Canadians? One third of Canadians have been guaranteed and, indeed, will now have second-class citizenship established in the Constitution.

Mr. Pickersgill: As I understand it, there is nothing in the accord that would prevent the Prime Minister of Canada from consulting with the head of the government of the Yukon or the head of the government of the Northwest Territories before senators are appointed. I would be very surprised if he would not do it, whether it is in the accord or not.

Senator Lucier: There was nothing that prevented him from doing that previously.

Mr. Pickersgill: It does not deny them anything. It does not expressly give them something, but that is a very different thing. I am a practical politician, and I assume you are, too. You know that Constitution or no Constitution, people are not going to do things that will lose them support.

Senator Lucier: The accord says that the members of the Senate and members of the Supreme Court will be chosen from lists provided by the premiers, and, in fact, Supreme Court appointments will be made from a list provided by the premier of that province of people who are members of the bar of that province. Therefore, a premier from Ontario cannot recommend a person from Nova Scotia to the Supreme Court unless that person is a member of the bar of Ontario.

Mr. Pickersgill: Why can he not? I do not understand you at all. There is no constituency for Ontario in the Supreme Court. When vacancies occur, except for the Quebec ones, any qualified lawyer can be appointed from any province.

Senator Lucier: It is stated in the accord that he has to be recommended by a premier.

Mr. Pickersgill: As I read the document—and I think I read it correctly—there is nothing to prevent the Prime Minister from accepting a nomination from any one of the nine provincial premiers to any of the six vacancies in the court.

Senator Lucier: You are wrong. You have not read it correctly.

Mr. Pickersgill: Show me where it says that Ontario will put forward so many nominations or Prince Edward Island will put forward so many nominations? There are only six other judges.

Senator Lucier: The Premier of Ontario can only nominate a person who is a member of the bar of Ontario.

Mr. Pickersgill: You are talking about the Senate. I thought we were talking about the Supreme Court.

Senator Lucier: I am talking about the Supreme Court.

Mr. Pickersgill: How many people is Ontario entitled to have on the bench of the Supreme Court?

• (1600)

Senator Lucier: It doesn't matter how many they are entitled to have. The accord now says that the Supreme Court appointments will be chosen from lists supplied by the premiers.

Mr. Pickersgill: Yes.

Senator Lucier: The premier has to supply a list containing names of members of the bar of his province. Therefore, if a candidate is a member of the bar of the Yukon, he cannot be named to the Supreme Court of Canada.

Mr. Pickersgill: Perhaps I am not making myself very clear.

Senator Lucier: The people of the Yukon will not have the same rights as those of the people from the rest of Canada. That is what I am saying.

Mr. Pickersgill: What I am saying, and I cannot see anything in the language of the accord that contradicts me, is that for the six common law judges of the Supreme Court of Canada, when a vacancy occurs, it can be filled by a candidate from any one of the provinces or even from one of the territories.

Senator Lucier: No, it cannot.

Mr. Pickersgill: Well, show me how it cannot.

Senator Lucier: Read the accord. It says that a premier can only name someone who is a member of the bar of his province.

Mr. Pickersgill: That may be so, but—

The Chairman: If I may, honourable senators, I do not think we are here to argue. I do not have the accord before me, but I believe that it is clear in that regard. If Senator Lucier has the accord before him, I would ask him to read that specific passage.

Senator Lucier: I do not have the accord before me, Mr. Chairman.

Senator Walker: Mr. Chairman, it is most undignified that we should be taking advantage of an old parliamentary friend of some years in this fashion. What is the advantage to all of this? It is a lot of nonsense. Either the person asking the questions does not know what he is talking about or our guest doesn't, and I do not suspect for a moment that it is our guest.

The Chairman: I would ask Senator Lucier to proceed. We are not here to argue; we are here to elicit information.

Senator Lucier: Mr. Chairman, it is difficult to elicit information when dealing with an issue such as the Meech Lake Accord. I am asking the witness if he has read the accord as it relates to the Yukon and Northwest Territories. I was a member of a task force that has just heard some 50 witnesses in the Yukon and the Northwest Territories. Those 50 witnesses all said that they felt they were being denied their rights as Canadians. They all felt that their right to participate in the Senate and in the Supreme Court, as well as those rights respecting the future of their provincial status, had been denied them by the Meech Lake Accord. I am now told by the witness that he really sees no problem with that. I do not have any further questions; I will leave it at that. I do not think there is much to be gained by further questions.

Senator Walker: Hear, hear!

Senator Macquarrie: Mr. Chairman, I am delighted to hear from my long-time colleague in the House of Commons, a bureaucrat of the highest level and a former academic colleague, Mr. Pickersgill. We now hear that he is an "almost" senator.

I want to say that when I visited the college in Winnipeg from which I graduated some 40 years ago I heard talk about a former professor by the name of Jack Pickersgill. We have watched him; we have heard him in action, and he was always intellectual, sharp and lucid in the House of Commons, even when, as I sometimes thought, he was wrong. Today I think he is profoundly right.

I am just going to raise a small question which I do not think was quite covered in answers given to Senator Lucier. Mr. Pickersgill, do you see anything in the Meech Lake Accord that would make anyone in the Yukon or Northwest Territories feel that they would be denied a future right to have senators representing those areas? Would not section 24 of the Constitution indicate that senators from those two territories would continue to be appointed as they are now, without the Meech Lake Accord having an effect?

Mr. Pickersgill: In my reading of it—and I have read it a good many times, both the original and the Langevin versions—I think it would be nicer if it were stipulated that in the case of senators from those two territories, the original nomination could be made by the heads of their governments, as it is in the case of the ten provinces. But as a practical matter I do not see why this practice will not almost certainly be continued, anyway.

I am not saying that I think the accord is perfect. I do not. But I think it is the best that could possibly be achieved. I have done a lot of writing as well as a certain amount of speaking. You never find out what is wrong with something until you have seen it. I do not think that in practice there is any doubt that if the Northwest Territories are divided the Constitution would not prevent another senator's appointment to the Senate. Even though there must be approval of major changes to the Senate, I cannot see anyone who would object to that. I cannot see any sensible Prime Minister, having consulted provincial premiers, ignoring the leaders of the other two governments.

Senator Frith: The candidate, however, must be on a list proposed by a provincial premier. Therefore, if a candidate is from the territories he must persuade the Premier of British Columbia or the Premier of Saskatchewan to put him on the list.

Mr. Pickersgill: With all due respect, senator, that is not a correct interpretation. There are senators who represent the two territories. Certainly no provincial premier is going to have a right to nominate representatives of the territories. There would be nothing to prevent the Prime Minister from consulting the heads of the governments of those territories in the case of a vacancy in them.

Senator Frith: Of course not, there is no reason for him not to consult. If a candidate wants to be eligible for the appointment, he has to persuade a provincial premier to put him on that province's list.

The Chairman: Senator Frith, if I may, Senator Macquarrie has not concluded his questioning, as far as I know. I will put you on my list, senator.

Senator Frith: Do that.

Senator Macquarrie: Mr. Chairman, I just want to say that my question to our distinguished witness was not based on any such preposterous suggestion that premiers would be nominating senators from the Northwest Territories or the Yukon. I am very satisfied with Mr. Pickersgill's answer.

Senator Frith: Yes, I thought you would be.

Senator Marsden: Mr. Pickersgill, you said this afternoon, with respect to concerns raised on equality and women's rights, that any government would be foolish to take away rights from half the voting population. I believe those were your words. Well, if one has any sense of the history of women in this country—and I am sure you have—one would know that we

have had a long series of very foolish governments. Indeed, in all kinds of instances one can cite half the population has either not gained a right or, as happened in the Persons case, had a right denied it by the Supreme Court of Canada. In the most recent round of 1980-82 some of the premiers were perfectly content to trade off equality rights or to exclude them if they possibly could.

● (1610)

You have talked very effectively about the sense of outrage on behalf of Quebec deriving from the history of the country, and there is no question about that. There is also a great sense of outrage on behalf of 52 per cent of the population arising out of that history.

Before the joint committee you said—I am quoting from your testimony—that Quebec's lack of agreement to the 1982 constitutional changes

> . . . left a wound and a grievance. Not only that, but it did something that had never been done before: it reduced the powers of the Legislature of Quebec, as it reduced the powers of all the other legislatures and of the Parliament of Canada with the Charter of Rights. That was really taking away from the plenitude, the sovereignty of our Parliament and our legislatures, and doing it without the consent of all of them. To me that was really a very serious situation.

An Hon. Senator: Question!

Senator Marsden: I am coming to the question. Clearly, Quebec did not agree to the Charter in 1982, and, clearly, the Charter is what they still do not agree to. Why, then, do you for one moment think that we should not be very concerned about the possibility that the "distinct society" would override equality rights in the Charter? I might add that Quebec has used the "notwithstanding" clause since 1982 quite vigorously, and might again. Why should we not be concerned?

Mr. Pickersgill: When the "notwithstanding" clause is still in the Constitution—it was put there by Mr. Trudeau and the other nine premiers—and it can be used, then why would they try to find some other fine-spun excuse for taking any rights away from women? The law they would make in this other way would almost certainly be invalidated by the Supreme Court. It seems to me that if you want real reassurance, what you should be working against is the "notwithstanding" clause, and not anything in the accord.

Senator Marsden: It is a double-barrelled approach. Nonetheless, if that were to go, then why not get it right this time with respect to the Charter?

Mr. Pickersgill: In the case of Quebec I think that perhaps we will never totally agree; but in the case of Quebec they had something imposed upon them. I can recollect, in a rather long memory, the day when Edith Rogers was elected to the Manitoba Legislature in 1920, and I cannot think of any instance—perhaps you can—in which any legislature or Parliament has ever taken anything away from women. I admit that sometimes they have been very reluctant to recognize their equality; but now it is right there in the Charter, in black and white, and the idea that any practical politician who could ever get to become a premier or Prime Minister would be so absolutely insane as to try to legislate discriminately against women is beyond my comprehension.

Senator Marsden: Well, we cannot agree, but thank you.

The Chairman: The next questioner will be Senator Stewart, followed by Senator Stollery.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman. I am sure that Mr. Pickersgill, remembering his days in the House of Commons, must appreciate the solicitude that Senator Walker has displayed for his—

Senator Frith: Old pal.

Senator Stewart (Antigonish-Guysborough): —old adversary here this afternoon.

Senator MacEachen: It never showed in the Commons.

Senator Stewart (Antigonish-Guysborough): My first question concerns the "distinct society" rule of interpretation. As I understood you, Mr. Pickersgill, you said that this only confirms the decision made by George III. Are you implying that it really does not change the legal régime at all, that in fact it is nothing but a rhetorical nullity?

Mr. Pickersgill: I am not saying that at all. I am saying that it reaffirms what was first put in the Quebec Act; secondly, in the Constitution Act, which was partly taken away in the Act of Union; which was restored in the act of 1867, and which the Quebec Legislature, I think, had some reason to fear, because they were overridden in 1982 and needed to be reaffirmed.

Senator Stewart (Antigonish-Guysborough): Am I correct in believing that you believe that the "distinct society" rule refers exclusively to language?

Mr. Pickersgill: No. It refers not to language but primarily to the Civil Code, I would say. Because there really was the recognition of the Catholic Church, which was not recognized in England or even in Ireland. It was recognized in the Quebec Act, and so was the Civil Code. But so far as I can recall, there was nothing in the act that said anything about language. But in practice there was never any restriction on the use of the French language until the Act of Union in 1841. Then, as I pointed out, it was changed by the Canadian Parliament, which I think was a great glory for Canada, because there was an Anglophone majority in that Parliament. Mind you, I am not a lawyer. I have been studying the Constitution for about 60 years, but I do not know what interpretative provision could be found in this clause when it says that it does not enlarge the legislatures' powers or enlarge Parliament's powers. It seems to me that it would be wrong and *ultra vires* to try to take away any of these things and that the Legislature of Quebec, within its powers, can promote its existing character. I do not interpret the distinct character of Quebec as being just the Francophones in Quebec. I think that one of its distinct characters concerns the constitutional rights for those who use the English language, which are still there, and I think that

any decision would require that to be taken into account just as much as the other. For example, I do not think that the right of people to use English in the Quebec courts could be taken away.

Senator Stewart (Antigonish-Guysborough): You said just now that it reconfirmed the Civil Code—the provision relative to property and civil rights in the province.

Mr. Pickersgill: Yes.

Senator Stewart (Antigonish-Guysborough): But I want to know how a court will apply this new rule of interpretation. Does the rule simply reiterate the provision on property and civil rights, or does it add some new ingredient to the Constitution? If it adds a new ingredient, I would like to know what it is that has been added and where you think this is likely to have a practical effect. You have emphasized practicality; I should like to know what practical consequence you envision.

Mr. Pickersgill: Well, I cannot see that it could have any practical effect on the future. I think it is very important for reinforcing the rights that are there, the powers of the legislature, and so on. But I am not a judge, and I will never be on the Supreme Court at the age of 82 even if I were a lawyer. So I think you will have to wait and let the courts decide whether it has any significance. However, I cannot see how it could possibly be used to limit the Charter of Rights.

• (1620)

Senator Stewart (Antigonish-Guysborough): Let me ask another question.

The Chairman: Senator Stewart, I ask you to be very brief, as I have four other questioners.

Senator Stewart (Antigonish-Guysborough): I will be brief. It relates to section 7, the spending power section, where it provides that if a province carries on a program or an initiative that is compatible with the national objectives, it shall be compensated if it wishes to opt out of any new shared-cost program. Let us suppose that the medicare program were just coming into force as a new program. As you understand this section, would the inclusion of a provision for extra billing for medical services in a provincial program be found to be compatible or incompatible with national objectives?

Mr. Pickersgill: As I interpret that language, it refers to some specific aspect of a program. I think it refers to the general character, and it could not apply to medicare anyway. But what I did say and what I would like to emphasize again is that no shared-cost program will be started in the future unless the Government of Canada and the Parliament of Canada adopt the legislation, and no money will be paid for opting out unless the government and the Parliament of Canada introduce the necessary legislation. So there is no question whatever that the final say rests with Parliament.

Senator Stewart (Antigonish-Guysborough): There is no question on that, but you seem to suggest—

The Chairman: Senator Stewart.

[Mr. Pickersgill.]

Senator Stewart (Antigonish-Guysborough): Very well, Mr. Chairman, I yield.

The Chairman: I am sorry. As you know, we were late starting. Our other witnesses have arrived and we are already substantially late. I have four other names on my list, and we should complete our questioning in about ten minutes both in fairness to this witness as well as to the next witness. The next person on my list is Senator Stollery.

Senator Stollery: Mr. Chairman, I shall try to be brief. I have noticed in your testimony before the joint committee on the accord that you seem to emphasize that this was the best deal that could be obtained under the circumstances. I think you have reaffirmed that today.

Mr. Pickersgill: That is correct.

Senator Stollery: You have also mentioned today Mr. Stanfield's comment to the effect that leaving Quebec out of the 1982 Constitution Act was unacceptable. What I would like to know is how you feel the Government of Canada should deal with a provincial government that has decided to secede from Canada, which was the situation in 1982. It seems to me—and I do not know whether it is being done for convenience sake—that there has been no mention here of the fact that the Government of Quebec in 1982 was a separatist government, with no interest in a successful Constitution.

Mr. Pickersgill: They had given it up.

Senator Stollery: What do you think a national government should do in those circumstances?

Mr. Pickersgill: I do not expect to be around if such circumstances ever arise again. I do not think anyone in this room will be around, and I hope that the next generation will not be around either. The question is to a high degree hypothetical, and it has no relation whatever to the accord. I would be too presumptuous to try to answer it.

Senator Stollery: But that was the situation in 1982, which you referred to in your testimony before the joint committee. You have said today that leaving Quebec out in 1982 was unacceptable, and that this accord, though you have questions about it, puts Quebec back in the Constitution. Do you not think that it is worth, at least, reflecting on the fact that in 1982 the Government of Quebec had no interest in any arrangement that would develop or enhance the Constitution of Canada?

Mr. Pickersgill: Mr. Lévesque, who was still the premier, came to the conference, took part in the conference, but was dissatisifed with the result. I think you have to conclude that having accepted the verdict of the referendum you could no longer say that the Government of Quebec of that day was still trying to gain independence. Now, whatever was in the back of their minds is another thing. In any event, the question is quite hypothetical.

Senator Stollery: Leaving the question aside, then—though I certainly do not accept that it is hypothetical, as the opposition party in Quebec today is that precise party which has at its main goal independence—I would like to ask you another

question about the problems with definitions. A few moments ago in response to Senator Stewart you said that you had particular definitions of your own about a distinct society, and I suppose others will have their definitions, too. Do you think that this matter should be referred to the courts, as occurred in 1979 and 1980?

Mr. Pickersgill: My short answer is no.

Senator Grafstein: Mr. Pickersgill, I remember that in 1967 you gave me one of my first lessons in federal-provincial relations. At that time you were having problems with the Province of Quebec. I recall that it was on a trip to Newfoundland, and you and I and the present leader of our party were present. It was around 12.05 o'clock, and we were discussing the intractable Province of Quebec. You suggested, perhaps facetiously, that one of the solutions would be to take the number of provinces in Canada and divide them. So instead of one Quebec we might have two Quebecs, and instead of one Ontario we might have two Ontarios. You suggested that this might be a means of fragmenting the power that made one province or the other intractable. Do you still hold that view?

Mr. Pickersgill: I do not think I ever held it. I believe you said that this occurred after midnight or just about at midnight. All I ever said was that some of the problems would be easier if there was not such a great disparity in size, wealth, and so on between one province and another, but I do not think things will ever change.

Senator Grafstein: Obviously, under the Meech Lake Accord you could not even arrive at that solution to expand the number of provinces, because you would need the unanimous consent of all the premiers.

Mr. Pickersgill: I think it is totally impractical.

Senator Grafstein: Let me come to the matter of spending power. Do I take your evidence to be that, notwithstanding the provisions in the Meech Lake Accord, from a practical standpoint Quebec and Ontario now have a functional veto with respect to any new national program that might involve both federal and provincial governments? Essentially, therefore, if there was a new federal spending program such as medicare being proposed, without getting the acquiescence of Quebec or Ontario—and you mentioned Quebec specifically—functionally we could not have a new national spending program. Is that the purport of your evidence?

• (1630)

Mr. Pickersgill: It has always been exceedingly difficult to achieve shared-cost programs. As you know, the Government of Ontario resisted medicare for a very long time. There is no doubt that shared-cost programs do distort provincial budgets and that provincial governments, if that tariff were not held before the electors, might prefer to spend on something else the amount of money that they are compelled to spend on the shared-cost programs. I do not think it is going to be any easier or any more difficult because of the accord. I do not think it will make any difference.

Senator Grafstein: An argument has been made, for instance, by the Attorney General of Ontario and others that essentially the federal spending power is now clear and will be able to operate on a much more functional basis, and that the federal government will have more clear-cut power to enforce a national program. You say that in practical terms is not correct.

Mr. Pickersgill: I do not think I quite follow.

Senator Grafstein: The Attorney General of Ontario has said to me and to others that the federal government's spending power is much more effective now. It will not have these claims made by the provincial government, and it will be more effective in being able to promote and implement new national spending powers that might tranche or affect the provincial authority. In effect, he has said that this is one of the reasons why he was so supportive of Meech Lake, because it strengthens the federal powers.

Mr. Pickersgill: I agree with your last statement. I think it does strengthen the federal power very marginally, but it does strengthen it. Before the spending power was based on a decision of the British Privy Council. In three years, if everything goes right, it will be in the Constitution, and that strengthens the federal power a little bit.

Senator Grafstein: I do not intend to belabour the point, but you have made the other argument in your testimony that—

The Chairman: Senator Grafstein, I must ask you to conclude. I have two other questioners waiting and we are really at the limit of our time. Our other witnesses are waiting.

Senator Grafstein: Mr. Chairman, I have one further aspect which perhaps I might explore briefly.

The native people in the province of Quebec, I have been told, feel disenfranchised, outraged, left out, and feel as if they are second-class citizens, because they do not expect that their issues will appear on the agenda for constitutional reform for another half a decade, at least, if then. How are we in this place, concerned as we are with minorities, to assist them to accelerate that process if, in fact, they feel that Meech Lake defers the process for them? How can we, in effect, deal with that grievance; the same sort of grievance as you suggest that Quebec had when it was left out of the Constitution?

Mr. Pickersgill: Of course, the very first attempt made by the Government of Canada to amend the Constitution of 1982 was to extend aboriginal rights. They failed, not because of any lack of will on the part of the government in Ottawa but because of two things: objections by one or two provincial governments, and a certain lack of unanimity among the native people themselves. I think the moment there seems to be any prospect of success you will see that item back on the agenda.

The Chairman: Thank you very much, Senator Grafstein. I have Senator Robichaud and then Senator Lang. Can I ask both senators to limit themselves to one question, please?

Senator Robichaud: I have one question, and I will try to follow the rule of the chairman. Mr. Pickersgill, I am very glad to see you again today.

My question is this: We had a formula under which a consensus of seven provinces, representing 50 per cent of the population, was required in order to change the Constitution. Under this accord it requires the unanimous consent of all ten premiers.

Mr. Pickersgill: Only for some things, senator. The other formula is still there in the Constitution.

Senator Robichaud: Yes, for some things—

Mr. Pickersgill: Yes, it always was for some things—

Senator Robichaud: No, not necessarily—

Mr. Pickersgill: Yes, I think it was for the Queen, for example, and quite a number of things.

Senator Robichaud: Perhaps I might quote from the *Montreal Gazette* of Monday, November 16. The title of the story is "Free trade will end regional disparity: PM". I intend to quote only a small portion.

> —Mulroney said he is "not in the slightest" worried about a regional split.
>
> "In this country, you can't get unanimity on anything."

That article quotes the Prime Minister, and that was said just last week. Does this accord put Canada in a straitjacket? What is your opinion?

Mr. Pickersgill: No, I do not think it does. I do not think it puts us in any more of a straitjacket than we put ourselves in in 1867. Certainly, we cannot change our Constitution without an overwhelming consensus.

Senator Robichaud: Under the so-called Meech Lake Accord, what does require unanimous consent of the ten premiers and the federal Prime Minister?

Mr. Pickersgill: The particular items are listed in that accord. I have taken so much time now, I do not think I should take the time by reading it.

The Chairman: Thank you, Senator Robichaud. The next questioner is Senator Lang. One question?

Senator Lang: One question. I have a piece of paper hanging on my wall known as Letters Patent, signed by a man by the name of J.W. Pickersgill, and underneath the name appear the words "Secretary of State." I noted the words on the Letters Patent. It says: "My trusty and beloved servant . . . we command you . . .", et cetera. I am wondering if, under the circumstances when you signed that paper, that was on the advice of the then Premier of Ontario, Mr. John Robarts?

Mr. Pickersgill: I am sure it is just the conventional language that was used at that time.

Senator Lang: Do you think that a nominee from a province is going to be a trusty and beloved servant of the Crown in the right of the federal government?

Mr. Pickersgill: I am sorry, senator, what is your document about?

Senator Lang: My appointment to the Senate.

[Senator Robichaud.]

Mr. Pickersgill: I would say that no Prime Minister would approve the nomination unless he believed that this person was going to conform to that language.

Senator Lang: Would you apply that also to an appointee to the Supreme Court of Canada?

Mr. Pickersgill: You will remember that the only person who can make appointments to this place or to the Supreme Court of Canada is the Governor General, and that can only be done on the advice of the Prime Minister. Therefore, I feel reasonably sure that the Prime Ministers will be just as careful in the future as they have been in the past to appoint trustworthy people.

● (1640)

Senator Lang: And beloved servants.

Mr. Pickersgill: And beloved servants, yes.

The Chairman: Thank you, Senator Lang. At a previous meeting I said that I had to keep the balance together, and I am trying to do that. I have had only one questioner from the government side. Senator Asselin has appealed for one question. I recognize Senator Asselin.

[*Translation*]

Senator Asselin: Mr. Chairman, I am very glad to see Mr. Pickersgill in such good health and looking so well. I knew him in the past when he was a member of the House of Commons.

I have only one question to ask you, Mr. Pickersgill. There have been lots of comments on the fact that the Meech Lake Accord refers to the province of Quebec as a distinct society. In your opinion, will the status of distinct society which would be given Quebec take away any constitutional right whatever from the other provinces or give some to Quebec in the future?

[*English*]

Mr. Pickersgill: The simple answer to that is the answer that the Premier of Ontario gave the day after the First Ministers met at Meech Lake, when he said that every grade four student in Ontario knows what a distinct society is and knows Quebec is one. I also happen to think that Newfoundland is a distinct society, but they do not particularly want to be put in the Constitution. I am just as glad it is not.

The Chairman: I thank you, Senator Asselin. Senator Frith, I had cut you off when you were interrupting Senator Macquarrie.

Senator Frith: You were entitled to cut me off. I want to do only one thing, Mr. Chairman, and that is to deal with this question of appointment to the Supreme Court and the Senate. In looking this over it seems to me that Senator Macquarrie was right. There is a good argument, and Mr. Pickersgill agreed with it. I believe that Senator Lucier was also right, and I was wrong.

I indicated earlier with regard to the Senate that for someone to become a senator they would have to be put on a provincial premier's list. If you read sections 24 and 25 of chapter IX together, there could be an appointment to fill a territories vacancy without being on a provincial premier's list,

which is your point and Senator Macquarrie's point. However, Senator Lucier's point is that if you are a citizen of a province and you can get on the premier's list, then under the Meech Lake Accord the Prime Minister cannot appoint anyone who is not on that list.

Mr. Pickersgill: He can refuse to appoint any of them.

Senator Frith: Yes, but the point is that you are second class if you are in the territories, because you do not have the right to get yourself on an exclusive list. You say that he could consult, and that is correct.

Mr. Pickersgill: It would have been nicer if they had thought about that in advance, and I am sure if anybody had thought about it it would have been put there.

Senator Frith: So do I, but it seems to be a clear oversight, and it does have the result of both—

Mr. Pickersgill: There were a number oversights in 1867.

Senator Frith: But that does not help the citizens of the Northwest Territories and the Yukon. The point is that you and Senator Macquarrie and Senator Lucier are all correct, because, taking your interpretation, the citizens of the Yukon and the Northwest Territories are still partly second class.

With regard to the Supreme Court of Canada, section 101C.(1) reads:

> Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit . . .

In this case there is no corresponding section 24, because in this case the appointment has to be made from the list provided by the premiers, and it must be someone who is a member of the bar of that province. Again, it is a clear oversight, and it clearly deprives lawyers in the Northwest Territories and the Yukon of rights that lawyers have in the other provinces. It is something that should be corrected. I am sure it is an oversight, but it is there. They are not in the same position. You cannot maintain that they are in the same position.

Mr. Pickersgill: It may be, but—

Senator Frith: A famous shrug will do me fine. Let the record show that the witness shrugged.

The Chairman: Thank you, Senator Frith.

Senator Petten: Mr. Pickersgill, Senator Molgat welcomed you here as a Manitoban. As a senator from your adopted province of Newfoundland, I wish to thank you for appearing before our committee and sharing your views with us.

Mr. Pickersgill: It has been one of the great honours of my life.

The Chairman: Thank you very much, Mr. Pickersgill. Now you see what you missed in 1953.

Mr. Pickersgill: I have often reflected on that.

The Chairman: Honourable senators, while we are waiting for the next set of witnesses, is it your wish to deal with the report of the steering committee? The report has been distributed to everyone. Would someone care to move the adoption of the report?

Senator Frith: I so move.

The Chairman: It has been moved by Senator Frith that the report be adopted. Is there any discussion?

Senator Lucier: Mr. Chairman, I have received a letter from the government leader of the Yukon Territory requesting that he be—

The Chairman: I am sorry, Senator Lucier, shall we first have the report of the committee adopted?

Senator Lucier: I thought we were discussing the report. I was dealing with the list of witnesses, and I thought that that was in the report.

The Chairman: Let me make this clear. The decision of the steering committee was to hear all the witnesses that had made application prior to October 20. It then reserved the right to ask for further names, and those names will be considered by the committee. So the names that you have will be considered by the committee.

Senator Lucier: At a later date?

The Chairman: At a later date.

Senator Lucier: So they will be part of the report?

The Chairman: Yes, if you submit the names they will be considered.

Senator Lucier: Thank you, Mr. Chairman.

The Chairman: We have not closed the list by any means. Is there any other discussion on the report of the steering committee? Those in favour?

Some Hon. Senators: Agreed.

The Chairman: The report is carried.

Pursuant to Order adopted on June 18, 1987, Mr. Georges Erasmus, National Chief, Assembly of First Nations, was escorted to a seat in the Senate Chamber.

The Chairman: The next witnesses are from the Assembly of First Nations. We have before us Mr. Georges Erasmus, the National Chief. Mr. Erasmus, would you please identify the person with you?

Mr. Georges Erasmus, National Chief, Assembly of First Nations: Roger Jones.

The Chairman: Thank you. I welcome you to the Senate Committee of the Whole. I regret that we are a little late in the procedures, but I believe you know that there was a delay at the beginning of the afternoon.

I presume that you have an opening statement. You have submitted a brief to us. Is it your intention to read this statement or simply to refer to it?

• (1650)

Mr. Erasmus: I thought I would make an opening statement, including the summary document.

The Chairman: All right. I will let you proceed, then, if you are ready, and then we will have some questions.

Mr. Erasmus: Thank you. First, I would like to make some general statements to let it be known that we were quite surprised with the kind of agreement that came from the Meech Lake meeting in that a month earlier we had met with the First Ministers and were aware that they were having a meeting to deal with the possible entrance of Quebec back into the fold. We had anticipated that it would be an important meeting, but we had not envisaged the kind of agreement that came out of the Meech Lake meeting. We were extremely upset with the kind of agreement that was reached. We believe there were sections that were dealt with that need not have been dealt with to satisfy Quebec. There were many items that were agreed to that we believe were extra.

We took tremendous exception to the concept that Canada has just two founding nations and one major "distinct society," as outlined in the Constitution; to the forcing of the interpretation of the Constitution to recognize Quebec as a "distinct society;" and to the idea that the whole Constitution should be interpreted thus, without having a comparable and parallel recognition that First Nations were also "distinct societies."

We did not believe that it was necessary to put the North—both the Yukon and the Northwest Territories—into a deep freeze to satisfy Quebec. We think making the amendment even more difficult than it already was after 1982, and forming new provinces so that you now need unanimous agreement, was a message to the North and the native people living in the North that Canada would not see more provinces. We had hoped, in fact, that at the Aboriginal-First Ministers' meetings that we would deal with that part of the Constitution that would affect the creation of new provinces.

What affected us most was what we interpreted as a lack of political will, when, to our surprise, what we saw was that from now on the Constitution would guarantee two First Ministers' meetings every year. Rather than our agendas, that had been reached earlier, being dealt with at the First Ministers' meeting and being part of those two First Ministers' meetings we were completely excluded. That gave us a clear message that issues that are important to aboriginal people in Canada are not on the agenda of First Ministers, they are not important in the process of national reconciliation in this country, and they should be put on the back burner, perhaps never to be discussed at that level again. Every other item is deserving of attention at the constitutional level, but not matters concerning the aboriginal people; not matters that have never, ever been dealt with with us—leave them to the sidelines! This occurred just a little over a month after we had had a meeting with those same individuals. It was a tremendous blow to us. We could not believe that they were doing that to us.

The National Aboriginal Summit, the four major aboriginal groups, sent a letter to the Prime Minister putting forth a number of recommendations. This occurred in the interval between the Meech Lake and Langevin meetings. We recommended that explicit constitutional recognition of aboriginal peoples as "distinct socities," which also constitute a fundamental characteristic of Canada, be put into an amended Meech Lake agreement.

Further, we recommended that a guarantee that constitutional amendments from the Meech Lake Accord would not abrogate or derogate from the rights or status of aboriginal people; a guarantee that opting-out provisions would not prevent aboriginal peoples from access to or management of national programs; a return to the exclusive federal approval for the establishment of new provinces in the Yukon and the Northwest Territories; direct participation of aboriginal peoples in the second round First Ministers' meetings on matters that affect them—such as in the area of fisheries—and participation of aboriginal peoples in negotiation of constitutional provisions of Meech Lake on matters which affect them.

We felt that we had to be directly there to deal with the matters that affected us. Finally, we recommended the establishment of a timetable for aboriginal and treaty rights based on the unfinished 1983 Constitutional Accord on Aboriginal Rights.

In my presentation to the Special Joint Committee on the 1987 Constitutional Accord I reiterated these recommendations on behalf of the First Nations. First, a recognition of aboriginal peoples as "distinct societies;" a renewed constitutional process for the unfinished aboriginal agenda; a guarantee of protection for First Nations against opting-out provisions for national programs; removal of unanimity requirements for the establishment of new provinces; and a guarantee of aboriginal participation in other First Ministers' meetings on issues which directly affect us.

What responses have First Nations received? As regards the seven proposals to the Prime Minister, the Langevin amendments did no more than include section 16, which states that the "distinct society" clause for Quebec is not to affect existing aboriginal and treaty rights as recognized and affirmed in section 35 and the federal government's exclusive legislative authority under section 91(24) for Indians and lands reserved for Indians.

Two, from the report of the joint committee came recommendations to continue work towards a resolution of constitutional aboriginal issues; to restore constitutional funding; to establish a timetable and workplan for the federal government to prepare for further First Ministers' meetings; to consider closed as well as open sessions of those First Ministers' meetings; and to establish as a deadline for resumption of First Ministers' meetings on aboriginal constitutional matters April 1990.

• (1700)

The two opposition parties felt compelled to present their own recommendations on aboriginal and treaty rights, both of which went considerably further than the recommendations of the government's joint committee. All parties have, nonetheless, endorsed the accord without amendment.

Despite this advice the federal government has taken no action on any of the recommendations. They have also taken

little or no action on other non-constitutional issues such as land claims. To add insult to injury, the joint committee's report assures us that First Nations—"like other Canadians are appropriately represented by the leaders of the federal and provincial governments that aboriginal peoples helped to elect." This bland assertion that First Nations and their governments are represented by non-aboriginal politicians who have no interest, demonstrated or latent, in advocating our rights is bogus and is without foundation in fact or action. How, on the one hand, can they say that we are distinct and there is no need to recognize that explicitly, and, on the other hand, say that non-aboriginal people represent us?

The "distinct society" provision ignores the legitimate aspirations of the First Nations and of aboriginal peoples in Canada. The accord sets a mood for intolerance towards the constitutional expression of aboriginal self-government. It sets up legal impediments to bringing aboriginal peoples into the Constitution in a proper manner to complete the circle of Confederation.

If the desire was to placate the people of Quebec and to enable Quebec to play a full role in Confederation, then why have not the same efforts been made to accommodate in the Constitution the role of the aboriginal peoples of Canada?

The Chairman: Does that conclude your presentation, Mr. Erasmus?

Mr. Erasmus: For the moment, yes.

The Chairman: Then we will proceed to questioning. The first senator on my list is Senator Stollery, followed by Senator Fairbairn.

Senator Stollery: I want to thank the witnesses for their presentation.

My question has to do with this "distinct society" definition. I am looking through the report of the joint committee and, Mr. Chairman, I cannot help but say parenthetically that I do not see the sense of this presentation in the report from the joint committee, which only confirms my view that the report from the joint committee seems to have a very strong bias. Did you appear before the joint committee?

Mr. Erasmus: Yes, we did.

Senator Stollery: I do not see anything in here that would leave that impression with me. Perhaps I might just correct my last statement, since I do find something to that effect on page 110.

There seem to be a great number of definitions of "distinct society." Mr. Pickersgill, who appeared before us just a few moments ago, gave us an impression of what it means to him in terms of the province of Quebec. I believe you said that the aboriginal peoples are also accepted as a distinct society. Do you think it would be wise for the courts to decide on some kind of definition, at the very least, of the term "distinct society" as it appears in the accord? Do you think that would help the situation? Do you think that before the accord becomes part of the constitution—which, of course, it is not at the moment—there should be some court interpretation of this rather fuzzy area of just what a "distinct society" is as used in the accord?

Mr. Erasmus: The problem is not so much the need for definition, because the concept of the distinct society of Quebec will evolve over time. It will mean one thing in 1987 and something else in the year 2000 and onwards.

The problem is that we do not have balancing recognition. We do not have the full fact of what Canada is balanced against that. You do not have the proper tension between the recognition of the native people, the English, the French, and the rights of women. The problem arises when you over-emphasize one aspect without bringing up the others. Even the language, itself, is careful to say, "a distinct characteristic." What are the other characteristics? Why did we not have enough time to fully elaborate on that? That is what we wanted to do, and that is why we wanted to participate. The problem is that it looks as though the aboriginal people will never have an opportunity to do that.

Senator Stollery: I understand that, but we have to start somewhere, and the only thing we are dealing with is the agreement as we have it here.

You pointed out very eloquently that the country as a whole is involved in this definition, but, meanwhile, we have a definition in the agreement and it may change as time goes on. It has important legal implications, does it not?

Mr. Erasmus: Absolutely.

Senator Stollery: I understand that the government of the Yukon has launched some kind of legal action to define this term "distinct society." Do you think that before we go any further we should wait to find out what this is supposed to mean as it appears in this document?

Mr. Erasmus: It would be most interesting, because if "distinct society" actually meant that Quebec had the ability, for instance, to put aside the Charter and to override the rights of women and minorities so that the French majority in Quebec could force their will on them through their French language, their French culture, and so forth, it could go too far.

Senator Stollery: Wouldn't you like to know that before we went much further?

Mr. Erasmus: Some people would cry out if it did not go far enough, but others would cry out if it went too far.

However, that would not serve our interests. The problem of the North is that we are not included or involved in this continuing process. A First Ministers' meeting will be held next week and the Yukon and the Northwest Territories will not be involved. There will be meetings next year in which we will not be involved. They will be dealing with matters that affect us and we are being excluded. That is the problem.

Senator Fairbairn: Chief Erasmus, in the constitutional conferences that have been held since since 1983 you and other aboriginal groups have been trying to have the question of aboriginal self-government settled. There were also a number of other things agreed to in 1983 that would be on an agenda,

including the repeal of section 42(1)(e) and (f) and matters involving land claims. Since writing your letter to the government, have you received any explanation why these commitments were completely pushed aside in the discussions at Meech Lake and in the Langevin building?

● (1710)

Mr. Erasmus: We have received nothing to our satisfaction. Actually, we have not received any more information than has anyone else. The meeting we had with the First Ministers simply adjourned. There was a lot of interest generated there, and I suggest that the majority of the parties were prepared to go on. Certainly, the four native organizations were prepared to go on, and it was our understanding that the majority of the provinces were similarly prepared. All we needed was the Prime Minister's suggestion that we meet again to re-examine the process. Instead, everything just came to an absolute halt.

Then we have the Meech Lake and the Langevin meetings, which have now put in place two other First Ministers' meetings to deal with other matters. We have been doing what we can to be involved in round two and to begin our process again, but we have not yet been successful. The government has told the provinces that it is prepared to hold these meetings because it is important to deal with these matters. When the Prime Minister was questioned in the House on the subject, he stated that when it looks like there will be agreement he is going to begin the process again. Unless there is a tremendous amount of work leading up to the First Ministers' meeting there will be no agreement. At the moment there is no funding for the process—there is no process leading up to a First Ministers' meeting.

The First Ministers are now involved in other matters. They will be dealing with the Senate and with fisheries issues in 1988. They will be dealing with the economy next week, and, indeed, every year. Those processes take a lot of energy. It is beyond my comprehension how we could plan three First Ministers' meetings for any given year and give any of the issues adequate attention.

That is why we have been trying to amend this. We believe that the agenda items of the aboriginal people were all legitimate and that they needed to be dealt with first. Quebec provides just one example of what I am talking about: You cannot deal with the rights of some Canadians without affecting the rights of others. If you upgrade the rights of the French and do not do the same to the rights of everyone else, by definition, you have just lowered everyone else's. The rights of people living in the North have, once again, been put on the back burner. If you are a native you have been whammed twice, because if you are an aboriginal person there is no way in which to govern yourself through your own institutions. The one avenue we had where we still had some sizeable population in the North was through control of the other form of recognized government, the provincial form, and it looks like that door is completely sealed on us.

Senator Fairbairn: In this chamber, just prior to the Langevin meeting, I asked the Leader of the Government in the Senate whether he would urge the Prime Minister to ensure that the questions concerning aboriginal self-government would be made a continuing priority on the constitutional agenda just as long as it took to settle them. The response was:

> As of now there would have to be some movement on the part of aboriginal groups and the dissenting provinces . . . in order to justify putting aboriginal rights on the agenda for a constitutional conference again.

I ask you this: In what forum can discussions take place with the aboriginal groups that would reach any kind of a consensus so as to put the question back on the agenda? What options are open to you with the federal and provincial governments on this issue now, especially with no funding for your constitutional research and discussions?

Mr. Erasmus: The first problem is that there seems to be no political will on either side to deal with the issues before us. The Prime Minister and the federal government seem to be taking the approach that these issues are too tough for them to handle. They are providing us with no forum at all. The reality is that these problems are difficult, but we were not far away from agreement. Any time someone is doing something significant it takes a lot of energy.

There could be a lot of other forums, but in reality there are none. We have treaties from one end of the country to the other—we are leaving with senators a document on treaties—and we have tried to open up a forum wherein we could revisit the treaties so that they could become modern, living documents, so that the federal government and the First Nations with treaties could have a clear relationship, so that both Canada and the First Nations would know where they stand.

Whose rights are being affected by treaties? The government is not prepared to do a single thing on the question of treaties. We were told again this morning that the government is not prepared to do anything with respect to this matter. That route, then, has been closed to us; the route that we were involved in with the Constitution is closed. There is nothing there.

It can, however, be opened again. It took a long time just to repatriate the Constitution. Just because it was difficult people did not stop and throw their hands in the air. The reality is that it has only been over a very short time that issues involving aboriginal people—their treaties, their rights in this country, and so on—have been dealt with.

The premiers involved spent something like eight to ten days on these matters over the past five years, and perhaps spent the same amount of time getting briefed on them. Many of the people involved did not know native people and had probably never stepped on to a reserve in their lives. Many of them did not know our situation and certainly did not know anything about our treaties. For the better part of the time spent with them we walked people through things they should have known. It was an educational process.

Finally, when we were reaching the point where we were all talking about the same thing—we did not mean the same thing, but we were all beginning to talk about the same thing—things came to a stop. When we reached the point

where we did not have to explain any longer why native people had to have a degree of self-government in Canada, and there were even solid proposals made—although we did not agree with the proposals, we were all now centering on the same thing and did not have to go through the whole argument again, having to convince people—the whole thing came to an end. One or two more years of fruitful effort might have seen more results. The reality is that Canada has not put energy into this question. We never saw the kind of meetings that constituted the Meech Lake or Langevin meetings, where premiers were virtually captive until they agreed. We had a two-day meeting, and by noon the second day the Prime Minister was throwing up his hands and saying, "It's all over." There was no question of saying, "We are not letting you people out of the room until we agree. We are close." We never saw anything like that at all. Even before the end of the prescribed time hands were being thrown in the air. There is no way that you can tell me that there was the kind of energy or political will there that resulted in the thinking that we were going to deal with this Quebec thing and we were going to walk away with an agreement. There was nothing like that at all. Even half or a quarter of that kind of energy would get us further on this issue.

● (1720)

Senator Fairbairn: I have one final question. Is it your interpretation of Meech Lake that unanimous consent of all 11 First Ministers will be required before your issues get back on the agenda?

Mr. Erasmus: Yes, if it means that we are going to have to be part of the prescribed First Ministers' meeting that will take place and will deal with the round two items. There is no other way to get to those meetings. The right of the Chair to invite members and to set the agenda does not exist in the Round Two talks. It is a club of 11 individuals—all men at the moment—and they decide what is on the agenda and who goes to those meetings.

The Chairman: We now have Senator Lucier, followed by Senator Barootes.

Senator Lucier: I would like to welcome you, Chief Erasmus, to this committee and to say that your little brother appeared before our task force in Yellowknife and did an excellent job. He was very good.

My questions are a follow-up to those asked by Senator Fairbairn. I have already received answers to some of them from Chief Erasmus, but I would like him to elaborate a little more on the self-government aspect. It seems to me that that is the main goal of the aboriginal people, namely, to come up with some form of aboriginal self-government. While you and I may differ on the substance, we do not differ on the principle. When I heard of the failure of the last First Ministers' conference on aboriginal rights dealing with self-government, I did not see that as being a great disaster. So long as you had an opportunity to keep talking about it I felt that sooner or later you would arrive at a settlement. The aboriginal people are very patient. They have been waiting for a long time for something, and they will continue to fight for it. But it seems to me that the fight has been taken out of this process by the Meech Lake Accord if it is allowed to pass as it is by the very fact that you have been replaced on the agenda by the fish. It seems to me that you no longer have an opportunity to get on the agenda, or even to fight. To win the fight is one thing, but you do not have the opportunity to get on the agenda to fight. Is that correct?

Mr. Erasmus: That's correct.

Senator Lucier: It has been put to me by several people in the House of Commons that it is their opinion that the end of Meech Lake means the end of constitutional reform in Canada for a number of years. They say the people have had it with constitutional reform—I am referring to substantial changes and the type of thing that will have to be put in place to enable you to have a meaningful discussion on self-government—that once the Meech Lake Accord is passed, if it goes through as it is, it will be 20 years before anyone will again discuss constitutional reform. Do you have any views on that?

Mr. Erasmus: I would agree with a large part of what you are saying. We see this as a serious closing of doors against the involvement of aboriginal people. The message we are getting is that when our interests come up in matters that will be dealt with in round two, we will not have a significant role. Items such as fisheries will be dealt with, and we have already been told more than once by the Prime Minister that that matter does not affect us. I have no idea how he can say that, because if there is anything that aboriginal people throughout the world are involved in it is activity on land and sea. Fishing is an acknowledged basic treaty right, and recently there was a court case in British Columbia which stated that fishing was an aboriginal right recognized by the courts.

So it will mean that, at best, we are protesting outside, saying that we should be at the meeting. This whole process is putting us in a situation where we are continually opposing what is going on rather than being involved in a process where we are resolving the relationship.

The basic problem between First Nations and Canada is that we do not have the forums, the processes, where our rights can be resolved. There was so much hope in the constitutional forum, because it looked like there we had a way in which we could arrive at some major solution. It was the process dying that we had problems with, not the failure of one meeting. We agree with you, senator, that it was not a problem over not agreeing at one meeting. It just meant that we had not yet arrived at a time when Canada, the provinces and the aboriginal people of the First Nations were in agreement—that's all; but when the process ended and they said, "Don't talk to us any more. In fact, we are going to deal with a whole host of things, matters that will affect you indirectly, and we will take apart your rights one at a time, and you will have no role in it," that is what scared us; that is what is seriously affecting our rights.

Senator Lucier: Mr. Chairman, I have one short question for clarification. Senator Frith gave an explanation of the

Meech Lake Accord and the fact that the lack of opportunity for Senate and Supreme Court appointments in both territories was an oversight. I appreciate the honourable senator's making that clarification, but he ended by saying that he knew that the clauses were just an oversight. I would like to point out to him that their omission was not an oversight. They were deliberately crafted and drawn into the Meech Lake Accord in the way they are—the very matters with which Chief Erasmus is now dealing. They were not the result of an oversight. All of those things were brought to the attention of the government in the interval between Meech Lake and Langevin.

The Chairman: We now have Senator Barootes, followed by Senator Marchand.

Senator Barootes: Thank you, Mr. Chairman. My questions have been adequately answered through these last two discussions.

The Chairman: We now have Senator Marchand, followed by Senator Argue.

Senator Marchand: Thank you, Mr. Chairman. I agree with what Senator Lucier said about Chief Erasmus' little brother in the Northwest Territories making an excellent presentation. I should add that all of our aboriginal brothers did a superb job in their presentation before the task force. I refer to the Inuit, the Métis and the Dene. Those of us on the task force who heard the presentations were enlightened and, indeed, proud of the competent presentations that were made.

I have two brief questions. The Prime Minister has made a fairly big deal about Quebec again being part of the constitutional family. I agree; I want to see Quebec back in. He also said that having them around the table would be a big help to our aboriginal brothers. How do you respond to that?

Mr. Erasmus: We are not as convinced about that. We recently saw an example where the Province of Quebec tried to introduce a bill that would allow the government to enter into treaties with the First Nations. We think that the result of this bill will affect the relationship we have had with Canada for a long time. The federal government has the ability under the Constitution to enter into treaties. It is our feeling that Quebec is trying to push the concept of the distinct society to its limit, to the point where it has sovereignty in the province over all its citizens, including the aboriginal peoples. So we really have no reason to believe that our cultures or our rights are any more protected in Quebec than in any other province. In fact, at the moment their politics are quite reactionary.

● (1730)

Senator Marchand: I could talk about the province of British Columbia, too, but that is another story and I shall not get into it. The Prime Minister has said that if the Meech Lake Accord is amended the whole process might fall apart. He has referred to the accord as a seamless garment, and so on. What are your feelings on that position?

Mr. Erasmus: I cannot believe it. I do not see why it should be the case. I also do not know why they are hanging a lot of this stuff on Quebec. It is clear that the participants made it more difficult to create provinces. They went from the general amending formula of seven provinces representing over 50 per cent of Canada to a formula involving the unanimous agreement of all ten provinces. I cannot believe that Quebec insisted on this provision. Did Quebec take the approach that it did not want any more First Ministers' meetings on aboriginal issues, that including this provision would be the only way they could be happy with being part of Canada? That is hard for me to believe. I do not see why they would single out this point. I do not see any reasons why these kinds of improvements cannot be made and why the five major points Quebec originally requested could not be met.

Senator Phillips: Mr. Chairman, according to our rules, we should adjourn at 6 o'clock. I suggest that we not see the clock for the next five minutes.

Senator Argue: Or for a little longer.

Senator Phillips: Not necessarily a little longer.

Senator Argue: Until the list has been completed.

The Chairman: I do not see the clock, then. Senator Marchand, have you concluded?

Senator Marchand: I have a number of questions, but I know Mr. Erasmus well, and I am sure that we will be exchanging views on many issues in the next little while.

Senator Frith: Was the suggestion made that we finish the list and then close?

The Chairman: The suggestion was made by Senator Phillips that we continue for another five minutes.

Senator Argue: Mr. Erasmus, I have a couple of questions, but I will be brief. I understand from the questioning that you have a great deal of support for your position, as you have stated, amongst the official opposition. What support do you appear to have at this time for your position amongst provincial governments, amongst the premiers? Do you have one or more premier willing to help you in any way to get your item back on the agenda for a conference in the near future?

Mr. Erasmus: We left the meeting with the majority of the provinces prepared to continue with the process. My understanding is that that feeling still exists, that what they are waiting for is leadership from the federal government. The Prime Minister could have continued the process in March, and he can still do so now.

Senator Argue: From your discussions with provincial governments do you have any real hope that even one provincial government will make progress on your proposals a condition of their approval of the accord?

Mr. Erasmus: We have not been lobbying the provinces strongly on this matter, because we think that we should try to get changes made at the federal level first. That will be our next effort. Over the next three-year period we will be lobbying the provinces directly.

Senator Argue: You may have answered this question already, but what particular consideration have you given to

making representations to the Premier of New Brunswick, who is not committed to the accord and who, to me, seems to be the only real hope for this country that this accord will not be approved, and that in its place we will have an accord that is much more acceptable. What work are you doing, or have you done to this point, with the Government of New Brunswick?

Mr. Erasmus: We have been seeking a meeting with the premier-elect since hours after his election. We have not been able to get that meeting. Having just taken over the reins of government he is extremely busy, but it is our hope that we will meet with him before too long.

Senator Grafstein: Chief Erasmus, would you confirm some data for me? I take it that the First Nations represent somewhere between one million to 1.2 million Canadians. Is that correct? If we are talking about enfranchisement and disenfranchisement we are talking about somewhere between one million and 1.2 million, if we include the Metis, the Inuit, the First Assembly, and so on, Canadians. I do not believe we have on record the total number of Canadians represented by your group and other aboriginal organizations.

Mr. Erasmus: It is as close a figure as you can probably get at the moment. There are no accurate figures in Canada on all the descendants of aboriginal peoples. There is reasonably accurate information on status or treaty aboriginal peoples at the Department of Indian Affairs. But we really do not have good figures on Metis and non-status people.

Senator Grafstein: Is that a fair number ?

Mr. Erasmus: It is close enough.

Senator Grafstein: Is there any way in which the Senate could assist you in triggering a First Ministers' conference by initiating an amendment which would be parallel to, but would not alter, the Meech Lake Accord under section 35(1) of the 1982 Constitution? Are you familiar with that idea? Perhaps you could spend a few minutes with the senators and give us your understanding of whether or not that is a workable formula.

• (1740)

Mr. Erasmus: As a workable formula, we would suggest that all ten provinces and the federal government consider an additional constitutional accord—and it might be a very simple one—that deals with a resumption of the constitutional talks and puts in place a constitutional process and, perhaps, also deals with some other matters. You would then be accomplishing the result of not amending the original accord, yet still dealing with one of the major concerns.

My preference still is to try to amend the Meech Lake Accord, but certainly the other process would be sufficient.

Senator Grafstein: So this is a parallel process that might be open to the Senate, and we might accelerate this process should we be unable to convince Parliament or the legislatures to amend Meech Lake.

Mr. Erasmus: Absolutely.

Senator Frith: Where do we find that formula?

Senator Grafstein: I think it is section 35(1), and I believe we will have some subsequent evidence to support this. I simply wanted to get the view of Chief Erasmus, because there are other groups who will come forward and elaborate on this point.

Finally, I am interested in the issue of the Charter. During the evidence of Mr. Pickersgill he said, in effect, why should we as senators be concerned about the Charter when one constitutional convention said that there is a notwithstanding clause, and, while this might dilute it again somewhat, the bigger issue is the notwithstanding clause.

In effect, what Mr. Pickersgill is arguing—and it represents a sizeable school of opinion—is that the Charter is really not all that important as a primary symbol in the country and as a teaching value; that Parliament, in effect—as the Quebec legislature did—could use the notwithstanding clause and then face its electorate. Mr. Pickersgill takes the position that the public would be outraged and therefore legislatures would not do it, but we have the example of Quebec where they did not outrage their public by doing that very thing.

What is your position on that? Do you think a lot of your concerns would be remedied if, in fact, there was a clear-cut amendment to Meech Lake which made the Charter unassailable, paramount?

Mr. Erasmus: Our concerns are not that closely connected to the Charter. Our concerns are that the agenda items with which we have to deal in relation to Canada and the provinces have not been resolved. Therefore, an amendment that puts in place the process whereby we can get the work done is what is of paramount concern to us.

We would also like to see an immediate amendment to the Meech Lake Accord, recognizing the distinct societies of aboriginal people.

The Chairman: Thank you, Senator Grafstein. I have one quick question from Senator LeBlanc.

Senator LeBlanc (Beauséjour): Actually, I had two questions. Chief Erasmus, the process was difficult enough to crank up. I am pretty distressed to hear you say that it has died. On the other hand, we all know that provincial premiers are, by definition, preoccupied with provincial interests, and very often they come to the table to see what chips are available in the bargaining.

It strikes me that the real worry about the process dying, or at least going into deep-freeze, as you have described it, is that so much was given away at Meech Lake and at Langevin that there does not seem to be a great deal left on which the federal authorities, if they wished to do so, could find a solution to some of the aboriginal problems.

What do you see as the chips that they could use to bring the recalcitrants to the table?

Mr. Erasmus: There may be one; that the provinces could get together and unanimously agree as to who will be the Prime Minister of Canada. I think you are right; there is very little left. That is exactly the worry we have, and that was the way in which we saw the game being played.

Looking back we now assume that the reason the Prime Minister and the federal government were not pushing for a resolution during March when we were meeting was because everything that they needed to pull together the Quebec agreement they could only use once, and they were saving all that for the big deal. That is also our concern.

Therefore, all that is left are things such as fisheries and the Senate. Those things are close and dear to the hearts of some of the provinces. Therefore, if we are not involved, and if they do not intend to deal with our issues at the same time as they are dealing with fisheries, for instance, then we will get the short end of the stick.

On the other hand, if fisheries is going to be dealt with at the same time as our concerns are dealt with, it is much more likely that our interests could be protected, and the provinces could also arrive at some arrangement that they, too, could live with.

Therefore, we really have a concern that whatever chips are left still available will be used up if we are not involved, and very soon.

Senator LeBlanc (Beauséjour): I would phrase this next question in the form of a statement—

Senator Phillips: Mr. Chairman, I rise on a point of order. I ask that we not see the clock for a number of minutes. We have had repeated questions already from two senators and now we are involved with questions from a third senator, whose name was not on the list at that time.

I feel that we should show some respect for our rules. We have senators who have committee meetings this evening, and I think they should be entitled to have the Senate adjourn now.

The Chairman: Mr. Erasmus, I want to thank you very much for your presentation and for that of your group. You were very helpful in providing all the information and answering all of the questions fully. Many thanks.

Honourable senators, the next meeting of the committee will be next Wednesday, November 25, at 3 o'clock. At that time we will have as witnesses from Alliance Quebec, Mr. Royal Orr; from the Canadian Jewish Congress, Mr. John Laskin and Mr. Joseph Wilder; and from the Canadian Ethnocultural Council, Mr. George Corn and Mr. Lewis Chan.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake Accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again on Wednesday, November 25, 1987 at 3 o'clock.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I assume that Senator Phillips is the Acting Deputy Leader of the Government. I believe that all remaining orders stand.

Hon. Orville H. Phillips: I believe, according to our rules, they would have to stand, Senator Frith. It being 6 p.m., I move that the Senate do now adjourn.

Senator Frith: You have to be careful. If you do not stand all the orders we may have to sit again at 8 p.m. Are you standing all the orders?

Senator Phillips: Yes.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, November 19, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

SUPREME COURT ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, November 19, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred the Bill C-53, An Act to amend the Supreme Court Act and to amend various other Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, October 29, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted

JOAN B. NEIMAN
Chairman

The Hon. the Speaker : Honourable senators, when shall this bill be read the third time?

On motion of Senator Nurgitz, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

FISHERIES

INTERIM COMMITTEE REPORT ON FRESHWATER FISHERIES—RESPONSE OF MANITOBA MINISTER—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Tuesday next, November 24, 1987, I will call the attention of the Senate to a response from the Minister of Natural Resources of the Government of Manitoba relating to the recommendations made by the Standing Senate Committee on Fisheries in its Interim Report on the Freshwater Fisheries, tabled in the Senate on October 2, 1987, and on other matters arising therefrom.

VETERANS AFFAIRS

SURVIVOR BENEFITS—ANOMALIES IN LEGISLATION—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Wednesday next, November 25, 1987, I will call the attenton of the Senate to anomalies existing in veterans legislation regarding payment of survivor benefits to spouses of deceased prisoners of war.

NEWFOUNDLAND AND ITS PEOPLE

CONCERNS AND INTERESTS—NOTICE OF INQUIRY

Hon. Ethel Cochrane: Honourable senators, I give notice that on Tuesday next, November 24, 1987, I will call the attention of the Senate to the concerns and interests of Newfoundland and its people.

GERMAN-CANADIAN CONFERENCE

ATLANTIK BRÜCKE—MEETING HELD IN FRANKFURT, WEST GERMANY—NOTICE OF INQUIRY

Hon. William M. Kelly: Honourable senators, I give notice that on Tuesday next, November 24, 1987, I will call the attention of the Senate to the Second German-Canadian Conference Atlantik Brücke, held at Frankfurt, Federal Republic of Germany, from October 17 to 19, 1987.

THE ESTIMATES, 1987-88

SUPPLEMENTARY ESTIMATES (C) REFERRED TO NATIONAL FINANCE COMMITTEE

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*e*), moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending the 31st March, 1988 (Sessional Paper No. 332-625).

Motion agreed to.

QUESTION PERIOD

[*English*]

RICK HANSEN

APPOINTMENT AS CANADA'S COMMISSIONER GENERAL TO EXPO '88, BRISBANE, AUSTRALIA

Hon. Jack Austin: Honourable senators, I wish to put a question to the Leader of the Government in the Senate. However, before I do so I would like to do something that is not usual—at least, it is not usual on my part—and that is congratulate the government on the appointment of Rick Hansen as Canada's Commissioner General to Expo '88 in Brisbane.

I doubt that the government could have found a better representative of Canada. Rick Hansen has become an outstanding example of courage and perseverance in the face of adversity. Certainly, those are admirable traits. He is also an excellent administrator. I think this was a fine appointment.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first of all, let me say that I am glad, though not surprised, that the appointment of Rick Hansen enjoys such unanimous support in this chamber and, indeed, in the country. I thank the honourable senator for his comments in that regard.

TRADE

IMPACT OF GATT RULING ON B.C. FISHERIES—GOVERNMENT ACTION

Hon. Jack Austin: I wish to ask the minister a question about the GATT in the ribs of the B.C. fishing industry.

As the minister will know, there is a GATT ruling which has been acknowledged by the Government of Canada that says, in effect, that the requirement that salmon and herring landed in British Columbia shall be processed in British Columbia is not in accordance with Canada's GATT obligations.

Can the minister tell us what the position of the government will be with respect to this ruling, which is so adverse in its economic impact on British Columbia, particularly on fishing dependent, single-enterprise communities?

As the minister knows, the ruling, if its terms were complied with by Canada, would create substantial unemployment in the fish processing industry in British Columbia. I cannot speak to its impact on the Atlantic, but no doubt it will have a similar impact there.

The question, then, is: Is the government considering compliance with the GATT ruling, or is the government considering making further representations to the 95-member council of GATT? Would the government consider discussing with the United States an accord which would either reverse or ameliorate the GATT ruling?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the government is now formulating our response to that finding and an announcement will be made by Ms Carney in due course.

HEALTH AND WELFARE

AIDS—AVAILABILITY IN CANADA OF DRUG AZT

Hon. Stanley Haidasz: Honourable senators, I should like to ask the Leader of the Government in the Senate when Canadians can expect the approval of the drug AZT, which is already available in the United States, to treat the unfortunate victims of AIDS, even though it costs $10,000 U.S. to treat one patient for one year with this drug.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask my colleague, the Minister of National Health and Welfare, to furnish a reply to that question.

Senator Haidasz: As a supplementary question, would the Leader of the Government in the Senate also inform us whether the federal government will pay for this costly treatment of the unfortunate victims of AIDS or share this cost with the provinces?

Senator Murray: Honourable senators, I will accept that question as a representation by the honourable senator and will convey it to my colleague.

THE SENATE

FILLING OF VACANCIES—ROLE OF PROVINCES AND TERRITORIES

Hon. Gildas L. Molgat: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. In view of the fact that there are four vacancies presently in the Senate—one of them, in the province of Quebec, dates back to January 3 of this year and one, in Ontario, to June 20—and in light of the Meech Lake Accord, would the minister indicate whether these provinces have been asked to submit names from which the government can choose those whom it wishes to appoint?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first of all, the six- or seven-month delay in filling one of the vacancies to which my friend refers is hardly a record, as he will know. There have been vacancies in this place for much longer periods of time.

Second, I am not aware that the Meech Lake Accord requires the Prime Minister or the cabinet to ask for a list of names. As I understand it, provinces are expected to submit those lists of names.

Hon. Royce Frith (Deputy Leader of the Opposition): He did not ask you that.

Senator Molgat: I would like to make the point that it is not six or seven months, it is over ten months, almost eleven months.

Senator Murray: I have known vacancies to exist for twelve years.

Senator Molgat: Be that as it may, do I conclude from the statements of the minister that it is up to the provinces to take action, that is, the provinces should be the ones to initiate the action without any request from the federal government?

Senator Murray: Honourable senators, my friend can read the Meech Lake Accord for himself. I think it is a fine point whether it is necessary for us to write a letter to a premier and say, "Will you please submit your list of names?" The procedure is there and provincial governments are free to submit their lists of names at any time. The vacancies, I think, are obvious to everyone.

I will consult to see whether the Prime Minister has taken any action on his own initiative in this respect.

Hon. H. A. Olson: Honourable senators, I have a supplementary question. In view of what the Leader of the Government said a moment ago, if I understood him correctly, that is, that they did not necessarily need these lists, is it not clear that the only appointments that will be made—at least according to the Meech Lake Accord—will be from those persons nominated by the premiers?

Senator Murray: Absolutely. There is no question about that. The Meech Lake Accord provides that vacancies in the Senate will be filled by the Governor General in Council from lists submitted by the provinces and that we would appoint a person suitable or acceptable to the Queen's Privy Council of Canada, in effect, the cabinet. The fine point I was discussing with our colleague, Senator Molgat, was whether it was necessary for the Prime Minister to sit down and write a letter to the premier of each province inviting him to submit a list.

• (1410)

Senator Olson: Honourable senators, I have a further supplementary question. As the Leader of the Government knows, the Premier of Alberta is reported to be seriously considering a provincewide election of a nominee, which will probably cost about the same as a provincial election, whatever that is—at any rate, several million dollars. Would that impress the government in the consideration of its appointments?

Senator Murray: Honourable senators, the important point is that the list must be submitted by the province. My reading of that provision would be that more than one name has to be submitted—

Some Hon. Senators: No!

Senator Murray: —and that the person appointed must be acceptable to the federal cabinet.

Senator Olson: I take it that would mean the premiers should be advised that if they are going to hold an election they should structure it in such a way that there would be more than one name coming out on top.

Senator Murray: Honourable senators, it is not for me to advise the premiers as to how they go about drawing up the names. Early in December I expect to have the opportunity to speak to honourable senators in Committee of the Whole on the constitutional resolution of 1987. I shall have with me the Deputy Minister of Justice and the Secretary to the Cabinet for Federal-Provincial Relations. We can go into these points at that time. I repeat that my reading of the accord is that more than one name has to be submitted. We can, however, discuss that in more detail later.

Senator Molgat: Honourable senators, I thank the minister for this clarification. I had asked him some months ago, shortly after the signing of the Meech Lake Accord, whether a province could submit simply one name. Now I gather that it is clear—

Senator Murray: What did I say then?

Senator Molgat: At that time, well, I would not accuse the government leader of being evasive, but let us say that the answer was less than clear as to whether "lists" meant one name or more than one. However, now it is clear that for the purposes of that section of the Meech Lake Accord "lists" means more than one name for each vacancy.

Senator Murray: That would be my reading of it. I make that statement advisedly, and we will have an opportunity to discuss it in more detail with the officials when they are here.

Hon. M. Lorne Bonnell: Honourable senators, on a supplementary, I understand from the Leader of the Government in the Senate that these lists will be submitted by the premiers, the leaders of the governments of the provinces. But I suspect that that will not be the case in the Yukon and Northwest Territories. In those cases I am hoping that the federal government will be able to nominate prospective senators, since those territories do not have premiers, and they are not even part of Canada according to the Meech Lake Accord.

Senator Murray: That last statement, of course, is utter nonsense.

Hon. Peter A. Stollery: Honourable senators, on a further supplementary, I also understood that the Premier of Alberta was contemplating some kind of election to fill the vacancy from that province. I thought that this practice might possibly be adopted by other provinces. I take it from the answer of the Leader of the Government that the provinces really should not contemplate electing their nominees to the Senate, because the Leader of the Government says that a list has to be submitted. That would effectively mean that the provinces could not hold elections for potential nominees to the Senate.

Senator Murray: Honourable senators, my friend can draw his own conclusions. I have no advice whatsoever to offer to the provinces as to how they draw up their lists of proposed senators. I suppose that, in theory, it is quite possible to have elections that result in the election of more than one person. That has been done.

In any case, I have no advice to offer anyone in that regard. I have simply said, and repeat, that my reading—and I have stated "advisedly"—of the Meech Lake Accord is that more than one name must be submitted.

Hon. Peter Bosa: Honourable senators, as a supplementary, are we to understand from the Leader of the Government that the Meech Lake Accord is now in effect, notwithstanding the fact that it has not yet received parliamentary approval and nine out of ten provinces have not ratified the accord?

Senator Murray: My honourable friend is a little wrong in his arithmetic.

Senator Bosa: Eight out of ten.

Senator Murray: Yes. Quebec and Saskatchewan have already ratified; the House of Commons has ratified; and it is my understanding that the Provinces of British Columbia and Alberta have the matter before their legislatures this fall. However, the fact of the matter is that the Meech Lake Accord does provide explicitly that, pending ratification, the procedure envisaged in the accord for the nomination of senators will be in effect.

Senator Bosa: Is that one of the reasons for the delay?

Senator Murray: What delay?

Senator Bosa: The fact that it has not been ratified by the other eight provinces.

Senator Murray: I have tried to explain to my honourable friend that it is explicit in the political accord that was reached at Meech Lake in April and, again, in the Langevin Building in June that the procedure for nominating and appointing senators envisaged in the constitutional resolution takes effect immediately.

CANADA-UNITED STATES FREE TRADE AGREEMENT

BINDING DISPUTE-SETTLEMENT MECHANISM—REQUEST FOR ANSWER TO ORDER PAPER QUESTION

Hon. Philippe Deane Gigantès: Honourable senators, some weeks ago I asked certain questions of the Leader of the Government on the allegedly binding dispute-settlement mechanism. It was pointed out to me by senators wiser than I that since the question was possibly too complicated, and the Leader of the Government might not have the facts at hand, I should give him a written question—which I did some time ago.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Did you?

Senator Gigantès: Oh yes, sir. The Clerk of the Senate received the text. The question was properly sent to you, sir. Would you please let me know when I can expect to receive an answer.

Senator Murray: I am sorry; is this a question that is on the order paper or one that was sent to me personally?

Senator Gigantès: When I asked the question in the house you suggested that it be sent to you in writing and be put on the order paper—and it was. I have seen it printed in the order paper.

[Senator Murray.]

Senator Murray: Honourable senators, first, I shall consult the order paper. I apologize; I am not aware of the question. If it is not on the order paper, I will get in touch with my honourable friend's office and obtain a copy, or I will look around my office and obtain one; and I will see that it is replied to as soon as possible.

Senator Gigantès: To facilitate matters, and not to have the staff burdened, I shall take it upon myself, if I am allowed, to bring the question over to you, sir.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on a point of order, a question that is on the order paper is the responsibility of the Clerk's office, and not that of the Leader of the Government. The question is processed by the Clerk's office to the appropriate department, a reply comes back, and it is printed in the *Debates*. If the honourable senator wishes to deliver a copy of his question to the Leader of the Government, then that is a different matter and can be dealt with on a one-to-one basis somewhere else; but a question that is printed in our order paper is expected to be answered in the *Debates*, and not through this short-circuiting system that we see in effect here right now.

• (1420)

Senator Gigantès: Honourable senators, when I asked that question the Leader of the Government said that it would be proper for me to submit it in writing, and I have done so. I would be most grateful if at his earliest convenience he would answer this question that I consider very important and that the people of Canada consider very important.

DELAYED ANSWER TO ORAL QUESTION INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

LUBICON CREES OF ALBERTA—SETTLEMENT OF CLAIMS—RELEASE OF NEGOTIATOR'S REPORT—APPOINTMENT OF NEW NEGOTIATOR AND MEDIATOR

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have an answer to a question asked by Senator Watt on September 30, 1987, regarding Indian Affairs and Northern Development and the Lubicon Crees of Alberta. It is a rather lengthy answer, and if Senator Watt will permit it I ask that it be printed as part of today's proceedings. Otherwise, if he so requests I shall read it.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*The answer follows:*)

> The Government of Canada recognizes the outstanding land claim of the Lubicon Lake Band and thus is fully prepared to seek a fair and just resolution through negotiations. In this regard, the Honourable Bill McKnight, Minister of Indian Affairs and Northern Development, announced on October 5, 1987, the appointment of Mr. Brian Malone, a Calgary-based lawyer, as Canada's negotiator for this claim. The Province of Alberta has appointed Mr. John T. McCarthy as provin-

cial negotiator. It is the minister's and Mr. Malone's expectation that negotiations on this claim will be renewed in the very near future.

When the Honourable E. Davie Fulton undertook his assignment to inquire into the facts of the Lubicon Lake Band's land claim, there was an agreement between Canada, the Province of Alberta and the band that the results of Mr. Fulton's work would not be released without the consent of all three parties. The Province of Alberta recently agreed to the release of the Fulton report. Copies of the report are now available on request from the Department of Indian Affairs and Northern Development.

With respect to the appointment of Mr. Fulton as a mediator for these negotiations, the band's claim is primarily a matter between the Government of Canada and the Lubicon Lake Band and, on some aspects of the claim, the Province of Alberta. It is the position of the government that face-to-face negotiations among the parties afford the best prospect for a fair and successful resolution of this claim. Since such negotiations between the band and Canada have yet to occur in a meaningful way, serious attempts must be made at direct negotiations prior to consideration being given to the involvement of a third party.

Regarding the tuberculosis outbreak mentioned by Senator Watt, Health and Welfare Canada and the Alberta TB Control Unit, with the full cooperation of the community, have worked together to effectively contain and control this outbreak. There are at present 38 active cases, none of which is infectious. All 38 people are under treatment.

The honourable senator also mentioned the Lubicon Lake Band's complaint to the U.N. Human Rights Committee. This committee recently made a decision to, in effect, hear the substance of the band's complaint. As the committee requests that the parties to a complaint respect its confidentiality, Canada will abide by this request. However, it should be noted that Canada will be responding to the decision of the committee in the near future.

ANSWER TO ORDER PAPER QUESTION

MEDICAL RESEARCH COUNCIL OF CANADA

MEMBERSHIP BY PROVINCE

Question No. 31 on the Order Paper—**By Hon. Jack Marshall:**

3rd September, 1987—What are the names of all Members of the Medical Research Council, broken down by province?

Reply by the Minister of National Health and Welfare:

PROVINCE	MEMBERS
BRITISH COLUMBIA	Dr. Patricia A. Baird Professor and Head Department of Medical Genetics University of British Columbia No. 226 Wesbrook Building 6174 University Boulevard Vancouver, British Columbia V6T 1W5
ALBERTA	Dr. Douglas R. Wilson Dean, Faculty of Medicine 2J2.00 W.C. McKenzie Health Sciences Centre University of Alberta Edmonton, Alberta T6G 2R7
	Dr. Karl Lederis Professor Department of Pharmacology and Therapeutics University of Calgary 3330 Hospital Drive, N.W. Calgary, Alberta T2N 4N1
SASKATCHEWAN	Dr. Denis Johnson Head, Department of Pharmacology University of Saskatchewan Saskatoon, Saskatchewan S7N 0X0
ONTARIO	Professor Michael Gent Faculty of Health Sciences Room 2G-10B McMaster University 1200 Main Street West Hamilton, Ontario L8S 4J9
	Dr. Antony H. Melcher Associate Dean Faculty of Life Sciences 63 St-George Street School of Graduate Studies University of Toronto Toronto, Ontario M5S 1A1

PROVINCE	MEMBERS
ONTARIO	Dr. Marty J. Hollenberg Professor and Chairman Department of Anatomy Medical Sciences Building University of Toronto Toronto, Ontario M5S 1A8
	Dr. V.C. Abrahams Professor and Head Department of Physiology Room 430, Botterell Hall Queen's University Kingston, Ontario K7L 3N6
	Dr. Wilbert J. Keon Heart Institute, Room 201 Ottawa Civic Hospital 1053 Carling Avenue Ottawa, Ontario K1Y 4E9
	M[me] Ginette Rodger Directrice générale Association des infirmières et infirmiers du Canada 50, The Driveway Ottawa, Ontario K2P 1E2
QUEBEC	Dr. André Archambault 650, boul. Dollard Outremont (Québec) H2V 3G3
	Dr. Eugenio Rasio Directeur Unité Métabolique Hôpital Notre-Dame Pavillon Mailloux—8[e] étage 1560, rue Sherbrooke Montréal, (Québec) H2L 5K8
	Dr. Phil Gold Physician-in-Chief Director of the McGill University Medical Clinic, Room 7135 Montreal General Hospital 1650 Cedar Avenue Montreal, Quebec H3G 1A4
NOVA SCOTIA	Dr. Bernard Perey Department of Surgery Victoria General Hospital Suite 8028 Halifax, Nova Scotia B3H 2Y9
NEW BRUNSWICK	Mr. Ed Graham President and Chief Operating Officer Bruncor Inc., Suite 1801 One Brunswick Square P.O. Box 5030 Saint John, New Brunswick E2L 4L4
NEWFOUNDLAND	Dr. David Hawkins Dean, Faculty of Medicine Health Sciences Centre, Room 2702 Memorial University of Newfoundland Prince Philip Drive St. John's, Newfoundland A1B 3V6

PATENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN CERTAIN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON CERTAIN SENATE AMENDMENTS ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

That the Senate concur in the amendments made by the House of Commons to its amendments 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and 16 (a);

That the Senate do not insist on its amendments 4(b), 11, 12, 15(a), (b), and (c), 16 (b), (c), (d) and (e), 17(a) and (b) and 18(a); and

That a Message be sent to the House of Commons to acquaint that House accordingly.—(*Honourable Senator Sinclair*).

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am obviously not rising for the purpose of closing the debate on my motion, but, with your indulgence, I have a very brief statement to make respecting the motion passed yesterday which requested me to ascertain whether my cabinet colleagues would agree to a conference on Bill C-22.

I have consulted my cabinet colleagues and must advise senators that the government would not recommend such a conference to the House of Commons. Ministers are convinced

that the conference would serve no useful purpose at this stage of the process, unless, as I noted yesterday, the purpose was to kill the bill indirectly rather than directly.

The bill before us is a major element of the government's legislative program. I think this has been clear from the beginning of the process. We have now exchanged messages with the House on two occasions. Some Senate amendments have been accepted. It is clear to me, as it should be clear to honourable senators, that this gulf between them and the House of Commons is not one that can be bridged by a simple conference. It would be unrealistic to believe that the further delay that would result from such a conference would change matters. While a decision on a formal request from the Senate for a conference would be a matter for the House of Commons to decide, I see no likelihood that such a formal request would elicit a different approach.

Indeed, I am advised that the House leadership of the other parties in the House of Commons was consulted and that there was no consensus in favour of such a conference. It is, therefore, time for honourable senators to come to a decision as to whether or not this house will continue to insist on its amendments as specified in my motion. As I have suggested, we must not continue to insist if we are cognizant of our constitutional role as it has evolved in practice in modern times, otherwise, honourable senators will have taken the decision to kill a major initiative of the elected representatives of Canadians. As I have said, that is a decision that this house ought not to take.

Some Hon. Senators: Hear, hear!

Hon. Ian Sinclair: Honourable senators, in view of the fact that I moved the motion of yesterday, I can only express great disappointment, and yield to any other senator who might wish to speak in this debate.

Hon. C. William Doody (Deputy Leader of the Government): I wonder if I might ask Senator Sinclair to clarify the situation. Is he now relinquishing his place in the batting order, as it were?

Senator Sinclair: That is what I was intending to do.

Hon. Hartland de M. Molson: Honourable senators, in considering the motion by Senator Murray one is forced to look back on the history of Bill C-22. Certainly, its voyage through Parliament has not been, in any sense, ordinary. It is really a most unhappy bill from many points of view.

In the first place, at birth, the delivery of this bill was marred by its not being given a gentle slap on the bottom but by being substantially bruised. That created considerable resistance to the consideration of Bill C-22. I am referring to the statement that it was not to be the subject of amendment. To this chamber that obviously presents a "défi" which every senator must resent.

In the second instance, when the bill first came to the notice of the Senate it would have been normal for the subject matter to be considered in committee, as has been done for many years, particularly with a complicated piece of legislation. For reasons best known to themselves, opposition senators were unwilling to undertake that study. This caused considerable delay in consideration of the bill.

Finally, instead of following the normal procedure of sending the bill to the usual committee—in this case the Standing Senate Committee on Banking, Trade and Commerce—we set up a special committee to deal with this bill. That special committee travelled from coast to coast, an unusual performance that cost the taxpayers some $300,000. That committee learned certain very obvious facts. One of these is that nobody wants to see the price of drugs go up. I do not think it was necessary to go through such an exercise in order to reach that conclusion. However, after a very considerable passage of time the special committee reported with a series of amendments which, in the words of the media, "gutted the bill."

When a message was returned to this chamber from the House of Commons refusing those amendments, Bill C-22 was finally referred to the Standing Senate Committee on Banking, Trade and Commerce, to which it should have been referred months before. This procedure may seem to be acceptable to the members of the opposition in the Senate, but from an independent point of view it is hard to understand. It seems to spell delay.

The Banking, Trade and Commerce Committee spent further weeks in consideration of this bill and, in the process, reheard some witnesses. It then produced a report with moderate amendments. By this time patience was running short, and these last amendments have been returned from the House of Commons as being unacceptable. This is the reason for Senator Murray's motion.

What has been the net result of all this activity on the Senate itself? I believe that it has done some good to the image of the Senate in that it has caused remarks such as "the Senate is now awake," or "the Senate is alive," and "senators are not just rubber-stamping." However, with the beneficial effects have come some negative effects. First, the issue has now become a challenge of ideas between the elected House and the Senate. The challenge may be understandable, but not necessarily desirable. The comment is more frequently made that the Senate has assumed the role of the challenger to the government of the day because of the disastrous defeat of the Liberal Party in the last general election. Has the Senate now challenged the Commons in the bear pit of politics? Has Senator Sinclair been entered as the pit bull by his trainers, Senator MacEachen and Senator Frith?

Senator Sinclair: In that case I would be a Scotch terrier and not an English bulldog!

Senator Molson: Honourable senators, the Senate was never intended to be the cockpit for political fights in this country. It was not established for that purpose and it has never served well in that capacity. I know that my friends to the left of the Speaker will say that Bill C-22 is bad, and the only reason that they delayed it is because it is undesirable for the people of this country. Even if that is correct, I think that the sober second thought of the Senate should clearly point out all the faults of the proposed bill. It should not be a question of

setting the opinion of the Senate against the opinion of the House of Commons.

• (1430)

Actually, honourable senators, this bill and the consequent political acitivity presents perhaps the greatest argument for having independent senators. The House of Lords today has something like 20 per cent on the cross benches, that is, Independents. They provide some balance in the political struggles. Here, at the moment we have a very unusual and difficult situation.

I am referring to one of the main roles of the Senate, that of representing regions. It is undeniably one of the responsibilities of senators to represent their region and their province.

In the case of this bill most Quebec Liberal senators seem to have chosen to follow the dictates of the Whip. That is entirely their business and their right, and it is not up to me to criticize it. But, certainly, I may observe it. As a senator from Quebec I feel a regional responsibility, as I have on previous occasions.

From the point of view of Quebec, we Quebec senators should be supporting this bill. Under the circumstances, I am sure it is embarrassing and bothersome to some of my colleagues, but we are now at the stage where we must stand up and be counted. Some of us sit here as Independents because we insist on our right to express ourselves and vote according to our own minds, and not according to the Whip. My belief is that this was in the design for the Upper Chamber when the Constitution of Canada was written in 1867.

A day or so ago I drew attention to the fact that we were, by practice, changing some of our rules. I was referring to the rules of the Question Period. Perhaps we are carrying that practice even further. Maybe we are changing the role and responsibility of senators in this way. I must observe that when a situation like this comes before us, so obviously beneficial to our region, it must create extreme stress if a Whip is turned on, causing senators to vote against the best interests of their region.

Honourable senators, I cannot but regret that this chamber has in recent times come to resemble or to mimic the House of Commons. Perhaps it is because we have had so many new members who have not had time to feel their way into the Senate traditions. I do not know. But I feel, personally, that in changing the Senate has lost a good deal of face in the country. As we have known for some time, the Senate is held in very, very low regard throughout Canada. In the case of Bill C-22, while giving us credit for being alive, we have also come in for a lot of criticism for unnecessary delay. In addition, we have brought into question the role of senators as regional representatives.

Honourable senators, having said all this, I take my regional representation to be of paramount importance, and so in voting, whether it be on the motion or on the bill itself, I will vote in favour.

Hon. Douglas D. Everett: Honourable senators, my reservations on this legislation are not based so much on the content of the bill or the amendments that have been proposed but rather on the way it has been handled by the government in the other place. I agree with Senator Murray that this has now become a constitutional matter. If you examine how this was handled, you have to start from the fact that the minister at the outset stated that he would not pay attention to anything that the Senate said. He said that not just once, he said it several times and in a very pejorative manner.

[Senator Molson.]

The Senate, as Senator Molson has stated, created a special committee to look into this matter. The committee made substantial amendments to the bill. These were rejected by the government. The bill came back again and was referred to the Standing Senate Committee on Banking, Trade and Commerce. That committee introduced an entirely new set of amendments. They accepted the major provisions of the bill in a compromise, and they proposed in explicit terms amendments to make possible what the minister said the bill would actually do. These amendments were largely ignored by the minister, although he did make minor changes—two technical amendments. He stated that the Drug Prices Review Board must deal with any increase in drug prices over the Consumer Price Index. But there were no sanctions attached to his amendment, which was an element requested in the Senate amendment.

The Senate then asked for a conference, which has now been rejected by the Leader of the Government in the Senate.

Senator Murray: Not quite, senator. I beg your pardon, the Senate did not ask for a conference. The Senate asked me to put a hypothetical question to my cabinet colleagues as to what their response would be.

Senator Frith: Come on!

Senator Murray: If the Senate had wanted a conference they were free to move for one. However, I was asked to put a hypothetical question to my colleagues, which I did, and I returned with the reply.

Senator Everett: I stand corrected. The minister was given a hypothetical question. He went to his cabinet colleagues and to members of the caucus in the House of Commons, and it was indicated that if such a request were formally made it would be turned down.

Further, the Leader of the Government in the Senate has stated that this is a major piece of legislation in the government's program. So we are not dealing with something that can be passed off as an administrative matter. What the Leader of the Government is saying is that this is crucial to the govenment's legislative program.

The Senate's wishes from the beginning have been ignored. As a matter of fact, the minister produced a pamphlet which he distributed to the drug industry. That pamphlet certainly implies that the legislation will go through without interference from the Senate.

What are the obligations of the Senate? It most certainly has the power to amend this legislation. The question is whether or not it should use that power. It is clear—it has been said a number of times—that at the end of the day the elected representatives must prevail. I suggest to you that the

elected representatives have a duty to consult with the people and that, in fact, it is the people who must prevail. If the elected representatives have indicated from the very beginning through the mouth of their minister that they will not listen to the Senate, that they will not make a change of a substantive nature to the bill, then it is my belief that they have not consulted with the electorate, because they have said from the beginning that they will make no changes and that they will enter into no consultation. For that reason I come to the conclusion that this is not the end of the day.

Senator Roblin made a speech the other day following on a speech that I had made with respect to this matter. I must say that Senator Roblin and I agree on one point, and that is that this body should be an elected body. Senator Roblin said that the Senate clearly has the legal authority and the constitutional right to amend the legislation. With that I agree. Then he went on to the question of a convention.

• (1440)

Is there a convention that somehow removes the right of the Senate to exercise that power? The analogy that he used was that the Governor General has the right in certain circumstances to refuse to assent to legislation. In fact, the Governor General does not do that. A convention has arisen, but that is a convention that has arisen out of an election that was fought when Lord Byng was Governor General. The public clearly had an opportunity to express its view and stated that the Governor General should not exercise that power. Such a view has not been expressed in relation to the Senate. Therefore, I think we can distinguish the convention that applies to the Governor General from any convention that applies to the Senate. In fact, I think if one were to say that the Senate should not exercise its power, one might well say to the judges, "You should not exercise your power because you have not been elected." We do have the power; we were given it at the time of Confederation. It is interesting to note that for the time being that power has been brought up to date by the Meech Lake conference.

Senator Frith: And in 1982.

Senator Everett: And perhaps in 1982, as the Deputy Leader of the Opposition states.

Senator Roblin goes on to ask the question: "When will this chamber present itself for endorsation, as the elected chamber has to do?"

It seems to me to be pretty obvious that, while we do not stand for election, if we were to refuse this legislation, if we were to insist upon our amendments, we would stand for endorsation. There would be an immediate move by the government to do something to change the powers of the Senate, and the public would eventually decide, as it did in the matter of Lord Byng. We would be put to the test. We are not above having to present ourselves for endorsation for anything we do.

Senator Roblin goes on to say that we do not have political legitimacy. Again, I say that we may not have immediate political legitimacy, but what we do in the end must be legitimate in political terms.

Honourable senators, the *Globe and Mail* has stated as follows:

> In flouting the convention that the Commons prevails, the Senate is abusing a fundamental condition of representative government.

The Montreal *Gazette* states that the Senate has a duty to know its place, and invites proposals for reform or abolition. Honourable senators, if that is the case, then does that not argue that all we really have an obligation and a right to do is to comment on the legislation from the other place? When it passes us by we simply say, "Well, you should change this, you should do that, but if you do not choose to do that it is perfectly fine with us." If that is the only right of the Senate, then we could get a better job done at a devil of a lot less money by appointing a committee for that purpose.

The Senate means a lot more to me than just that. If it cannot exercise its legislative power—if that is what the *Globe and Mail* and the *Gazette* are saying, namely, "You must not exercise your legislative power"—then there is no reason for the Senate to exist at all. What the government should do—and I hope that they do it in consequence of the history of this legislation—is consider amending the powers of the Senate to what they see as being the powers that we should be exercising. There is no question that we have the power; there is no question that we have the legitimacy. However, there is a question as to whether or not we should exercise that power. If we will not be able to do it—if all we are is a nice body of commentary on what the House of Commons does—then I agree with Senator Roblin. He said that "any Senate other than this one would be better for the future of the country." I think that that is quite true. This is a constitutional matter. This is a matter that goes to the root of whether the Senate means anything.

What bothers me is that if we are not prepared to insist on our amendments when the minister and the government have said, "We will not listen to you, no matter what you do," then we lose all legitimacy as a legislative body and we should be abolished.

Some Hon. Senators: Hear, hear!

Hon. Duff Roblin: In expressing his opinion here this afternoon about the issue that has been put before us, the battle has been fairly joined, because there is the position taken by Senator Everett, which I agree is constitutionally and legally correct, that this body has the capacity to thwart or to deny the policies approved by the House of Commons. That particular view of our political situation has to be reconciled with the principles of responsible government. I say to this chamber that it cannot be done. You must make your choice as to whether you will stand up for the right of this Senate to contradict the House of Commons and to thwart their will, or as to whether you will accept the principles of responsible government.

What are the principles of responsible and representative government? In this issue I think they are clear in every respect. That is that the government, as represented in the

House of Commons, has the right to govern the country. It has earned the right to govern the country, because it has been successful in a general election and it still retains within the House of Commons the power to command a majority of those who sit in that chamber. That is the principle of responsible and representative government. To say that by any combination of words or ideas a body such as this that is appointed, not elected, has the right, when the day is done, to contradict, to thwart, to prevent and to stultify the policies of a government which is elected to carry on the administration of the country is the question that is before us.

I take the view that you have to make up your mind as to whether you wish to stand with Senator Everett and say that the Senate should—and I take that to be his meaning—stand up in this place and say that we will not accept this bill for reasons which seem good to him, or because we have the right both legally and constitutionally to do so—which I admit—or whether we should say that there is a higher principle which we have to take into account, the principle of responsible government.

An Hon. Senator: Hear, hear!

Senator Roblin: That is the argument in a nutshell. You have to decide which one of those stands you will take.

I simply take the stand that I believe that the principles of responsible government come first. Whether it is because I once ran for election—I was not always successful, but I had some success in it—that I have been indoctrinated with this principle of election, of responsibility and representation or not, I do not know. To me the answer to the issue is perfectly clear: We must say that we believe in this country in the principle of representative and responsible government. That means that the government that is supported by the House of Commons, has been elected by the people, and which still commands the majority in that House, has the right, the duty and the responsibility to run the government and to have its measures approved, and this branch of the legislature should not take upon itself the onerous responsibility of denying that principle of responsible and representative government.

I, for one, stand shoulder to shoulder with those who say that the Senate should not consider itself to be a rubber stamp and that we are not going to approve whatever comes before us without any comment, reservation or changes. We have the right to propose amendments, to propose changes, and we do. We have the perfect right to send those changes to the House of Commons and ask them what they think about them. The House of Commons has the duty, through the government—like it or not—to decide how it will react to proposals we have made.

● (1450)

In some cases they accept them. Indeed, in terms of the present argument we are having today, a number of proposals, although some say not the major ones—and they may be right—have been accepted.

However, if the House of Commons, after two tries in this instance, decides that it will not accept the advice the Senate has given it, then I think our responsibility is discharged. We have done our duty. We have said to ourselves, as some senators say, "One of our responsibilities is not to lend ourselves to early passage of legislation we do not agree with. Give public opinion time to build." We have certainly done that. There has been plenty of expression of public opinion. Some of us senators have told the House of Commons what we think is wrong with this bill. We have discharged that duty of revising the legislation to the best of our ability, but that is where our responsibility ceases.

To say that we have the constitutional right and legal authority to vote against the bill at this stage may well be true. But it clashes with, in fact it runs headlong into, the principle of responsible government and the principle of representative government, a course which I, for one, am not prepared to advise.

I was very interested in the arcane argument which my friend put forth to the effect that we really are responsible to the people. I did not quite follow how he came to that conclusion, but he left me with a clear impression that somewhere down the line there is probably a general election on the fate of the Senate, and that in the course of time, according to the political process, that may be considered to be a vindication, or otherwise, by the people of what the Senate is doing. I must say, "Good luck." That is a little bit removed from any kind of responsible government that I ever heard of. I think that responsible and representative government means that men and women who want to hold public office stand up and get themselves elected by the people, or not, as the case may be. That is how you get public responsibility, and there is no element of that that can be attached to our positions here in the Senate, none whatsoever.

Some Hon. Senators: Hear, hear!

Senator Roblin: I am here until I am 75, and, to use the expression of my dear friend, Dr. Forsey, even the Archbishop of Canterbury could not get me out of this place under the present Constitution unless I committed some crime. The public cannot get at me. No matter what I do respecting Bill C-22 I am safe from public opprobrium—or public praise, as far as that goes—as reflected in an election process. I do not see how you can get around that situation.

Senator Everett: What about constitutional amendments? Do you not agree that the Senate has a role to play in that regard?

Senator Roblin: In constitutional amendments the Senate has no voice at all except that it can impose a 160- or 180-day delay. How that comes into the argument I am not quite clear, because this is a derogation from the principle espoused by Senator Everett—that we should have the power and we ought to use it. That is what he has been saying. Respecting the Constitution, we do not have the power so we cannot use it. We can only discuss the matter and ventilate our ideas for the benefit of others.

Senator Everett: The Senate itself could be abolished, so they could get at you without your having any say. My

honourable friend is not in the position of the Archbishop of Canterbury in that regard. If the provinces and the federal government decide to abolish the Senate, we have very little say. We have a hoist, and that is about as far as it goes.

Senator Roblin: What has that got to do with responsible government, and what has that got to do with our right to deal with this matter by voting against it? At the present time, nothing at all.

It is perfectly true that the Senate may be abolished. I hope it is not. I hope it is reformed; I hope it is elected.

Senator MacEachen: We are both in agreement.

Senator Roblin: I have some support and I am glad to see it.

When we make those reforms we should also be careful to introduce mechanisms which will enable us to deal with log-jams such as the one we have at the present time. Whether the Senate continues to be appointed or if it is elected, a change should be made to ensure that the principles of responsible government are incorporated into whatever we have to do.

Honourable senators, I am not going to say any more. I did not expect to say anything at all, but it seems to me that the issue is very simple: Are you going to stand on the letter of the constitution of the law, which you may do, even if it flies in the face of the principles of representative responsible government that has been developed in this nation and elsewhere over the years? I think not.

I think we have done our duty. We have expressed our view.

I would ask you to consider the bizarre course which the whole of this debate has taken. The Special Committee of the Senate on Bill C-22 brought in recommendations which, in the words of Senator Molson—and I think he is right—". . . would gut the bill." One would have thought that that was a very important situation.

A second committee dealt with the matter and it threw out all of those things. They said that they were not going to bother about those principles that the first committee had in mind.

Senator MacEachen: Didn't the House of Commons throw them out?

Senator Roblin: No, no!

Senator MacEachen: Isn't that the history?

Senator Roblin: When the bill was referred to the Standing Senate Committee on Banking, Trade and Commerce, what did that committee do? Did it reaffirm the position of the special committee? No, it introduced a new set of ideas, none of which had anything to do with the recommendations produced by the first committee. They were abandoned; they were jettisoned. A new set of recommendations was brought in, recommendations that were of a far less fundamental character than those introduced in the first step.

What are we asked to do now? We are asked to say, "Well, we did not take our stand on the main issues. We did not take our stand on the first report, which was vital to the bill, let us say, but now, when we have a much watered down and modified set of suggestions, we are going to take our stand and throw the bill out on that account." In other words, we have swallowed the camel and we are straining at the gnat. I have never heard of anything so ridiculous in my life. For this Senate to say that we are going to accept the decision of the House of Commons not to agree with our important changes to this bill and that, by George, we are going to stand our ground and we are not going to accept the fact that they won't accept these relatively minor changes in the bill is a bizarre performance.

It is on that ground that we are being asked to violate the principle of representative and responsible government of this nation. I will have nothing to do with it.

Some Hon. Senators: Hear, hear!

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

I do not wish to prolong this matter, since I have already spoken too long on it, but one area that did give me some concern is that I thought I heard my honourable friend say—and I hope I do not misquote him—that the Senate has a duty to examine legislation and advise on amendments that might be made. I thought he said that the government should listen to the Senate's wishes in that regard. How does he then equate that with the situation where we have a minister who says, "I don't care what the Senate says. I don't care what the Senate does. I am not going to listen."?

Senator Perrault: That is exactly what he said.

Senator Roblin: It reminds me of a certain senator who said, "I don't care what the House of Commons says. I don't care what they have to do. I am not going to accept what they have to say." That is exactly the same argument in reverse.

Senator Argue: Do you think they are both wrong?

Senator Roblin: Maybe they are.

Hon. Henry D. Hicks: Honourable senators, I do not wish to engage in the dispute relating to the controversy between the Honourable Senator Roblin and the Honourable Senator Everett, but I do want to seriously challenge the thesis that Senator Roblin has advanced about the nature of responsible and representative government.

It is quite true, and I acknowledge it, that the government is responsible to the House of Commons, and when they lose the confidence of that House they have to resign. Until they lose the confidence of that House they have the right to govern. That is the element of responsible government—that only is the element of responsible government. The government is not directly responsible to the people, though the people have the chance of reviewing the situation at election time.

Senator Perrault: They will.

Senator Hicks: The government is responsible to the elected House of Commons, and I accept that, and until the government loses that confidence, which this government certainly has not, they have the right to govern. I do not challenge that.

However, the government must govern in accordance with the laws of the land as they stood at the time a particular government was elected, and this surely is also basic and fundamental to our constitution. When it comes to changing the laws of the land, the government does not have authority to do so. That certainly is part of the basic constitution of this country and of all institutions that have developed or derived from the British system. The laws of the land can only be changed by the actions of the House of Commons and the Senate and with the consent of the Sovereign.

● (1500)

Therefore, while this chamber certainly cannot interfere with the right of the present government to govern, it does have complete authority—which does not transcend any aspect, theoretical or practical, of our Constitution—to prevent the government from introducing and having passed legislation to change the laws of the land. This certainly is where the responsibility of both houses of Parliament comes in, and as long as our Constitution stays the way it is now it is the duty of the Senate to consider legislation and to vote on it conscientiously, just as it is the duty of the House of Commons. If the Senate should defeat this bill, it has no effect upon the rights of the present government to govern and to continue to govern. But it does deny the present government the right to change the laws in respect of our patent legislation—that is all.

This is not a constitutional question insofar as it is attacking the basis of responsible government. We do not deny the right of the government to govern until it loses the confidence of the House of Commons or until its majority in the House of Commons is adversely affected by a general election. We do insist, however, that under the same Constitution, and without in any way impinging upon the theories of responsible government, this chamber has the right to participate in the process of changing the laws of the land. However we vote on this bill, that is all the Senate is doing as one of the three elements of the Parliament of Canada which is charged with the responsibility of shaping and, from time to time, changing the laws of Canada.

Hon. Senators: Hear, hear!

Hon. Hazen Argue: Honourable senators, those of us who have criticized Bill C-22 have done it, I think, because we believe that the legislation is not desirable and is not in the best interests of the Canadian people. I think that the electorate in Canada today is very concerned about the functions of the House of Commons and of the Senate. The public may look to the Senate as an appointed body that is not representative in the ordinary sense of the word, but under the Constitution the Senate has been given certain powers, and those powers it has been exercising. I think the public is quite supportive of the actions of the Senate on this particular legislation. There is a deep concern in this country, not just about this legislation but about our whole system of government and how it works, particularly under the present circumstances.

[Senator Hicks.]

It is all right for Senator Roblin to say that we have responsible government, that that is the way it is, and that the Senate should not stand up at any time to the elected representatives of the House of Commons. But in Canada today we have a government with an overwhelming majority. This government is approaching the end of its mandate. The people have come to the conclusion that they do not have particular confidence in this government. I think Canadians are disturbed that their representatives in the House of Commons, perhaps even in the Senate, do not have the vision or the determination with which to use their powers in the interests of the country. I think that when Canadians look to the American system, although they may see a lot wrong with it, they realize that the House of Representatives and the American Senate have the power to bring the President to heel, if that is required.

Our system, of course, is the opposite, particularly when we elect a government—and my comments have nothing to do with any particular party—with a huge majority. The Prime Minister of such a government becomes a virtual dictator, with some controls, for the period of time between the elections. And the Whips are on in the Commons. When the government has a huge majority we know that it can rubber stamp a resolution such as the Meech Lake Accord, no matter what the public may think.

Senator Murray: Both opposition parties supported that, by the way.

Senator Argue: With some notable objections among members who exercised a measure of independence, and that measure of independence happened to be larger in the Liberal Party than in any other party.

The government has the authority to sign a free trade deal that may interfere with Canadian sovereignty. As I understand our system, honourable senators, Senate approval of such a deal is not required. The House of Commons will use a resolution as a means to approve this measure, and the weight of the government will be behind it.

Senator Murray: No.

Senator Argue: The government leader can shake his head all he likes, and he can also make his own speech, but when I reviewed his answer on the two-price wheat system—I always have to throw in a little wheat, even in a constitutional debate—I realized that it was one of the slipperiest answers I have ever seen in the Senate. He was entirely wrong. He said there is nothing in the Free Trade Agreement that would change the two-price wheat system. But the Premier of Saskatchewan said that it will be changed. Finally, the Minister of Agriculture and the minister in charge of the grain industry said that it will be changed.

Therefore, the Free Trade Agreement can be rubber stamped by the government, by the House of Commons, and this change in the fundamental powers of the country will be brought about without any reference to the people.

Although it may be great to look at the way the Senate could be constitutionally changed, I think it is of even greater importance to consider constitutional change affecting the

House of Commons. Our rules should be changed so that members of the House of Commons have a method—and a legitimate one—by which they can exercise their independence. Now the government members are saying that the Senate is not a legitimate body because it is not elected. They suggest that we should simply rubber stamp whatever comes over to us. The minister in charge of the drug bill complains about the Senate. Then the Prime Minister unveils the Meech Lake Accord and it freezes the Senate in place, in my judgment, in the current constitutional mould for a long time to come. On the one hand, the government criticizes the Constitution of the country for the way it has structured the Senate and, on the other hand, it has frozen the Senate into its present shape for many years to come.

Honourable senators, I have been in the Senate since 1966. The Senate today, in my judgment, is using the powers granted to it under the Constitution in the very best way possible and is doing a more commendable job than it has done at any time in the past. I believe that the Senate today has greater support among the population than at any time since I have been in the Senate; and after we have decided on this bill, whichever way it goes, there will be more fights in the future. There is more legislation around that needs to be overhauled and amended, and, so far as I am concerned, this is just the beginning of senators exercising their constitutional rights in such a way as to show some responsibility to the thinking and the opinion of the Canadian electorate.

● (1510)

Some Hon. Senators: Hear, hear!

Hon. Stanley Haidasz: Honourable senators, as one who took part in the 1969 legislation amending the Patent Act, helping the then minister, the Honourable Ron Basford, as his parliamentary secretary, and also as a still practising physician, I cannot let pass this opportunity of making a few remarks before the next step in dealing with Bill C-22.

No one in this chamber can deny that the effects of Bill C-22 will not reduce the excessive drug prices that exist today in the market. In fact, many witnesses have shown to us, on two committees, that prices will still be excessive because of reduced competition which will follow because of the extended rights of multinational pharmaceutical companies, giving them further and longer periods of patent protection on the drugs they produce.

I do not want to "toot" anything that has happened in my personal life in dealing with the high price of drugs and my experience as a physician; therefore, I would like to read into the record a few representative letters that I have received from the Canadian public. The first comes from a pharmacy in London, Ontario. It is a copy of a letter that was written to the Honourable Harvie Andre on November 13, and it refers to the brochure entitled "Bill C-22, The Patent Act Amendments" to which I referred in this chamber the other day. The letter reads as follows:

> Dear Mr. Andre:
>
> Today I received your "Dear Pharmacist" letter dated Sept 1987 & thirty copies of a Government of Canada publication "Bill C-22 The Patent Act Amendments *Better Health Care and Fair Drug Prices*. Since the bill is being courageously upheld by the Senate of Canada, I was outraged to see the Government of Canada distributing propaganda to seek public support for its proposals. This is being done at the expense of the public purse! Since many pharmacists such as myself are strongly against the bill, much of your printing will be discarded and never reach its intended audience. The Canadian Pharmaceutical Association (CPHA) has supported your efforts with Bill C-22, much to the displeasure of many of its members. CPHA has always favoured the multinational drug manufacturers, on whose revenues the association depends for advertising in its publications and magazine.

And here may I add, honourable senators, that this PMAC is not an incorporated body, and we often ask ourselves, "Why not?" Can they not afford $350 to become incorporated? The letter continues:

> As a second generation pharmacist, I understand how PMAC companies do business. Their methods and actions in Canada are no different today than they were twenty-five years ago, long before compulsory licensing. Generics have saved Canadian consumers millions of dollars, while PMAC companies have charged ridiculously high prices for their new products. Perhaps the current system is not perfect. Without the Senate amendments, your proposed bill is a sell-out. We need firm commitments from PMAC companies in exchange for patent protection.
>
> I would be happy to supply you with hundreds of examples of greed on the part of PMAC companies. My favourite examples are the products of Squibb Canada. Every six months this company increases its protected products by amounts ranging from 5 to 25%. Such corporate greed is common in the drug industry today.

The letter then lists the unit prices of Squibb products based on the company's catalogue. For instance, for a drug that lowers hypertension, namely, Capoten, 50 milligrams, in January 1983 it was 47.5 cents; in July 1983 it was 48.8 cents; in January 1985 it was 65.4 cents; and in July 1987 it was 80.7 cents. The letter continues to explain that this is how companies price their products when they have patent protection.

It continues:

> Currently no generic equivalents for the above products are available in Ontario for use. Can you imagine the amount of money the government, taxpayers and patients of Canada could save if a generic equivalent were available?

The second letter is from a practising family physician in Belleville, Ontario. He is Dr. Jeffrey J. Whitehead, who wrote to Mr. Andre, as follows:

> The following quotation was ascribed to you in your appearance before the Senate banking committee: "I

think you can say without fear of contradiction that nobody in Canada goes without drugs for financial considerations." Well, Mr. Andre, I would like to contradict you and I suspect any practising physician in Canada would contradict you if they sat down and put pen to paper.

I agree that most patients are covered by drug plans, that is the very poor, the elderly, and those with well paying jobs. It is the "working poor", those who have poorly paying employment who ironically do not have the protection of drug plans.

At least once a month I have patients who plainly state that they cannot afford to buy a certain medication. Of those who can afford to purchase it, it often causes a significant financial hardship. Let me give you a few specific examples. I recently saw a man in his 40's with a gastric ulcer who could not afford the ranitidine (ulcer medication) he was prescribed by a gastroenterologist. This medication costs roughly $65.00 a month. It was only on direct questioning that he admitted that he did not take the drug because he could not afford it. Partially due to the intermittent medical therapy he has received, the ulcer has not healed. He will probably require a gastrectomy in the next few months. At least that will be covered by OHIP.

The treatment of hypercholesterolemia has become more prevalent as the importance of this risk factor becomes evident. Cholestyramine, the drug of choice at present in Canada, costs $170.00 a month at the 24g/day dose usually required. I have one patient who simply cannot afford it. The answer for him will be a premature death from atherosclerosis.

The newest antihypertensives such as the ACE inhibitors and the calcium channel blockers have few side effects and do not adversely affect lipids. I prescribe them rarely because patients simply cannot afford them unless they have a drug plan.

● (1520)

Please do not take the Canadian Medical Association endorsement of your bill as proof of its beneficial effects on patient care. This is just a further example of how the leaders of organized medicine have supported the position of right wing elements at the expense of their traditional role as patient advocates. They opposed the Canada Health Act which gave every Canadian the right to medical diagnosis and surgical treatment. Now they support a bill which will limit further Canadians' right to medical treatment by means of drug therapy.

In summary, your statement that nobody in Canada goes without drugs for financial considerations could only be made by someone who has never practised medicine. Furthermore, it astounds me that you can be so out of touch with reality on an issue of such importance to so many people's health. Some Canadians are suffering today due to high drug prices. If your bill goes through their lot in life will only get worse. Please reconsider your position.

[Senator Haidasz.]

I shall not read any of the other letters I received from such groups as the National Federation of Nurses or the pharmacists, to which I referred in my previous interventions, which have condemned Bill C-22. However, I also bring to your attention the terrible misuse of ministerial power in the printing and distribution of this blue pamphlet entitled "Bill C-22 The Patent Act Amendments", for which the government was criticized in this chamber not only by me but also by Senators Sinclair, MacEachen, Argue and others. I just cannot see how a government who promised during the federal election campaign to be honest and caring could bring out such information before the legislation has been passed by both houses of Parliament.

Honourable senators, I do not want to prolong the debate on this bill, but let me state again that Bill C-22 is flawed legislation. It is unfair and, indeed, it is unjust. It is unworthy of a government that promised to the electorate that it would be caring and that it would bring in a just society. Furthermore, what will we do later today when we come to the crucial moment in dealing with Bill C-22, which can only be described as a dark blot on the already sad record of this government? I do not know how anybody in this chamber who is caring or how anybody in this chamber who is courageous could support Bill C-22.

Hon. M. Lorne Bonnell: Honourable senators, I had not intended to say anything about this bill. However, I do want to say a few words to compliment and to thank Senator Sinclair for the excellent job he did in chairing the Banking, Trade and Commerce Committee in its study and report on the message from the other place and on the motion of Senator Murray.

I would like to set the record straight on one thing. Senator Roblin has suggested that we cast aside the recommendations made by the special committee that travelled from St. John's, Newfoundland, to Victoria, British Columbia, to hear the concerns of the Canadian people when the Banking, Trade and Commerce Committee introduced its second group of recommendations. In case some of you might have forgotten, I would like to read to you what the Banking, Trade and Commerce Committee said in its report of October 21 at page 2022 of the *Debates of the Senate*:

> The House of Commons, in its Message to the Senate, declined to concur in most of the Senate's amendments to Bill C-22. In doing so it rejected the approach to intellectual property protection in the pharmaceutical industry and compulsory licensing proposed by the Senate. It also rejected the measures favoured by the Senate to promote greater research and development, to protect the consumer, and to foster better health care

Further on on the same page the report says:

> Bill C-22(S)—

That is, the Senate motions.

> —is designed to protect intellectual property primarily through the payment of royalties by licensees to paten-

tees. It recognizes that the 4 per cent royalty now paid by licensees is inadequate and consequently provides for an increase to 14 per cent. It recognizes the importance of guaranteed periods of exclusivity, by providing four years to patentees. This period, according to the *Report of the Commission of Inquiry on the Pharmaceutical Industry* (the "Eastman Report"), is sufficient to allow patentees to establish their products on the market.

This combination of a short guaranteed period of exclusivity and higher royalty payments by licensees constitutes the Senate's preferred view of how intellectual property should be recognized in this industry.

Let me say that the Banking, Trade and Commerce Committee concurred in and recognized the work of the special committee as having the preferred view, but since the House of Commons did not want to accept that view the committee decided to look for a compromise between the special committee's views and the Commons' views, and they brought forward something that did not disrupt the overall view of the government but that tried to make it a little stronger to protect the Canadian consumer, to protect against unjustified increases in prices, and to protect the industry.

Honourable senators, this may be considered a constitutional matter, but actually it has gone beyond that. It is a matter that will take $2.5 billion out of the economy of Canada. That $2.5 billion will go to multinational drug companies throughout the world. Of those companies 85 per cent are in the United States of America and about 15 per cent in countries such as Japan and the United Kingdom. If you take $2.5 billion over the next ten years out of our economy it will cost our economy 9,000 jobs. I know that we have been promised 3,000 jobs. However, even if we get the 3,000 jobs, we will have lost 6,000 jobs. Perhaps the 6,000 jobs we will lose will not be those of university professors or researchers, but they could be in car manufacturing. It could be people working on the wharves, people in the fishing industry, or people in the farming industry. You cannot take $2.5 billion out of Canada's economy and not lose 9,000 jobs.

• (1530)

We certainly have been promised money for research and development. Everyone in Canada is in favour of research and development. Everyone in the Senate, I am quite sure, is in favour of research and development, but let us not put all of the cost of research and development on the backs of the sick, the infirm, the aged or the crippled. Let us put some of it on the backs of the banks, the big corporations, the rich, the working people, the doctors. We certainly need research and development, but perhaps we should let the government put more money towards it and then direct that research to where it will do some good for Canada.

Therefore, honourable senators, while we need more jobs and we need more research, there are ways of acquiring these things without destroying our economy, and there are ways of doing it without doing it on the backs of the aged, the sick and the infirm.

Honourable senators, I have been in the political field now since 1951. During that time I have watched the build-up of Old Age Security, Family Allowance, Unemployment Insurance, veterans legislation, hospitalization and medicare—all the good social legislation that tries to equalize the "have nots" with the "haves" and give us all an equal chance to survive in this great country. Therefore, I hate to see any government, regardless of political stripe, try to destroy that great social network that we have built up over the years, which protects those people who do not have the advantage of salaries of $50,000 a year or more and who have no security in their jobs. There are people in this country who do not have the advantages that some of us here in this chamber enjoy.

Therefore, honourable senators, we should keep in mind those disadvantaged people who will have to pay a larger premium for their Blue Cross and those have-not provinces who will have to pay more for their social programs for the aged, for hospitalization, et cetera. After hearing those concerns expressed across this country I am afraid that I cannot support this legislation.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, it appears that the situation has ripened to the point where we can expect to take a decision on Bill C-22 very soon. However, before that point comes, I would like to make a few comments about the situation as it presently exists. Last month, honourable senators, we proposed to the House of Commons some amendments to Bill C-22 which we believed were reasonable and in complete conformity with the government's own assurances to the people of Canada.

Some Hon. Senators: Hear, hear!

Senator MacEachen: The Minister of Consumer and Corporate Affairs has frequently told Canadians in every part of the country that the Drug Prices Review Board would keep price increases on pharmaceutical drugs at less than the cost of living. In fact, in the House of Commons as recently as August 21 the minister said that:

> Bill C-22 . . . provides that drugs will not increase more than the cost of living.

The Standing Senate Committee on Banking, Trade and Commerce took the minister at his word and recommended that the bill be amended to provide that the prices of drugs would not increase more than the Consumer Price Index—hardly a fundamental restructuring of the bill. The committee was merely legislating the commitment made by the minister. That was the first amendment.

The minister, Mr. Andre, also told Canadians that he had a promise from the brand name pharmaceutical companies that research and development expenditures would increase substantially. In fact, he told the House of Commons, on that same day in August of this year, that:

> We have a commitment for 10 per cent of sales to go into research and development.

What the Standing Senate Committee on Banking, Trade and Commerce did was to cover that point in the form of an amendment, totally in accordance with the commitment—or,

at least, the principle of the commitment made by the minister.

The third major recommendation made by the Banking, Trade and Commerce Committee and accepted by the Senate deals with retroactivity. When the minister appeared before the House of Commons Legislative Committee on Bill C-22 he stated:

> This Bill does not affect any of the drugs currently on the market . . . .

And further:

> The only possible impact this bill could have is on a drug not yet discovered or not yet marketed.

Honourable senators, my understanding is that the amendment put forward by the Banking, Trade and Commerce Committee, approved by the Senate and sent to the House of Commons, did precisely what Mr. Andre, himself, advocated.

We now know what happened. I was certainly amazed to read in the message that we received on Tuesday that the last two amendments were "in contradiction to the fundamental principles of the bill and undermine the objectives of the policy." The Senate Banking, Trade and Commerce Committee makes a careful effort to place into law the commitments made by the minister himself, only to find that the minister claims that we have undermined the objectives of the policy and proposed something that is in contradiction to the fundamental principles of the bill. One wonders whether anyone is reading or following what is happening in the Senate, and whether the person who prepared the message had understood the amendments which were put forward by the Senate.

It was not surprising that when the minister brought forward his motion in the House of Commons he asked for leave to have it introduced and taken as read. Of course, that leave was not granted, and he then raced through his motion with great haste, saving himself the necessity of having to consider why amendments, which mirrored his own words, were in contradiction to the fundamental principles of the bill and undermined the objectives of the policy. I am surprised he did not choke on those words which he read to the House of Commons.

● (1540)

Honourable senators, I do not intend to dwell on the role of the Senate or its constitutional foundation, but it is a fact that the Senate is a legislative body which exists in a federal state and, as has been pointed out earlier in the debate, it has always taken regional concerns to heart. This was a key part of the Senate's mandate at the time of its creation, and is a role that still dominates the thinking of all senators. The role has been confirmed by the Meech Lake Accord in the sense that now, as we have been discussing in the Committee of the Whole, senators are to be nominated by provincial premiers, even underlining more forcibly the regional basis of senatorial representation.

That gives me an opportunity to refer to the contradictory logic of the rather patronizing intervention made by Senator Molson; patronizing not only to those senators who are unfortunate enough to have political convictions and sit as declared representatives of a political party; patronizing to the House of Commons in his comment that any attitude carried from the House of Commons might be alien to a civilized body like the Senate; patronizing to the work of both committees—the chairman who has just spoken, Senator Bonnell, and the chairman who spoke earlier, Senator Sinclair—which have very carefully studied Bill C-22. All that work was trivial and beneath the notice of a cross-bencher.

If I know anything about the work of the true cross-benchers in the British House of Lords, they would find Senator Molson's views on the role of the second chamber quaintly outdated.

Senator Frith: Hear, hear!

Senator MacEachen: Senator Molson has told us that he is voting in support of this bill, because his province, Quebec, is in favour of the bill and therefore, as a regional representative, he has to support the bill. He challenges others from his province to do likewise and to follow the noble example set by a person unencumbered by political convictions. Is Senator Molson aware that of the six provincial governments and the one territory which made representations to the committees all opposed the bill except Saskatchewan, which gave only conditional support?

Senator Barootes: Good for them.

Senator MacEachen: Not a single province or territory appeared before the committee to testify in support of the government's initiative. So, if we were to accept the admonitions of Senator Molson and vote on regional lines this bill would be defeated today. It would be defeated. That, of course, would counter another principle which I thought was enunciated by Senator Molson, namely, that we ought not to challenge the views of the House of Commons, that that was somehow unbecoming behaviour. He cannot have it both ways.

If we are to be true regional representatives, and if at a certain point we feel regional interests are at stake, then we have to stand up and defeat a bill which has regional implications. That, of course, would cause a flurry amongst those who have argued not only today but in earlier days that the role of the Senate is a purely advisory role.

I must say that I was impressed with the evolution in Senator Roblin's thinking today.

Senator Perrault: Where is he?

Senator MacEachen: On the occasion that he dealt with the borrowing bill Senator Roblin was very anxious about the possibility that the Senate would delay the bill for a few days. We were speaking of a few days, when you look at what happened in the case of the borrowing bill. Senator Roblin cautioned us that "ours is an advisory role and an advisory role only."

I argued at the time that the Senate was more than an advisory body; it was a legislative body, and that that legislative function empowered the Senate to, at least, make amendments and send them back to the House of Commons. Indeed,

so anxious—timid, I think is the correct word—were supporters of the government on that historic occasion when we dealt with the borrowing bill that, when Senator Roblin moved that the Finance Committee report the bill later that day, the Whip on the other side, Senator Phillips, told us prior to the vote that the vote on that procedural motion to bring the borrowing bill out of the committee ". . . will decide not only the future of the Senate but also the future reputation of the Liberal party." That was February 20, 1985.

No one would make those comments today, because the Senate has changed. As even Senator Molson has admitted, it has wakened up and it is active. It is becoming more authentically a legislative body. Indeed, the Senate on this occasion has had the nerve to send over not one set of major amendments but two sets of major amendments to the House of Commons. That must have shaken the Leader of the Government in the Senate, because in the summer of 1986, when we had the temerity, as a legislative body, to send an amendment over to the House of Commons on the parole bill, the Leader of the Government urged us to be careful and not to amend bills. He stated:

> We have not proceeded by way of bringing in important amendments to government bills from the House of Commons . . . we have relied on quiet diplomacy and on persuasion.

● (1550)

All that is in the past. The Senate has flexed its legislative muscles. It has decided to become a true legislative body and to deal with legislation in a serious way. It has succeeded in having its views considered twice by the House of Commons and in alerting the nation to the contents of Bill C-22, because every citizen—maybe it is an exaggeration to say that—but many citizens now know the implications and the content of Bill C-22. Certainly, in my experience, I have never been encountered so frequently in airports, on the street and here and there by citizens who have raised the question of Bill C-22. They understand it and do not have the same warm feelings for it that have been expressed by Senator Molson.

So the Senate has made a positive contribution. I have not been in the Senate long enough to have a view! Of course, I have not been inducted into the traditions of the Senate—

An Hon. Senator: No.

Senator MacEachen: —and therefore I would not rely on my own judgment to determine whether the Senate has risen in the estimation of the people of Canada through its actions on Bill C-22.

I wish to refer to one commentator, whose name I use merely because he has been somewhat critical of the Senate in the past—at least, as I recollect—and that is Don McGillivray of the *Ottawa Citizen*. This is what he has said about Bill C-22:

> The gains for the Senate at this point are impressive. It has established new credentials as a champion of ordinary Canadians. It has gained experience in tactics and strategy, which may be applied in future to the Meech Lake accord and free trade.
>
> It has established itself as a working part of the Canadian constitution and given some strong hints of how a reformed, elected Senate would operate.

I am pleased that, quite apart from what one may think about the substance of the bill, the Senate has moved ahead, as the author says, as "a working part of the Canadian Constitution."

Senator Perrault: Hear, hear!

Senator MacEachen: We have made it clear on this side of the house that we do not think much of the bill. In fact, we think little of it. As Senator Haidasz summed up our view in a concise way: "Anyone with compassion and courage could not support this bill." We certainly do not intend to support it; I certainly do not.

If all of the senators decided today to defeat this bill, regardless of the views of Senator Roblin, I think their decision would be widely applauded by the Canadian people.

I will quote a recent poll—and I am not good at analyzing polls; others have made it a career. I am told by those who are much more knowledgeable that the poll is reasonably reliable and is put out by a reliable research agency. It puts this question to the Canadian people: The Senate should do what the government wants and pass Bill C-22 without amendments. Only 18 per cent of the respondents say, "Yes, pass the bill without amendments." The next question put is: Should the Senate defeat Bill C-22 unless it includes amendments that guarantee benefits for Canada?

Some Hon. Senators: Shame!

Senator MacEachen: I think that is a reasonable question, and 81 per cent responded in the affirmative. There is a further question that supports quite consistently the view that the Canadian people generally do not like this bill.

If I were relying only on polls I would be somewhat hesitant in saying that the Canadian people do not like the bill. But that judgment is supported by the volume of mail that has come to my desk and to the desks of many senators, thanking us for what we have done on Bill C-22, and in some cases asking us to kill the bill. It is supported by the personal contact that I have had with citizens whom I meet, as we all do, in the daily course of life. I merely make the point that if we on this side stood and defeated the bill I think we would get a resounding clap from the Canadian people.

We do not intend to defeat the bill today. We have, however, been encouraged by the support we have received from Canadians in our fight to improve Bill C-22. They have cheered us on every step of the way. At the end of the proceedings they will now ask, "Why have you not taken the final step of defeating Bill C-22 and thereby save the country from its damaging effects?"

I think that question deserves an answer. Certainly, defeating the bill today or now would give direct expression to our intense opposition to Bill C-22. However, defeating the bill would relieve the government of its commitments, which it

steadfastly refused to put into legislation, to provide additional jobs, investment and research, and to safeguard the population from the harm arising from future increases in drug prices. These are the burdens of the government. The defeat of the bill today could become a victory for the government. Its energies would then be devoted to fanning the flames of regional grievances. It would blame the Senate for denying the people the alleged benefits of Bill C-22. In these circumstances, and in our system, it is much more appropriate that the government take the responsibility for the impact of the legislation rather than that the Senate should do so.

• (1600)

We might—certainly, I might—take a different attitude if relief from the ill effects of this bill could not be secured in another way. We all know that the mandate of this government is stale. The government is in the fourth year of office; its popularity is low; and there is every prospect that a new government will be in office in a new Parliament. Then relief will be secured.

The Senate, honourable senators, has assisted greatly in sensitizing the public to the evils of this bill and the intransigence of the government in pushing ahead with it and refusing all reasonable improvements. The Senate has done that job. The same public which has been sensitized by the work of the Senate will have an opporutunity in the next election to make a judgment as to whether it wishes to keep in office a government which has made the enactment of Bill C-22 one of its principal priorities. Perhaps we ought not to deprive them of the opportunity to make that judgment.

In this body we have done everything within our means to secure the needed improvements. Twice we have sent amendments forward to the House of Commons. On the second occasion we departed from our preferred amendments and proposed a set of changes with more limited impact, but which, if accepted, would have put into the law commitments already made by the government and which would have provided needed assurances to a worried citizenry. The second and more limited amendments were an effort at compromise. We know the outcome. The government, supported by its majority, refused to accept those amendments. It remained adamant in its stubborn desire to implement unpopular and bad legislation.

The Conservative majority in the House of Commons, despite our efforts in the Senate, despite the efforts of the opposition parties in the House of Commons in admonishing the government, in amending the law, has time and time again affirmed, reaffirmed and confirmed this particular bill, sought more by President Reagan, the Mulroney government and the multinational pharmaceutical lobby than by the people of Canada.

Some Hon. Senators: Hear, hear!

Senator MacEachen: Time and time again the Conservative members of the House of Commons have refused to listen. They must now take responsibility for their conduct. I think it is time for the Conservative government and the Conservative members to be saddled entirely with the results of their own mistakes and to be allowed to face this issue in the next election.

[Senator MacEachen.]

As far as I am concerned, our duty has been done. To go further would deprive the Canadian people, themselves, of rendering the absolute veto.

Some Hon. Senators: Hear, hear!

Senator Murray: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Murray speaks now, his speech will have the effect of closing the debate on the motion.

Senator Murray: —it is late in the day. It is, to employ the phrase of the Right Honourable John Turner, "the end of the day."

My honourable friend, the Leader of the Opposition, is in fine form, and I greatly enjoyed his speech. It is rather an unfinished symphony, however, because he did not state precisely what his own intentions were with regard to this bill. He has indicated quite clearly that he does not support the bill. He has also indicated that for his part, or on behalf of Her Majesty's Loyal Opposition, they had done as much as could be done and that they would not defeat the bill. I obviously do not quarrel with that decision, if it is a decision.

We on our side will do our part by being rather more pro-active in voting to pass the bill.

That being the case, honourable senators, it remains only for me to thank the honourable senators who have participated today in the debate on my motion.

Let the matter now come to a vote.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody:

> That the Senate concur in the amendments made by he House of Commons to its amendments 13(a), (b), (c) and (d), 14(a), (b), (c) and (d) and 16(a);
>
> That the Senate do not insist on its amendments 4(b), 11, 12, 15(a), (b) and (c), 16(b), (c), (d) and (e), 17(a) and (b) and 18(a); and
>
> That a Message be sent to the House of Commons to acquaint that House accordingly.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

• (1620)

Motion agreed to on the following division:

YEAS

THE HONOURABLE SENATORS

Asselin	Macquarrie
Atkins	Marshall
Balfour	Molson
Barootes	Murray
Bélisle	Nurgitz
Bielish	Phillips
Cochrane	Roblin
Cogger	Rossiter
David	Sherwood
Doody	Simard
Doyle	Spivak
Flynn	Tremblay
Kelly	Walker—27.
MacDonald (*Halifax*)	

NAYS

THE HONOURABLE SENATORS

Everett	Lang—3.
Haidasz	

ABSTENTIONS

THE HONOURABLE SENATORS

Adams	Lefebvre
Anderson	Le Moyne
Austin	MacEachen
Bonnell	Marsden
Bosa	McElman
Cools	Molgat
Corbin	Neiman
Cottreau	Perrault
Davey	Petten
Denis	Riel
Fairbairn	Rizzuto
Frith	Rousseau
Gigantès	Sinclair
Hébert	Stewart (*Antigonish-Guysborough*)
Kenny	
Leblanc (*Saurel*)	Stollery—32.
LeBlanc (*Beauséjour*)	

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I would like to put on the record that the reason for the abstention of my colleagues and myself on this vote has been fully explained in the comments that I made earlier to the Senate.

Some Hon. Senators: Hear, hear!

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that he had received the following communication:

RIDEAU HALL
Ottawa

THE SECRETARY TO THE GOVERNOR GENERAL

19 November 1987

Sir,

I have the honour to inform you that the Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 19th day of November, 1987, at 5.30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Leopold H. Amyot
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

• (1630)

SUPREME COURT ACT

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, since Royal Assent is scheduled for later this afternoon, I wonder if you would grant leave to bring forward Bill C-53, an act to amend the Supreme Court Act and various acts in consequence thereof, the report on which was tabled earlier today. At that time we moved that third reading be given at the next sitting of the Senate. It would seem, perhaps, tidy to have third reading on that bill now and give it Royal Assent this afternoon as well.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the only reason we did not agree to give it third reading earlier is that Royal Assent was not anticipated

at the time, so we followed the usual procedure of giving one day's notice unless Royal Assent is provided for. So, since Royal Assent is now available, why not?

Senator Doody: Then, with leave, may we have third reading now?

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

Hon. Senators: Agreed.

Hon. Nathan Nurgitz: Honourable senators, I move that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

[*Translation*]

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longivity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, the day before yesterday I had promised Senator Argue that I would be speaking to his motion yesterday, but the sitting lasted until 6.20 p.m. Even today I hesitate to keep you here longer, but I do not have much to say and this will take a few minutes at most.

I think the proposition of Senator Argue is very interesting, but its scope and possible difficulty have me deeply concerned.

Hon. Royce Frith (Deputy Leader of the Opposition): Which item of the order paper are we dealing with now?

Senator Flynn: On the motion of Senator Argue to establish a special Senate committee to examine all health problems in Canada.

[Senator Frith.]

The speech made by Senator David indicated the wide scope of this study and the possible difficulties. I simply wish to suggest that the Senate obtain further information on this issue before voting on it. If it is convenient, I shall move, seconded by Senator Roblin:

That this motion be referred to the Standing Senate Committee on Social Affairs, Science and Technology with instructions to review the following matters and to report thereon to the Senate:

(a) To establish the general program called for in the terms of reference of the special committee.

The wording of the motion is very vague, so we could certainly get more information.

(b) In relation to this program, to provide an opinion on the relative ability to implement this program compared to that of a Royal Commission.

This program seems to me extremely vast, based on the comments made by Senator David. And finally, I shall read the last paragraph of this motion:

(c) To provide an estimate of the costs and the duration of the committee's study.

I shall not insist if the Senate does not agree to this motion. I shall not be too crestfallen as this is only a suggestion. If the Senate agrees, however, I believe that all senators, except for Senator Argue, who is perhaps surer in his own mind, would find it useful to have a report of the standing committee about what the terms of reference which have been proposed for this special committee really entail.

Senator Frith: Unfortunately, I did not quite understand. Is it proposed that the motion be referred to a committee?

Senator Flynn: The purpose is to refer the motion to the Committee on Social Affairs, Science and Technology with instructions to review the contents of the motion and to report on the extent of the program, the ability of the special committee to carry out this work and an estimate of the costs and the duration of this study.

Senator Frith: I understand the purpose of the motion, but unfortunately, I did not quite follow the procedure. Is this a separate motion or—

Senator Flynn: The purpose is to refer the motion to the standing committee.

Senator Frith: The motion as such?

Senator Flynn: The motion itself.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Senator Flynn: You can adjourn the debate, Senator Frith.

Senator Frith: Honourable senators, before the question is put, I shall adjourn the debate on the motion of Senator Flynn.

On motion of Senator Frith, debate adjourned.

[*English*]

BUSINESS OF THE SENATE

On Inquiries:

Hon Eymard G. Corbin: Honourable senators, I rise on a point of order. I do not wish to take undue advantage of your time this afternoon. However, I have noticed that some of the inquiries standing under the names of various honourable senators have been on the order paper for some time, one of them well over a year. Inquiry No. 1, standing in the name of the Honourable Senator De Bané, P.C., "That he will call the attention of the Senate to the need for the Federal Government," and so on and so forth, has been on the order paper since November 5, 1986. I do not know what the object is in leaving a notice of inquiry on the order paper undebated. It could well be that the intention is to keep honourable senators in a state of indefinite suspense. However, it seems to me that unless there are serious reasons for doing so it is unacceptable for an honourable senator to give notice of his intention to make a speech or an intervention on a given subject and then not to proceed with it at the earliest opportunity. Further, it seems to me that a year is more than generous.

I see Senator Marshall looking at me with a rather inquisitive look. I certainly do not intend to attack his integrity by raising this point of order at this time, because he is a very active senator and has brought forth a number of topics that are indeed crucial and fundamental matters.

In the same vein, I can say that regional development is also a fundamental matter inasmuch as the general location of this chamber is concerned, but to give notice of a topic and then, for reasons unknown to me, not to proceed with it, and to let the matter stand indefinitely, I think borders on abuse of the goodwill and cooperation among senators.

I wonder whether we should have the Standing Committee on Standing Rules and Orders look into the possibility of bringing forward a solution to this problem. I hate regulations as much as anyone else. I do not like to be regimented into situations. However, on the other hand, I do not like to have my goodwill abused. Therefore, perhaps the Rules Committee should look into the possibility of allowing these notices of inquiry to stand on the order paper for a reasonable, given period. It could be three months or it could be four months, but not have them stay indefinitely on the order paper. After all, it costs the taxpayer a great deal of money to print the texts of notices of inquiry in the order paper.

Therefore, I think we ought to adopt a reasonable attitude, but compel senators who give notice of an inquiry to proceed with that inquiry expediently, within a reasonable period of time, otherwise, those inquiries will be removed from the order paper.

Honourable senators, those are my views on this matter. I think it is rather silly to have these matters read into the record at sitting after sitting and to have no one address the questions that have been raised. In my view, it is an abuse.

Hon. Royce Frith (Deputy Leader of the Opposition): As honourable senators know, the Standing Committee on Standing Rules and Orders is entitled to take notice of a matter such as this without motion. Frequently, when someone raises a matter of this kind in the Senate, that committee does take notice of it and deals with it of its own motion, and I think that that procedure should be followed in this case.

[*Translation*]

Hon. Jacques Flynn: We should probably adopt a procedure like the one used in the courts to strike cases from the roll.

Senator Frith: Exactly.

Senator Corbin: May I ask Senator Flynn, referring to the particular example he just gave, how long it takes for cases to be struck off the roll?

Senator Flynn: There is no set time limit, but perhaps we could have one for our purposes.

Senator Corbin: In the specific example you mentioned, is this left to the discretion of a judge or a committee of judges?

Senator Flynn: It is entirely at the discretion of one of the judges, Senator Corbin.

Senator Corbin: Thank you, Senator Flynn.

[*English*]

Senator Frith: In English the expression is "purging the list."

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, December 1, 1987, at two o'clock in the afternoon.

Motion agreed to.

The Senate adjourned during pleasure.

At 5.35 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned,

and being come with their Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Patent Act and to provide for certain matters in relation thereto (*Bill C-22, Chapter 41, 1987*)

An Act to amend the Supreme Court Act and to amend various other Acts in consequence thereof (*Bill C-53, Chapter 42, 1987*)

An Act to revive Yellowknife Electric Ltd. and to provide for its continuance under the Canada Business Corporations Act (*Bill S-10*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, December 1, 1987, at 2 p.m.

THE SENATE

Tuesday, December 1, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-90, to amend the Unemployment Insurance Act, 1971.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

REPORT OF COMMITTEE ON CONSULTATION PAPER ON TRAINING AND DOCUMENT ENTITLED "EMPLOYMENT OPPORTUNITIES: PREPARING CANADIANS FOR A BETTER FUTURE" TABLED

Hon. Arthur Tremblay: Honourable senators, I have the honour to table the ninth report of the Senate Standing Committee on Social Affairs, Science and Technology on the consultation paper on training and the document entitled: "Employment Opportunities: Preparing Canadians for a Better Future".

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Tremblay, for Senator Gigantès, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

TAX REFORM 1987

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to table its twentieth report, respecting tax reform in Canada.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Hon. George van Roggen, with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 4 o'clock in the afternoon on Tuesdays for the balance of the present session even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

[*Translation*]

OFFICIAL LANGUAGES

STATUS OF FRENCH IN ALBERTA—STATUS OF FRENCH IN PROVINCIAL LEGISLATURES

Hon. Norbert Thériault: Honourable senators, I have a question for the Leader of the Government in the Senate, and I simply want to ask whether he is indeed the minister responsible for Federal-Provincial Relations.

Hon. Senators: He doesn't know.

Senator Thériault: Are you the minister responsible for Federal-Provincial Relations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I think it is unfortunate that my honourable friend doesn't seem to realize I am still Minister of State for Federal-Provincial Relations.

Senator Thériault: Honourable senators, I had the impression he was, but I simply wanted to confirm his position before asking my main question.

As a French Canadian not from Quebec, I am saddened, as are many of my fellow citizens, to see what is happening in the province of Alberta, and I would like to ask him about two items.

The first item concerns the legislature's decision to allow a French-speaking member to ask questions in his mother tongue, but only with its specific permission. I realize this is a provincial matter.

Second, the matter of a person in Quebec who was not allowed to go to court—a matter which, according to my information, is not necessarily under provincial jurisdiction—

and especially the fact that the federal government was a party to this decision.

So I simply want to ask the minister whether, as Minister of State for Federal-Provincial Relations, he has discussed these problems with the Government or the Premier of Alberta.

Senator Murray: If I understood the senator's questions correctly, he also referred to a trial in Quebec.

Senator Thériault: No, I did not.

Senator Murray: You did not?

Senator Thériault: I said, as a French-Canadian not from Quebec, that my fellow citizens were concerned about what they were reading in the press and what was happening in Alberta regarding two specific matters. I want to ask the minister whether he has been in touch with the Government or the Premier of Alberta about these important matters.

Senator Murray: There are two questions. One concerns a trial in Alberta, and I am not familiar with any of the details. Second, there is the matter of Mr. Piquette and his right or desire to express himself in French in the Alberta Legislature. The only answer I can give my honourable friend is that I did not discuss the matter with the Government of Alberta.

Senator Thériault: Well, Mr. Minister, since you say you did not discuss this item, did you discuss the other one, the matter of the trial in French of another Francophone in Alberta?

Senator Murray: I am sorry, but I am not at all familiar with the details of this case. I will make enquiries and report back to the Senate in due time.

Sénator Thériault: Honourable senators, could the minister tell us how many other francophones in Canada's legislatures may be in the same situation as Mr. Piquette in Alberta at the present time?

Senator Murray: As far as I know, honourable senators, there is no similar case.

Senator Thériault: Could there be a similar case?

Senator Murray: That is purely hypothetical.

Senator Thériault: It is not purely hypothetical. Could the minister, in the course of federal-provincial conferences or in his capacity as Minister of State responsible for Federal-Provincial Affairs, find out the status of the French language in all legislatures in Canada?

Senator Murray: My friend must realize that our Constitution gives us the right to use either English or French in the Parliament of Canada and in the New Brunswick Legislature.

Senator Thériault: Only there.

Senator Murray: Only there. It seems to me that in Ontario . . . excuse me, of course in Quebec, under the Constitution the same right applies to the Quebec National Assembly. But it seems to me that in Ontario and perhaps in one or two other provinces, the French-speaking members use their mother tongue.

[Senator Thériault.]

Senator Thériault: Honourable senators, I have a supplementary.

Could the minister inform the Senate whether these problems were discussed during the talks leading up to the Meech Lake Accord?

Senator Murray: Honourable senators, language rights across this country and in our various provincial legislatures were discussed in Victoria in 1971, during the constitutional exercise in 1980-81-82 and during the Meech Lake and Langevin talks. The answer is: Yes.

Senator Thériault: Is the minister telling us that the situation will not change even if the Meech Lake Constitutional Accord finally becomes the law of the land?

Senator Murray: Honourable senators, the Meech Lake Accord has not changed existing constitutional provisions with respect to language rights.

• (1410)

[*English*]

Senator Thériault: Honourable senators, I hope that English-speaking Canadians will take notice that if this situation is going to remain static, the Government of Quebec may eventually seek an amendment to the Constitution, because only one language will be allowed in Quebec.

[*Translation*]

TRANSPORT

CANADIAN NATIONAL RAILWAYS—RESTORATION OF SOREL-NICOLET BRANCH LINE

Hon. Fernand-E. Leblanc: Honourable senators, my question is for the Leader of the Government in the Senate. The region I represent, the city of Sorel and the vicinity, has launched a campaign directed at federal authorities and CN management. A number of organizations have asked for my support concerning a problem related to the railways. To give you an idea of the exact nature of the problem, I quote a resolution adopted by the Société nationale des Québécois du Richelieu:

> Whereas the Sorel subdivision railway line goes through the centre of existing and future industrial sites, it has been proposed . . . and unanimously resolved that Canadian National Railways and the federal government be asked to work jointly so that the investments required for the restoration of the Sorel-Nicolet branch line be made, and that rail traffic on that line be reorganized so as to draw maximum benefit from this line, a project which would make our industrial sites much more prosperous because of this direct link between Bécancour and Tracy Contrecoeur, and which therefore would create many more jobs for the future of our region.

I would ask the Leader of the Government in the Senate to enquire as to progress made concerning the needs of this section and report at the earliest opportunity.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable

senators, I will direct my enquiry to my colleague the Minister of Transport, Mr. John Crosbie, and report later this week or perhaps next week.

Senator Leblanc (Saurel): Thank you.

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

DATE OF RELEASE OF FINAL TEXT

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, my question is whether it was possible at the Toronto meeting of the First Ministers for the Government of Canada to indicate a firm date for the release of the final text of the trade agreement with the United States.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, it was not, honourable senators.

Senator MacEachen: Is there any time period anticipated? Is it a month or two months away, or is it a week away?

Senator Murray: Honourable senators, I had hoped to inform myself on this matter before coming in this afternoon, but I was not able to do so. I trust and continue to believe that it is a matter of days, not weeks.

FORMER PRIME MINISTERS

THE LATE RIGHT HONOURABLE JOHN GEORGE DIEFENBAKER—PRESERVATION OF BIRTHPLACE
THE LATE RIGHT HONOURABLE R.B. BENNETT—ERECTION OF COMMEMORATIVE STATUE

Hon. Heath Macquarrie: Honourable senators, I have a question for the Leader of the Government in the Senate and the leader of the Senate in the government which is prompted by a report that was in the Canadian Press and in other sources that the birthplace of the Right Honourable John George Diefenbaker, distinguished former Prime Minister, is very much in danger of being obliterated.

Considering that we lost the magnificent home of Sir Robert Borden in Ottawa a few years ago, and other important historic recollections and reminiscences of our great leaders, can he tell me if there is any avenue, vehicle or organization in the Government of Canada which may be helpful in forestalling this outrageous act of "anti-historicism", if I may put it that way?

At the same time, can he assure me that there will be some agency in the government which will prompt, promote and accelerate the honouring of another of our great Prime Ministers, the Right Honourable R.B. Bennett, with a statue erected to his memory on Parliament Hill, considering that he, of all Prime Ministers, had the most difficult time—even beyond those who ran this country through World War I and World War II.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall certainly inquire to see what, if anything, can be done by the Government of Canada to prevent the disappearance from the landscape of Mr. Diefenbaker's birthplace.

I note that Mr. Hnatyshyn and Miss MacDonald announced quite recently considerable assistance on the part of the Government of Canada to the Diefenbaker Museum at the University of Saskatchewan, and I am pleased that the government was able to do that. I will look into this question as well as into the matter of the statue of the Right Honourable R.B. Bennett.

FOREIGN AFFAIRS

POSSIBLE ACCEPTANCE OF CONTRAS AS REFUGEES

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have one other question which deals with the statements alleged to have been made by Mr. Clark during his visit to Central America.

Is it true that the government would now consider, as was reported to have been said by Mr. Clark, accepting Contras as refugees in Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my information is that the Secretary of State for External Affairs was making a highly hypothetical reference to the possibility of accepting so-called Contras as refugees. The Senate will be aware that Canada has an active refugee program in Central America designed to help victims of the conflict there, regardless of their political affiliation.

● (1420)

Senator MacEachen: Honourable senators, I am not quite clear as to which part of the situation is hypothetical—the statement, the existence of the Contras, or the possibility that Canada will accept them.

Senator Murray: Honourable senators, what is hypothetical about it is that Mr. Clark, in replying to the questions—I believe at a news conference or in a news scrum—stressed that he was not making any commitment on this matter.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to four questions. I will read the answers if any honourable senator wishes me to do so; otherwise, I ask that they be printed as part of today's proceedings.

POST-SECONDARY EDUCATION

NATIONAL FORUM—REQUEST FOR CONCLUSIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, a question was asked by Senator Stewart (Antigonish-Guysborough) on October 28, regarding

Post-Secondary Education—National Forum—Request for Conclusions.

(*The answer follows:*)

The Secretary of State reports that the members of the Conference Secretariat, in cooperation with the three theme secretaries, are now reviewing the reports produced at the workshops. From this material a numnber of documents will be prepared in both traditional printed and various electronic forms. The main report should be available by the middle of December and will be tabled in both the Senate and the House of Commons.

STATISTICS CANADA

RESTORATION OF FUNDING FOR CENSUS PUBLIC-USE SAMPLE TAPE—EFFECT ON CANADIAN STUDENTS OF NECESSITY TO USE U.S. DATA

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, a question was asked by Senator Marsden on October 28, regarding Statistics Canada—Restoration of Funding for Census Public-µse Sample Tape—Effect on Canadian Students of Necessity to use U.S. Data.

(*The answer follows:*)

Results of the 1986 Census are being made available in a variety of ways. The primary source of census information will be approximately 200 publications containing census results for all regions of Canada. These publications will be readily available to students, and more generally the Canadian public, as they will be provided free to all depository libraries across the country. The census publications will provide students with a wealth of up-to-date information on Canadian society. Census data will also be provided in the form of more specialized electronic products. However, in keeping with the government's commitment to reduce expenditures, Statistics Canada has developed and implemented a cost recovery policy to ensure that the general taxpayer does not bear the burden of the cost of supplying specialized output and products for the benefit of specific individual firms or institutions. Thus Statistics Canada is passing on the costs of preparing, storing and delivering electronic products. The government recognizes that more specialized products, including Public Use Sample Tapes, are of value to Canadian students and researchers. The Minister responsible for Statistics Canada therefore has instructed his officials to work with representatives from the academic community to seek ways of producing the Public Use Sample Tapes within the budget constraints facing the government. The move to a modest level of cost recovery, along with other cost saving measures, allowed Statistics Canada to carry out a comprehensive census in 1986. As a result, Canadian data users, including students, will have access to much more up-to-date data than users in the U.S. and most other countries where censuses are carried out only at ten-year intervals.

[Senator Doody.]

CANADIAN NATIONAL RAILWAYS

LONDON, ONTARIO LAYOFFS—JOB GUARANTEES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on November 4, a question was asked by Senator Turner regarding Canadian National Railways—London, Ontario Layoffs—Job Guarantees.

(*The answer follows:*)

A copy of the terms of reference for the Price Waterhouse survey of drugs and alcohol in the railway industry is available through the Leader's office.

It should be noted that this survey was aimed at railway operating personnel holding positions designated under the CTC's General Order 0-9. This General Order does not cover officials of CN or the Minister of Transport.

With respect to the senator's question concerning CN layoffs in London, the Minister of Transport advises that:

A study of the workload associated with accounting activities at London and at Great Lakes Region headquarters in Toronto was conducted. The study showed there is considerable duplication of work, and that significant economies and productivity improvements can be realized through consolidation of the two accounting centres at Toronto. CN management thoroughly considered the option of consolidating the accounting centres at London; however, this option would be costly and inefficient.

Of the 44 positions to be eliminated at London, 36 are unionized positions and eight are supervisory. A total of 23 new unionized positions will be created as a result of the transfer of workload—20 in Toronto and three in Montreal. In addition, the eight supervisory positions will be transferred to Toronto.

Each affected employee at London will decide over the next several weeks which course of action to pursue: to relocate to Toronto or Montreal; to exercise his or her seniority on another position at London or elsewhere; or, in the case of those eligible to retire, decide to take an early retirement package.

The proper course of action followed by CN management, upon reaching a determination that organizational or operational changes are necessary, is to provide the appropriate elected officials with the rationale supporting the decision.

As much advance notice as possible is given, usually at least three months before the changes are scheduled to take place. CN is obligated to notify its unions and employees as far in advance as possible, and in most cases the communication to elected officials takes place simultaneously. CN believes that it has indeed kept city officials informed of any planned changes in its work force in London as promised. However, it would be unreasonable to expect CN to consult all involved parties prior to making operational decisions designed to improve productivity and reduce operating costs.

The primary objective of CN is to provide efficient and effective transportation service to Canadian industries at prices enabling them to compete in domestic and international

markets, while remaining financially viable itself. Therefore, it is imperative that CN seize every opportunity to improve its own efficiency and reduce costs.

CN officers met on November 16, 1987 with elected officials in London to discuss the accounting activities and other matters. It is imperative, however, that the consolidation take place as planned on February 1, 1988 so that CN can begin to realize the economic benefits which will enhance CN's attempts to serve as a transportation company.

In addition, Transport Canada officials advise that they are unaware of the program established by the Honourable Jean-Luc Pepin to which Senator Turner referred in his question. If the senator would care to provide more information the minister would be pleased to pursue the question.

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on November 4 a question was asked by Senator Olson regarding Agriculture—Deficiency Payments to Western Grain Farmers for 1987 Crop Year—Government Action—Request for Answer.

(*The answer follows:*)

The federal government's major goal is to resolve export subsidy and surplus-related problems at the international level through the continuing GATT negotiations, other bilateral trade negotiations and economic summits. In the meantime, the government will continue to work with farm leaders and our provincial counterparts to design short-term assistance measures which will soften the impact of the trade subsidy war.

It is the federal government's position that any future support program should be as production and market neutral as possible. This means that the government does not want to see producers growing crops, or not growing crops, in order to collect assistance payments.

A proposal was put forward by the Canadian Federation of Agriculture on behalf of its National Council when Mr. Wise met with them and other farm leaders in Winnipeg on August 27. This proposal, along with other options, has undergone extensive analysis and consideration over the past three months to ensure that any further assistance program will be fair to all regions and commodities and as well be administratively feasible. Discussions are currently under way to explore a number of options to assist the farm sector. An announcement cannot be forthcoming until these deliberations are completed.

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Second reading of the Bill C-254, An Act to amend the Citizenship Act (period of residence).—(*Honourable Senator Macquarrie*).

SPEAKER'S STATEMENT

The Hon. the Speaker: Honourable senators, on November 18 Senator Bosa asked the Chair to rule on the status of Bill C-254. I am informed that there have been discussions concerning this matter, and I now understand that Senator Bosa does not require a ruling. Perhaps I can call on Senator Macquarrie to try to clarify the situation.

Hon. Heath Macquarrie: Honourable senators, I have spent a good many years in the other place, and once in a while in this place, hearing discussions about points of order. I have assiduously avoided entering into those, because usually I find they are not very helpful. On this occasion I believe I may have a contribution to make, which is not based upon *Beauchesne* or *Bourinot* or any of those lesser or greater authorities.

Hon. Allan J. MacEachen (Leader of the Opposition): Bosa!

Senator Macquarrie: Very good alliteration there. It seems to me that the situation is that Senator Bosa proposed Bill S-8, which dealt substantially with the subject matter of Bill C-254, and I respect the honourable senator for that. Presumably I was in the great north on a task force, or somewhere else, and did not hear his contribution; but I admire his internationalism.

So far as my sponsorship of Bill C-254 is concerned—considering all the bills that I have been for or against in 31 years—it really does not matter whether I or someone else sponsors the bill. My only concern is that this very good piece of legislation—namely, Bill C-254—should pass in this chamber as expeditiously and unanimously as it did in the lower chamber—which is not always noted for unanimity or expedition, as senators for 117 years have noted.

It will be fine with me if honourable senators agree that Senator Bosa become the sponsor of this piece of legislation, which I support completely and of which I advocate speedy passage.

While I am on my feet, to use a rather stupid expression heard in Parliament, I must apologize to Senator Corbin. He was right; I did use the word "petition." I should not have done that. I should have said "submission." I am not going to waste the time of the Senate to discuss the difference between a submission and a petition. All I can say, honourable senators, is that it will be totally satisfactory to me if I am allowed to withdraw my sponsorship of this bill—which I still support wholeheartedly, and the early passage of which I am devoted to—and I ask that the Senate substitute for my name the name of Senator Bosa. In that way we might move quickly to give justice and proper recognition to those people this bill is designed to help and to recognize.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Then this order will stand in the name of Senator Bosa.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would like to congratulate Senator Macquarrie on his treatment of this matter. I know how close to Senator Bosa's heart this particular bill is and how closely he associated himself with the previous incarnation of what was much the same bill. But can anyone indicate to me when Senator Bosa is going to bring the bill forward? I believe it was put through all three stages in one day in the other place. There is a lot of pressure from outside sources to get this piece of legislation passed. I know that the spouses' organization has been pushing for it, as have other people who are interested in the status of these Canadian citizens-to-be. Have we any indication of the time at which we will deal with the bill?

Senator MacEachen: Honourable senators, I am not absolutely certain whether the information in my head has come from an earthly source, but I understand that Senator Bosa will be here early next week.

Order stands in name of Senator Bosa.

[*Translation*]

THE ESTIMATES 1987-88

CONSIDERATION OF REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B)

On the Order:

> Consideration of the Thirteenth Report of the Standing Senate Committee on National Finance (Supplementary Estimates (B) 1987-88), presented in the Senate on 17th November, 1987.—(*Honourable Senator Leblanc (Saurel)*).

Hon. Fernand-E. Leblanc: Honourable senators, on Tuesday, November 17, I tabled the thirteenth report of the Committee on National Finance on Supplementary Estimates (B). This is the second time during the current fiscal year that the government has tabled special supplementary estimates. Basically, the purpose of the first was to meet the special needs of the agricultural sector while these have been made necessary mostly because of the sudden increase in the requirements of the Department of Regional and Industrial Expansion. These estimates also include requests for funds for the new Atlantic Canada Opportunities Agency and Western Diversification Office.

For the moment, as Chairman of the Committee on National Finance, I shall restrict my comments to the issues examined by the committee as concerns the request for $347.6 million from the Department of Regional and Industrial Expansion to supplement the department's Vote 10.

On August 27, 1987, after Supplementary Estimates (B) had been tabled, the minister then responsible for DRIE tabled two auditors' reports on an $80 million overexpenditure by his department in 1986-87. In other words, the department spent $80 million more than had been appropriated by Parliament for 1986-87.

Overruns at the end of a fiscal year are very common, to such an extent that the Treasury Board has even developed a policy to deal with them. Under this policy, each time that payments are due to be made from insufficient funds and it is too late to ask for additional appropriations, the amount owing must be the first charged against the new year's appropriations. In this case, the $80 million in question did indeed become the first charge against the appropriations for 1987-88.

The authors of the two auditors' reports tabled by the department accused the minister of lack of accuracy in establishing the forecasts and reports of the department. The auditors believe that management has only a vague idea of when the customers of the department can present their invoices and is therefore unable to make accurate forecasts. According to the auditors, it is because the forecasts were inaccurate that the Estimates lacked so much specificity. Finally, because the monthly reports to management were inaccurate, it was absolutely impossible to anticipate this overexpenditure.

The committee does not mention the two audit reports, but it does have the following query: Why wasn't the problem detected before if the overrun was indeed the result of obvious weaknesses in forecasting, budgeting or reporting?

The committee found that during the past five years, the department always ended the financial year with lapsed amounts, and that in each case, the amount lapsed was far greater than the overrun recorded in 1986-87. However, no one seems to have shown any concern. Normally, lapsing of money is the result of sound management practices and the managers concerned would be given credit for this. However, in this particular case, there were other reasons. Senior management at the department and Treasury Board did not see fit to look into the causes of these lapses. They simply decided to authorize voted amounts that were lower than the forecasts.

If anyone had payed any attention to these lapses during the past five years, they would soon have realized that the dam was about to burst. We must remember that the department's programs involved thousands of relatively small clients. Similarly, contracts concluded by this department extend over several years and contain few or no indications regarding the date on which invoices are to be submitted. The department and the central agencies should have realized that this repeated accumulation of lapses would eventually lead to an overrun. And that is exactly what happened last year.

I am sure that if the department's managers had been closer to their clients, the overrun would have been less extensive. similarly, if senior management had paid more attention to the reports of its program managers, it might have been quicker to anticipate this overrun. In fact, owing to the very nature of the department's programs and the unpredictability of its expenditures, overruns should not be any more surprising than lapses.

Our committee concluded that the government should not worry about annual overruns if they are due to the nature of the program, in other words, when a program covers a large number of clients who sign small contracts with the depart-

ment which extend over several years and contain no specific date on which invoices are to be sent.

The committee also concluded that the payable at year end policy is designed to deal with these overruns. Finally, the committee felt that while stricter forecasting, budgeting and reporting would have made it possible to reduce these overruns somewhat, senior management at the department and Treasury Board should have realized much sooner that the annual amounts lapsed by the department were far too substantial to be merely the result of sound management practices.

On November 19 I decided to transmit the committee's remarks and comments to the President of the Treasury Board. I hope that together with the department's officials, they will be able to find a solution to the problem that was raised in the department itself.

Since honourable senators will be able to discuss this report when the bill is tabled in the Senate, and provided no other senators intend to speak to the report at this time, as far as I am concerned the debate is closed. Thank you very much.

The Hon. the Speaker: If no other senator wishes to speak, the debate on this item will be considered closed.

[*English*]

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—DEBATE CONTINUED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the response of Canadians to a petition mailed out, calling upon Parliament to urge the government to act on the motion dealing with the production of the NFB film "The Kid Who Couldn't Miss".—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, I shall take but 30 seconds of your time. I think it worthwhile to report that since I tabled a petition with 14,164 signatures on the Billy Bishop controversy on November 5 signatures have been coming in steadily and that as of Friday, November 27, I have received a further 2,201 signatures in favour of correcting the film "The Kid Who Couldn't Miss". Also, I have been speaking in various parts of the country, and I can say that interest is mounting and that anger is growing. I feel that it is our duty to demand that the National Film Board correct this wrong that has been committed some 70 years after the event.

On motion of Senator Marshall, debate adjourned.

• (1440)

WAR VETERANS

BENEFITS LEGISLATION

Hon. Jack Marshall rose pursuant to notice of Tuesday, November 17, 1987:

> That he will call the attention of the Senate to the advisability that the Government consider amending the legislation pertaining to the *War Veterans Allowances Act* and the *Civilian War Pensions and Allowances Act* or introduce other equitable legislation which would result in the qualification for war veterans allowances for those members of the Canadian Forces who: (i) volunteered for unrestricted active duty; (ii) served for a period of no less than 365 days; (iii) were assigned to service within the boundaries of Canada; and (iv) are 65 years of age or over.

He said: Honourable senators, this inquiry arises out of a request by the Dominion Command of the Royal Canadian Legion to all parliamentarians—and I think the request is justified—to have qualified those veterans who did not serve overseas through no fault of their own.

To give you a short history of the War Veterans Allowance Act, it was passed in 1930. At that time it was introduced to provide a maintenance allowance for those veterans of World War I with theatre of war experience who could no longer provide for themselves by reason of incapacity or age.

The intended beneficiaries of the legislation were veterans who were 60 years of age or over and who were unemployable.

Owing to changing conditions in the years thereafter the terms of the legislation were gradually broadened to cover veterans of other wars and countries, as well as civilians, dependants and children. Amendments were also introduced regarding service eligibility, age and income factors. Female veterans, for example, qualify for the allowance at age 55. That, in itself, has been overlooked over the years as a basis of contention of equality by those groups seeking women's rights. I say that because a male veteran qualifies at age 60 and a female qualifies at age 55.

But what we now have in the legislation are totally different guidelines from those which were originally envisaged by legislators back in 1930. As a result of a precedent decision taken just a few years ago, the then War Veterans Allowances Board, which is now amalgamated and comprises part of the Veterans Appeal Board, expanded the requirements for service eligibility for war veterans allowances. An interpretation was given to the effect that former members of the Canadian forces were considered to have served in a theatre of actual war if, while on duty, they were transported in ships or aircraft between Canada, Newfoundland, Bermuda or the West Indies during World War II. Subsequently, the same board ruled that those persons who while on duty proceeded by ferry across (i) the Northumberland Straits between P.E.I. and the mainland; or (ii) across the Bay of Fundy between Saint John, New Brunswick and Digby, Nova Scotia, were beyond the territorial waters of Canada, and became eligible on service grounds, because those waters were considered to be a theatre of war.

Added to the list of those who served in Canada only, who also were eligible for benefits under the War Veterans Allowances Act and the Civilian War Veterans Allowances Act, were Canadian Pension Commission disability pensioners in

receipt of an assessment of 1 per cent or more. We have knowledge of veterans with only short periods of service who hold entitlement for an aggravated pre-enlistment condition which carries an assessment of 1 per cent or more and who are receiving war veterans allowance pensions. Also added were disability pensioners in receipt of an assessment who enlisted after the cessation of hostilities in May or August 1945, and who were granted veterans allowances because of legislation which allows for such when a veteran "is in receipt of a pension under the Pension Act." That veteran is getting a disability pension, and after 1 per cent can qualify for a war veterans allowance, regardless of length of service.

Also added were Royal Canadian Air Force and Royal Canadian Naval Volunteer Reserve personnel who may have had only one short trip by air or sea beyond the three-mile territorial waters limit. As such trips were often not verified by service documents, the authorities accept affidavits from the applicant and other witnesses as to proof of such journeys.

Also added were World War II Non-Permanent (Active) Militia personnel who may have on one occasion only crossed the Northumberland Straits to P.E.I. for a training course of one or two weeks' duration.

Also added were civilians who sailed on schooners or other seagoing vessels in or about the waters of Newfoundland, which waters for civilian war allowance purposes are described as "dangerous waters." That refers, in the main, to merchant seamen.

Because of the confusion caused by the different criteria used by Veterans Affairs for a "Canada Service Only" applicant, is it any wonder there is a desire on the part of the Dominion Command of the Royal Canadian Legion to have legislative improvements as quickly as possible? Surely, honourable senators, personnel who were restricted to service in Canada only for long periods of time—many for four, five and six years—have as much right to receive war veterans allowances as some recipients who receive the benefit and who may have served only for a few weeks or months.

The "Canada Service Only Analysis", done by Veterans Affairs in November 1984, concluded that the potential annual cost of any war veterans allowance program to this group would be in excess of $300 million. This figure was based on the average annual benefit which would be available to the 50,000 veteran and widow applicants who were expected to apply, and was viewed as the potential maximum cost to economic support programs within Veterans Services. However, all WVA applicants and recipients at age 65 must apply for OAS/GIS benefits, which payment automatically lowers the veterans allowance payment to no more than a small monthly pittance. The costs would be further reduced if applicants took advantage of Canada Pension Plan retirement benefits, which now may be paid at age 60.

Because of the high potential cost of providing war veterans allowance benefits to all those in the "Canada Service Only" category, and as most World War II veterans will reach the age of 65 years over the next two to three years, the Dominion Executive Council of the Royal Canadian Legion has agreed to change the 1986 convention mandate by adding the proviso that "Canada Service Only" personnel be granted eligibility for WVA upon reaching 65 years of age.

[Senator Marshall.]

● (1450)

Depending on their financial circumstances, those applicants in this grouping could receive a small monthly payment or be placed in the classification of "near recipient" and, as such, be eligible for treatment rights as a DVA responsibility and for the Veterans Independence Program. From a national point of view, having access to this latter program is probably of greater importance to this group than any financial remuneration because of the service provided for veterans to remain independently in their own homes.

Honourable senators, as I indicated previously, to qualify for the war veterans allowance a veteran had to be 60 years of age. Now most World War II veterans are at the average age of 67. There are less than 50,000 veterans who would qualify. If the Canadian Legion extended their project to include only those at age 65, which most veterans are at this time, it would reduce that $300 million to only between $40 million and $45 million. I think it is justified. In a projected population of recipients of war veterans allowance the Department of Veterans Affairs project that in 1991 the number of veterans receiving war veterans allowance will drop from 87,000 to 69,000 and the expenditures, by millions of dollars, will drop from $452 million to $194 million. If we project into 1995-96, there will be only 48,000 recipients, and the total expenditure will be $71 million. By the year 2000-01 there will be only 44,000 recipients left, and the cost will be approximately $37 million.

Honourable senators, it might be worth while indicating the amount of allowance a war veteran receives. A single widow or widower receives an amount of $736.68. That amount is indexed every three months. When we move to a married couple, the war veteran and his wife receive $1,118.51. However, when the veteran reaches age 65 and qualifies for old age pension, he will receive the single rate OAS-GIS, which would be $674.46, and WVA would have to pay only $62.21. A married veteran and his wife who both receive OAS-GIS would receive $1,093.50. The maximum allowable under the War Veterans Allowances Act for a married couple would be $1,118.51.

We would be recognizing those people at age 65. As "near recipients" they are receiving partial war veterans allowance and partial disability pension. Those "near recipients" qualify for a certain amount of war veterans allowance, which qualifies them for veterans benefits, such as the VIP program, and other treatment benefits, such as drugs and hospital care. I feel, taking into account the justifiable reasons pointed out by veterans' organizations, that it is only reasonable that the government show interest in the service provided by those people. Even though many of those people wanted to serve overseas, because of their value as instructors in Canada they could not.

Honourable senators, I offer this to the Senate as a justifiable recommendation to the Minister of Veterans Affairs. I hope we will be able to deal with this, along with our mandate, in the Sub-Committee on Veterans Affairs.

Hon. Hazen Argue: Honourable senators, I enjoyed Senator Marshall's remarks, and I am sure we will support what he is asking for.

I wonder if I might ask the honourable senator a question. Could you tell us approximately how many veterans in the particular categories you have described are under the age of 65? You said that the eligibility should be for those who are now age 65. How many veterans are under age 65?

Senator Marshall: I do not have the actual numbers, but I can tell you that there are still some veterans under 60 years of age. The veterans who would be under age 60 are those who joined up very early in their lives and the Korean veterans, who are at the average age of 57. I do not know the actual figures, but I could certainly get them for you. I would take a wild guess at around 50,000.

Senator Argue: It seems to me that a case can be made not only for the veterans who have reached age 65 but for those who have reached the age of 60. It is difficult for people at the age of 60 to earn a living if they do not have a profession and if they do not have a job. There are programs currently in effect for people who reach the age of 65. They receive old age security, and they may receive the guaranteed income supplement. I feel the economic need is probably greater for some of those veterans under age 65, and I would think that Senator Marshall's request might be broadened.

I know that governments resist additional expenditures, but I believe a particularly good case could be made for reducing that age limit to the age of 60.

Senator Marshall: The war veterans allowance was designed to look after the chap who was unable to work. That is now called the pre-aging process. They were supposed to have pre-aged ten years in advance of others.

Your point is well taken. However, the Canadian Legion is trying to get the greater number looked after at the present time.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder if I could ask Senator Marshall whether or not he would further clarify one aspect of his comments with respect to the treatment of war veterans in receipt of war veterans allowances who are also in receipt of the maximum OAS-GIS. Is it a fact that the payment from the Department of Veterans Affairs is reduced dollar for dollar by the amount of the total OAS-GIS?

Senator Marshall: You cannot get an allowance from both sources. The maximum for a married couple is $1,118.51. If the veteran and his wife are qualified for both OAS and GIS, there is a difference of $22.01.

The advantage of receiving the war veterans allowance is the receipt of treatment benefits. The veteran is allowed drugs for anything that is wrong with him, although his wife is not. He also qualifies for the veterans independence program, which I think is of great benefit to veterans who do not want to go into an institution. The Department of Veterans Affairs will provide modification to his home, will allow attendent care, and will allow transportation to go shopping so he is comfortable in his own surroundings rather than going 200 or 300 miles to an institution.

Those are the advantages of being what is called a "near recipient," where the veteran receives OAS and a small amount of war veterans allowance.

Senator MacEachen: I am interested in the dollar for dollar treatment. Am I correct in saying that the recipient of the guaranteed income supplement, for example, does not have the benefit reduced dollar for dollar by having other incomes, in other words, is there a graduated relationship? Has the committee ever considered the application of that principle to the recipients of war veterans allowance who, as Senator Marshall acknowledges, do have other benefits simply because they are in receipt of war veterans allowance? However, the additional cash is limited by the amount of the OAS-GIS pension. Would it be possible to have an inter-relationship between the two benefits that might take into account a more favoured treatment for the veteran?

• (1500)

Senator Marshall: An interdepartmental committee is looking at what they call "harmonization," that is, harmonization between the war veterans allowance and the OAS-GIS, and I think we will see some progress in that regard in the coming months.

Hon. Sidney L. Buckwold: I have a supplementary question. I am a little confused as to the allowance available to a qualifying veteran under the terms of the legislation.

Putting aside the old age pension and the supplemental pension for both a man and his wife, or vice versa, does other income come into the picture? In other words, are the figures you gave the maximum that can be earned by a qualifying individual? Am I correct that if he earns anything more than that he would not be eligible?

Senator Marshall: There is what is called "casual earnings." In order that a recipient of the war veterans allowance shall not become static or wither away he is allowed to earn up to a certain amount. If he is married he can earn up to $4200 a year over and above his war veterans allowance. Honourable senators, I did not go into all of the details, since the substance of my discussion was related to the war veterans allowance for Canadian service only.

A single veteran can earn above $736 per month. In fact, he can earn $2700 a year over and above and be exempt. However, if he is receiving workmen's compensation or a Canada pension, that is deducted from his war veterans allowance. He is also allowed an exemption on interest income up to $100.

Senator Buckwold: By way of clarification perhaps I could give you an example. Let us assume that a war veteran has an income of $25,000 a year from investment income, or from a

company pension if he is working. Does that disqualify him from receiving the war veterans allowance?

Senator Marshall: Yes, it does disqualify him. However, if he has a certain income and he is earning interest, only the interest is taken into account. Ten years ago a veteran was only allowed to have a certain amount of money, which I think was $1,250, but that was changed. If he had savings, only the interest on his savings would be taken into account, and that would be deducted from his war veterans allowance.

Senator Buckwold: If a war veteran earned the relatively large amount I mentioned, would he, if he qualified, still have his health care and drugs paid for, or is there a limit on his income in order to qualify for those benefits?

Senator Marshall: Over the past five or six years the VIP program has incorporated various types of war veterans. Formerly it applied only to those receiving a disability pension, but it now covers those receiving a war veterans allowance or those over a certain age who were disabled.

However, honourable senators, I would point out that any veteran receiving a substantial income will not receive the war veterans allowance. He will be disqualified if he is receiving over $1,118 per month, which is the maximum allowable.

Senator Buckwold: My question related specifically to fringe benefits.

Senator Marshall: Depending on certain circumstances with regard to service, he will or will not receive the fringe benefits. It would involve a rather lengthy process to go into all of the details regarding fringe benefits.

Senator MacEachen: Perhaps Senator Marshall, just for the record, can tell us if the recipient of a disability pension would be eligible for that as a right, regardless of other income.

Senator Marshall: If a veteran is eligible to receive a disability pension, he can be earning any amount each year and still receive that disability pension as a right.

Senator MacEachen: Tax free?

Senator Marshall: Only the disability pension.

The Hon. the Speaker: As no other honourable senator wishes to participate in the debate, this inquiry is considered debated.

GERMAN-CANADIAN CONFERENCE

ATLANTIK BRÜCKE—MEETING HELD IN FRANKFURT, WEST GERMANY

Hon. William M. Kelly rose pursuant to notice of November 19, 1987:

> That he will call the attention of the Senate to the Second German-Canadian Conference Atlantik Brücke, held at Frankfurt, Federal Republic of Germany, from October 17 to 19, 1987.

He said: Honourable senators, I will be very brief. During the dates of October 17, 18 and 19 of this year I attended the meeting of the German-Canadian Conference, *Atlantik Brücke*, in Frankfurt, West Germany. This meeting was hosted by the Deutsche Bank and took place at the head office of that bank.

Atlantik Brücke meetings between West Germany and the United States have taken place annually since the early 1950s and have followed a pattern of holding two meetings a year, alternating between the U.S. and West Germany year by year.

Last year the first meeting of the *Atlantik Brücke* between West Germany and Canada took place. The location of the meeting was Toronto and the meeting was hosted by the Bank of Montreal.

This was my first exposure to the Canada-West Germany *Atlantik Brücke* conference, and I found the discussions and the list of participants most impressive. The representatives from Germany included senior officials of major West German industrial and financial institutions such as Robert Bosch, Volkswagen, Mannesman, Deutsche Bank, Dresdener Bank and senior officials of the West German government, academia and the military.

The leader of the Canadian delegation was our own Senator Allan MacEachen, who, together with Bill Mulholland, chairman and CEO of the Bank of Montreal, was instrumental in organizing the first meeting last year. Our group consisted of the same spread of representation as the German delegation and included senior officials of, for example, Merrill Lynch, Canada; Lac Minerals; Consolidated Bathurst; Canadair; and Alcan Limited. It also included the Canadian ambassador to NATO and the president of the Canadian Institute of Strategic Studies. The Senate representatives, in addition to Senator MacEachen, were our Speaker, Senator Charbonneau and Senators van Roggen, Grafstein and myself.

In-depth discussions ranged from current disarmament negotiations—future implications for the alliance—through to economic cooperation in trade, including prospects for GATT negotiations, the Canada-U.S. trade agreement, two specific discussions on Canada-Federal Republic of Germany relations and the strengthening of our economic relations.

Honourable senators, in my opinion, the Canadian delegation certainly presented itself very effectively. I have to say that this was due in no small part to the very competent and effective leadership of Senator MacEachen.

Senator Doody: Hear, hear!

Senator Kelly: It was clear that there was an excellent meeting of minds. There were many similarities in viewpoints between the Canadian and West German delegates.

I believe that periodic sessions of this sort can greatly assist investment opportunities between Canada and western Europe, and can certainly improve trade relations generally between this country and the Federal Republic of Germany.

Hon. Senators: Hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I thank Senator Kelly for having drawn our attention to the meeting held last month in Frankfurt.

Quite apart from my association with the effort, I believe it was important that it was from the German side that the first initiative came to establish this dialogue with Canada. The *Atlantik Brücke*, a private foundation of Hamburg, had conducted with the United States, as Senator Kelly has pointed out, a dialogue for some considerable number of years. The more recent German initiative to Canada came from Mr. Walther Kiep, the president of the foundation, who is also a well-known German politician and businessman and very closely linked with the present ruling party in West Germany. I felt that we ought to respond.

It will be useful to Canada to maintain a dialogue at the private-sector level with West Germans. They are deeply interested in securing a perspective from North America which is not exclusively a United States perspective. At our first meeting they were quite struck by the fact that the views expressed by Canadians were quite different from the views they would have received if they had been discussing matters with their American friends. They obviously value those exchanges. I hope it will continue and grow as the relationship between the United States and West Germany has continued and grown. That is now a well established feature of the bilateral relations between the two countries.

If this type of institution can develop, it can make quite a valuable contribution to the bilateral relations between Canada and West Germany.

Every government and every foreign minister is always searching for ways to strengthen these relationships. I believe that this is a good way.

One other point that I want to mention, which was mentionned by Senator Kelly, is that our Speaker, Senator Charbonneau, was present in Frankfurt. He was also a member of the initial Canadian delegation at the Toronto meeting a year ago. I thank him, Senator Kelly and my other colleagues in the Senate for their participation.

I should add that it had been our intention to have the Canadian Foreign Minister address the conference in Frankfurt. We extended an invitation to the Right Honourable Joe Clark, who, unfortunately, could not attend because of his obligations at the Commonwealth Conference.

While Mr. Clark was unable to be present, his parliamentary secretary attended and led the discussion at one of our conference meetings. His presence was useful, as was the presence of Ambassador Smith from NATO and a number of other officials from the Department of External Affairs.

The principal speaker at the opening dinner was the Governor of the Bundesbank, Karl Otto Pöhl, who gave us an interesting analysis of world financial trends as of Saturday, but failed to prophesy what would happen in the world markets the following Monday. I assure you that as the day developed the atmosphere at the Deutsche Bank on that Monday was quite different from the atmosphere that had prevailed on the preceding Saturday night.

In addition to the private sector representation mentioned by Senator Kelly and the political and departmental representation, there were some academics and journalists present. In fact, the business editor of the *Financial Post* was among the journalists present.

This conference constituted an interesting development, which I hope will continue in the future.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, December 2, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

OFFICIAL LANGUAGES

BROADCASTING OF CALGARY OLYMPIC GAMES IN FRENCH

Hon. Dalia Wood: Honourable senators, I would like to bring to your attention a remark made by the Honourable Flora MacDonald, as recorded on page 11126 of *Hansard* of the other house, in which she expresses her gratitude to the members of the Standing Joint Committee on Official Languages.

I would ask the Leader of the Government, on behalf of the senators on my committee, to convey their pleasure in having been recognized by the other house.

By way of explanation, last March the Standing Joint Committee on Official Languages, which I have the pleasure to co-chair, learned that the Calgary Olympic Games would not be broadcast in French outside the TVA network's coverage area, which is mostly limited to the province of Quebec. Such neglect of Canada's linguistic duality could not be permitted. Thanks to our committee's intervention, this sensitive and very serious problem has now been solved, if not 100 per cent, at least to a general level of satisfaction.

The solutions required the cooperation of a number of agencies and private corporations such as cable companies, CANCOM, TVA Network, the CRTC, the Olympic Committee, the French networks of the CBC, and the Department of Communications. All joined their efforts to correct the situation. Our experience over the last four months has also shown that members of both houses can work constructively together towards a common goal.

Hon. Senators: Hear, hear!

[*Translation*]

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—REPORT OF COMMITTEE

Hon. Joan B. Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, December 2, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred the Bill S-14, An Act to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec, has, in obedience to the Order of Reference of Wednesday, November 4, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cogger, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*English*]

FOREIGN AFFAIRS

ELEVENTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. George van Roggen: Honourable senators, the Standing Senate Committee on Foreign Affairs has the honour to present its eleventh report respecting the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada.

I ask that this report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 2270.*)

CONSIDERATION OF ELEVENTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator van Roggen: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I ask permission to say a few words at this time. I assure honourable senators that I will not take more than about three minutes.

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

Hon. Senators: Agreed.

Senator van Roggen: Honourable senators will recall the reference of this matter to the committee in the terms that the Clerk has just read out. The committee held one meeting *in camera* with members of the Department of External Affairs so as to be brought up to date on the present state of play in this particular area. We had planned, of course, to hold further meetings after that. However, in view of the evidence we received, we decided not to do so.

The report itself, to which senators can refer, deals with the geographical location of these islands, their population and their general character. The important point I would like to make this afternoon is that the Turks and Caicos Islands have the status of a British Associated State. They had a locally elected government, but in July 1986, following a commission of inquiry into alleged government corruption, the British government suspended the ministerial functions after the Commissioner had reported that three ministers, including the Chief Minister, were guilty of unconstitutional behaviour and ministerial malpractice. The presiding Chief Minister and two other elected members were arrested and are serving jail sentences in Florida for drug trafficking offences.

Under these circumstances, at the moment there is no effective government of the Turks and Caicos Islands with which the Canadian government, or anybody, can really deal in connection with this particular matter. As a result of a royal commission inquiry, the British government has announced its intention to hold new elections for a local representative government sometime in 1988. The recommendation of the committee is that the Canadian government should take no initiative in this connection at this time.

Hon. Hazen Argue: Would the honourable senator read precisely what is in the report, please?

Senator van Roggen: Yes, honourable senators. I want to be careful about this. I should not have added the words "at this time." The second last paragraph of the report reads:

> The Committee concludes that caution is all the more called for since the U.K. government has indicated that a duly-elected legislature will be in place by 1988. In the opinion of the Committee, the earliest appropriate time for Canada to consider this subject would be after the 1988 elections on the Islands and then only if and when the new Turks and Caicos government raised the subject with Canada. Canada not having had a colonial past, could send the wrong signals abroad respecting its international posture if it were to take the initiative in this matter, even after a new government has been elected for the Islands.

In effect, the committee is saying that there should first be a new government and that any initiative should come from that quarter.

Senator Argue: Honourable senators, the report we have before us is, in my view, a totally negative one.

Senator Doody: You could say that.

Senator Argue: I attended the committee meeting at which this matter was considered. I felt that much of the evidence was inaccurate and inappropriate, and that those who came as experts from the Department of External Affairs came with their minds already made up. When asked about a number of matters, they did not have replies. One of the reasons why there could not be an association such as the one that was being promoted in the House of Commons by a Conservative member of Parliament was, they said, that these islands do not have adequate hotel accommodations for an enlarged tourist trade. Isn't that bright? I am sure that if increased tourist traffic were to develop between these two areas, hotel facilities and other tourist facilities would be forthcoming.

I think it was a very negative presentation, and I do not feel that this report should be accepted as is. I can understand that we cannot deal with a territory or an area which does not have in place an elected government or governing body. I can understand that it is necessary to wait until such a government is in place. But I think that to say in the report, as this one does, that no initiative should be taken at this time by the Government of Canada leaves a good deal unanswered. I believe that parliamentarians who in the past have taken initiatives in this direction should continue to take those initiatives. All of the excuses and reasons may sound rather plausible that nothing in this direction should be done, but I believe that there is an area of consideration that could bear good results both for Canadians and for the people of the Turks and Caicos Islands.

There are not millions of people down there but only 14,000. They have probably one of the best climates in the world; they are the most hospitable people, and they love Canada. When one visits the islands, one may probably see more Canadian flags flying in relation to the population than one will see in Canada, because they think that Canada is a very special place. In their schools they have a special place for Canada in that they consider their relations with our country to be very important and commendable.

So there is a lot of goodwill in that area. I believe that many business people in Canada are excited about the prospects of a close association with the islands, and over the years I, for one, have lost none of my enthusiasm to go forward to see what can be done to bring about a close association. I believe it could be of great benefit both to the people of the islands and to Canada.

Hon. Heath Macquarrie: Honourable senators, I, too, have long been an advocate of closer relations between our country and the Turks and Caicos Islands. I agree with Senator Argue that the attitude of the Department of External Affairs clearly has not changed very much since the subject was before us ten years ago. Even the phraseology seems similar.

Senator Argue: Even 15 years ago.

Senator Macquarrie: Having said that, as we used to say when we were filling in, I believe there is a great difference between what went on ten years ago and the situation today. At that time we had a clear and definite commitment, a desire—indeed, a request from the unanimous Legislative Council of the Turks and Caicos Islands—and it was my view

then that it was very wrong of Canada to turn a cold shoulder and a deaf ear on that. Should the situation arise again, if it ever does, that will still be my view.

However, I consider the report of the committee to be sound in that I do not believe that it is up to Canada to go peddling its partnership in the Caribbean or anywhere else. I used to recall some of the other smaller islands saying, "How come you are more interested in the Turks and Caicos than in us?", and I would say, "If the time came when a demonstrated wish for union with us came from your people I would have exactly the same attitude."

I do not believe that we can take the initiative. Although I still think it is an excellent idea, I think that our response should be totally positive when we have a clear message from them. Also, I have thought from the beginning that the time is not opportune, because the status of the islands in terms of government and constitution is not clear. That is why I believe it was wise to have in the report the suggestion that at this time it is not a good thing to go forward. That does not mean that there may not be times in the future when we can take a better attitude.

Senator van Roggen: Honourable senators, I should have moved the adoption of the report at the conclusion of my remarks. With your permission, I will now do so.

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

Hon. Senators: Agreed.

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

Senator Argue: On division.

Hon. Eymard G. Corbin: Honourable senators, I think we are proceeding rather speedily on this item. The honourable senator has asked for leave to present the report, to comment, and so forth. I would like to adjourn the debate on the motion for adoption.

On motion of Senator Corbin, debate adjourned.

[*Translation*]

THE ESTIMATES, 1987-88

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (C) PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc: Honourable senators, I have the honour to present the fourteenth report of the Standing Senate Committee on National Finance regarding Supplementary Estimates (C) tabled in Parliament for the fiscal year ending March 31, 1988.

I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[Senator Macquarrie.]

(*For text of report, see Appendix "B", p. 2272.*)

The Hon. the Speaker: When shall the report be taken into consideration, honourable senators?

On motion of Senator Leblanc (Saurel), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

QUESTION PERIOD

[*English*]

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—GENERAL DESIGN OR CONCEPT—AVAILABILITY OF INFORMATION

Hon. John B. Stewart: Honourable senators, on November 17 I asked the Leader of the Government in the Senate to ascertain what information could be made available to this house concerning the general design or concept for the proposed fixed crossing of the Northumberland Strait. There is some anxiety among fishermen who fish in the strait about the design of the crossing. I wonder if the Leader of the Government could tell us when information on the design might be available.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend asked several questions on that occasion and I undertook to obtain replies. Some information came forward and I was not satisfied with it, so I requested further information. I shall attempt to inform myself in the next day or two on the status of this matter. I may say that there are a number of reports around. I happened to be in Charlottetown last week and I heard a briefing from officials of the Department of Public Works, who told me that these reports are about to be placed in the public libraries of Prince Edward Island. So I shall obtain all information that is available and bring it to the house.

Senator Stewart: Honourable senators, I would appreciate that greatly. It would be helpful if ministers who deal with this matter realized that people other than the residents of Prince Edward Island may be affected. I agree that the people of Prince Edward Island will be affected chiefly, but fishermen in New Brunswick and Nova Scotia, whose livelihood may be at risk in some degree, are interested too. Consequently, it would be helpful if senators could be given this information and if some of the public libraries in the two adjacent provinces could have it also.

PROPOSED FIXED CROSSING TO MAINLAND—INVITATIONS TO TENDER FOR CONSTRUCTION

Hon. John B. Stewart: While the honourable senator is getting that information, it would be useful if he could find out whether tenders or proposals for the construction of the cross-

ing have been invited. If so, can he tell us who has been invited to tender and when the tenders are receivable?

● (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I think the answer to the first part of the question is in the affirmative. I will obtain a list of the companies that were invited to tender—Senator Phillips tells me that there were six of them—and I will bring that information into the Senate.

PROPOSED FIXED CROSSING TO MAINLAND—ENVIRONMENTAL ASSESSMENT AND REVIEW

Hon. Roméo LeBlanc: Honourable senators, I have a supplementary question. While the Leader of the Government in the Senate is asking for the information requested by Senator Stewart, I wonder if he would ask for two additional pieces of information. The first is: What environmental assessment has been done, and what review panel has been organized to assess the environmental studies? I would tend to be somewhat skeptical if the main information on environmental impact came from the companies or from the government without having some participation by organized fishermen, including my neighbours, who are fishing in the Northumberland Strait.

The other point I would like to suggest to the Leader of the Government in the Senate is that there are precedents where fishermen, through their organizations, are represented on panels that assess damage to gear, in particular. The precedent I am thinking of is the dredging of the Miramichi River where the fishermen were participants in the study of claims for damage to their gear. I suggest that this is also a precedent that Public Works Canada might want to examine. In fact, it did protect the fishermen's interests, with a minimum of quarrelling and legal recourse.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I appreciate those points raised by the Honourable Senator LeBlanc. I have been informed that environmental studies have been done over the past year or so, including studies of the possible impact on the fishery. However, I will obtain copies of those reports, if I can, and bring them into the Senate. I will also convey the honourable senator's representations to his successor, the Minister of Public Works.

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION—INDEXING OF PENSIONS

Hon. Hazen Argue: Honourable senators, I would like to address a question to the Leader of the Government in the Senate. I wonder if he is in a position to bring to the Senate information on any developments that might be taking place in the Air Canada lockout. It is more of a lockout than a strike. Also, I wonder if he can tell us whether or not the government has any views with regard to what I understand is the central issue, namely, the request of the unions that their pensions be indexed to the cost of living.

It seems to me that that is a fair and reasonable position for the unions to be taking. Our parliamentary pensions have been indexed; other pensions in the country are indexed; the Canadian Automobile Workers have recently won from the three main Canadian automobile companies indexing of their pensions. Therefore, I think it is reasonable to ask what developments, if any, are taking place in this dispute that is causing a great deal of inconvenience to Canadians at this time of year, and whether the government has any position on the important principle of pension indexing.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we are not taking a position on the issues as between the company and the union. Our only position is that this dispute is the responsibility of the parties involved, and we urge them to try to settle it as soon as possible and without further inconvenience to the travelling public.

MARITIME PROVINCES

SUGGESTED CHIGNECTO ISTHMUS CANAL

Hon. Charles McElman: Honourable senators, I have a question for the Leader of the Government in the Senate, not entirely facetious, related to the fixed crossing between New Brunswick and Prince Edward Island. Perhaps the honourable leader would bring to the attention of his colleagues that there is a very narrow isthmus between New Brunswick and Nova Scotia called the Isthmus of Chignecto. There has been a project in the minds of Maritimers for many years that there should be a canal across that isthmus.

Perhaps the Leader of the Government and his colleagues would consider a double project. A term normally used in connection with contracts on highways is "borrow." The borrow is a principal part of such a project, and I understand that there is a proposal that the borrow, or rock, or fill will come from Nova Scotia. Why not dig the Isthmus of Chignecto canal to save time, and therefore get two projects for the price of one?

I see Senator Robertson smiling. I am reminded of a proposal made many years ago for the digging of the Isthmus of Chignecto canal. An old friend, a journalist, who was then an editorial journalist for CKCW radio in Moncton, said, "Yes, I agree, we should have the Chignecto canal. It will employ 5,000 Maritimers for ten years, because we will have them use shovels to dig it, and the next ten years we will fill it back in and employ them again." This is not that kind of project!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I thought perhaps the journalist that my friend was referring to was the late Brigadier Wardell, who, of course, was a staunch advocate of the Chignecto canal project.

Senator Frith: And a great friend of Senator McElman's!

Senator Murray: And a great friend of Senator McElman's!

Senator McElman: I do not accept that.

Senator Argue: Only part of it.

Senator Murray: I will see what the engineers from the Department of Public Works have to say about this novel suggestion and I will bring a report.

Senator McElman: Honourable senators, I hope, will understand that in response to the comment that Brigadier Wardell and I were great friends, those who organized the great evening for Brigadier Wardell before he departed Canada ensured that I was given an invitation, much to my delight. Relax, Senator Walker! I was given an invitation well in advance for this great evening of celebration. I replied three weeks in advance of the celebration that I was sorry I could not be present, because I planned to be ill that evening.

NATIONAL DEFENCE

AWARDING OF FRIGATE CONSTRUCTION CONTRACT

Hon. Charles McElman: Honourable senators, I have a further question for the Leader of the Government in the Senate. In recent days and weeks there has been a lot of publicity with respect to the letting of the contract for the building of the additional six frigates. There have been many suggestions as to what might happen in the award of that contract and as to whether or not the full contract should be awarded to Saint John Shipbuilding.

Saint John Shipbuilding has been responsible for the drawing up of the specifications. In the course of the last number of years it has developed a Canadian centre of excellence in shipbuilding, particularly with respect to naval vessels, which is pre-eminent in Canada.

I ask the honourable leader to consider and to discuss with his colleagues the very serious situation that the contractual bid of Saint John Shipbuilding runs out at the end of the year, which is approaching. If the contract for the six additional frigates is not let to Saint John Shipbuilding by the end of the year, it is suggested by that centre of excellence that the additional cost of the frigates will run anywhere from $50 million to $80 million each, which could result in a $300 million to $480 million additional cost, because the price situation is out the window as at the end of the year.

● (1430)

My question is: Would the Leader of the Government please determine what the situation is with regard to the letting of the contract by the end of the year so that we will not lose advantage of the price now available to us?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The matter is now under consideration by the government. I expect a decision will be made before the end of the year.

[Senator Murray.]

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—SUGGESTED PLEBISCITE

Hon. Louis-J. Robichaud: Honourable senators, to follow up on the discussion regarding the proposed causeway between Prince Edward Island and New Brunswick—and ultimately this will give rise to a question to the Leader of the Government in the Senate—I should like to bring to the attention of honourable senators certain facts that transpired in the past with which I am intimately familiar.

One of the greatest idols I have in my political life is the late Winston Churchill. He once said that politics, in our democratic system, consists of the art of being consistently inconsistent. That has always struck me—

Senator Buckwold: That is the secret of your success!

Senator Robichaud: I cannot say it is, because I have never been consistently inconsistent. I think I have been consistently consistent except on one occasion, which related to a link between Prince Edward Island and New Brunswick.

When I was premier of New Brunswick, year after year I took my wife and children by ferry to Prince Edward Island on a ten or fifteen-day holiday. I did so because my children enjoyed the ferry ride from Cape Tormentine to Borden, and from Borden to Cape Tormentine. That meant something to them.

At that time the Honourable Walter Shaw was premier of Prince Edward Island. He was a strong advocate of a causeway between Prince Edward Island and New Brunswick. I told him that I would support him in that regard, but that should a causeway become a reality, Prince Edward Island would become one of the finest counties of New Brunswick. I said, "If that is what you want, I will support you."

Then Premier Campbell came along. He was also in favour of the construction of a causeway. I also supported him, but always with reservations; I believed that the people of Prince Edward Island had their own identity, that they were Islanders, and that if a causeway were built, the Island would immediately become part of the mainland and those Islanders would lose their identity. I am now coming to my question!

Will the Leader of the Government in the Senate assure other senators and myself that no contract will be awarded for the construction of that causeway until there is a plebiscite taken on the Island by the people of the Island to determine whether they want to have it or not?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think I can safely give that assurance.

Senator Robichaud: Honourable senators, the answer was much briefer than the question.

Senator Murray: The question was brief; it was the preamble that was long!

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to two questions. As usual, I will read them if honourable senators so desire, but I would otherwise ask that they be printed as part of today's proceedings.

TRADE

IMBALANCE BETWEEN CANADA AND U.S.S.R.—GOVERNMENT POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on October 20 and 22 last by the Honourable Hazen Argue, regarding Trade—Imbalance between Canada and U.S.S.R.—Government Policy.

(*The answer follows:*)

At the time of the signing of the most recent Canada-U.S.S.R. Grains Agreement in October 1986, the Canadian government undertook to extend our "best efforts" towards assisting the U.S.S.R. to achieve certain export targets in the Canadian market.

It was made quite clear that the Canadian Government neither practices countertrade nor enters into specific purchase commitments with any of its trading partners.

In connection with the signing of the bilateral grains agreement, Canada established a Task Force to provide marketing advice to Soviet trade officials and to endeavour to bring our bilateral trade into better balance.

In March 1987, the Honourable Charles Mayer led a Task Force-organized mission of importers to the U.S.S.R.. Other Task Force activities to date include the identification of over $150 million worth of opportunities for Soviet goods in Canada, helping to organize the visit of the Minister of Local Industry of the Russian Republic, the liberalization of travel notification regulations for Soviet businessmen and technicians in Canada, and the introduction of multi-entry visas for all senior Soviet business managers based in Canada. The Task Force has been instrumental in establishing a number of important connections between Soviet exporting organizations and Canadian importers, including introducing Soviet trade representatives to the purchasing agents of a major chain of retail outlets.

After over a year of service, the Executive Secretary of the Task Force has accepted employment in the private sector. A replacement is currently being sought.

THE ENVIRONMENT

REPORT OF NATIONAL TASK FORCE ON ENVIRONMENT AND ECONOMY—GOVERNMENT ACTION ON RECOMMENDATIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on October 28 last by the Honourable Mira Spivak, regarding The Environment—Report of National Task Force on Environment and Economy—Government Action on Recommendations.

(*The answer follows:*)

The Government of Canada supports the World Commission on Environment and Development (WCED), welcomed its Report, Our Common Future, and is committed to the Commission's call for sustainable development. The WCED defines sustainable development as that which "meets the needs of the present without compromising the ability of future generations to meet their own needs."

At the Commonwealth Heads of Government in Vancouver, Prime Minister Mulroney confirmed Canadian support for the Brundtland Report and agreed with other Commonwealth members that the goal of environmentally sustainable development should be central to national and international economic policy. The government is now developing an action plan to implement recommendations of the WCED Report, and the Report of the National Task Force on Environment and Economy.

The government is already implementing many of the specific recommendations noted in Senator Spivak's question. In particular:

- The Task Force report was endorsed in principle by the First Ministers at their recent conference on economic development. In his opening remarks on November 27, the Prime Minister referred to the consensus by the First Ministers to support and promote the goal of sustainable economic development. They encouraged the Canadian Council of Resource and Environment Ministers (CCREM) to continue to work toward the achievement of environmentally sound economic development based on private and public sector cooperation.

- ERDAs and EDAs are in the process of being charged to incorporate environmental consideration into economic decision-making. Amendments will be made to the annual courses of action and the overall five year plans to include this policy change. Mechanisms are being studied to modify other government processes and documents to better integrate environmental and economic decision-making.

- Currently, the terms of reference for the National Round Table on Environment and Economy are being developed, and the search for an appropriate chairperson, to be appointed by the Prime Minister, is underway.

The government has undertaken several other initiatives over the past year that are very much in accordance with the WCED Report's recommendation:

- The Minister of Environment now sits on the Cabinet Committee for Economic and Regional Development.

- The Department of Environment, in cooperation with Statistics Canada, has agreed to undertake State of the

Environment reporting in order to assess the quality of our national resources on a regular basis.

- CCREM discusses the integration of environment and economy at their annual meeting.

- The federal government has a Memorandum of Understanding with Prince Edward Island in the recent development of the province's Conservation Strategy. Environment Canada is also working closely with the Territories to develop their Conservation Strategies.

- The Canadian International Development Agency (CIDA) has adopted a radically new approach to its development projects in the developing world. CIDA is committed to promoting programs that foster sound environmental practices and to ensuring that its projects are subject to the most rigorous environmental scrutiny.

- Environment Canada has made tremendous progress in researching, promoting, and facilitating environmental industries.

- CCREM has undertaken a Water Pricing Study which will determine a mechanism to ensure more responsible use of Canada's water resources.

- Canada has offered to host the 1992 International Conference on Sustainable Development, proposed in the Brundtland Report.

TAX REFORM 1987

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twentieth report of the Standing Senate Committee on Banking, Trade and Commerce (Tax Reform in Canada), tabled in the Senate on December 1, 1987.

Hon. Ian Sinclair: Honourable senators, in moving the adoption of the twentieth report of the Banking, Trade and Commerce Committee I may say that this was an interesting task that the committee had in dealing with the white paper on tax reform.

As honourable senators know, when this paper was made public in June last it had an arresting cover. It showed the force and thrust of what the government said the white paper contained. That force and thrust had two aspects: first, lower rates, both personal and corporate; and, second, a fairer system, both personal and corporate.

Honourable senators, I think the committee was of the view that the overall thrust of tax reform in an integrated situation deserves high marks. By an integrated system the committee means both stage one and stage two. By splitting the two stages the result has been to introduce a number of issues that do have to be addressed in order that the system is fair. As it now stands, with only the first stage, the system is flawed on the side of unfairness in certain respects, and the committee dealt with those in its recommendations.

[Senator Doody.]

• (1440)

There is one other matter that I think honourable senators should recognize, and that is that this tax reform has been driven in very large measure by actions taken in the United States. I am talking about tax reform of the United States where not only corporate rates but also personal rates were significantly reduced. Once there is a variation between rates, particularly in the corporate sector, many of our industries are able to transfer parts of their operations from one side of the border to the other. Therefore, to have a level playing field, and not to bring that situation about, it was necessary not to have a wide divergence in corporate rates. That is of particular interest and importance because of the trade negotiations and the trade agreements that are now under discussion and are up for possible ratification in the very near future.

In regard to variations in personal rates, one has to remember that young people, professional people in particular, are mobile, and if there is too large a divergence in personal rates there could be a brain drain of our most competent people to south of the border. That is, to some extent, offset by the very fine systems we have here in a number of areas, particularly in the social areas, and also because of the multiculturalism of this country, which is attractive to many of our more highly educated people.

Tax reform has been driven to a certain degree—and perhaps to a greater degree than many realize—by what has already taken place in the United States.

The committee is very much of the view that by moving to tax credits, instead of using deductions or allowances, they have materially improved the progressivity, and we are supportive of that.

One of the matters that I think everyone who looks at this issue must appreciate is that there has been a broadening of the base both in the corporate area and in the personal area. On the whole, there is a shift of total tax from personal to corporations, and that general thrust, as we say, we fully support.

It is, of course, a very difficult problem to deal with tax reform. It is highly complicated and it takes a great deal of courage to even start on it. The committee resisted the temptation to advance its own views on tax reform in the broad-based aspects because of the difficult job of arriving at a proper balance. However, we do deprecate and feel very much hampered by the fact that we have this two-stage operation.

Honourable senators, I will say just a word about the two-stage operation, because the figures are important. I would like you to recall the percentage the white paper used, which was 8 per cent, on a multi-staged sales tax, or a value-added tax. For each 1 per cent the revenue inflow would be $3 billion. Therefore, on an 8 per cent basis the revenue inflow from a multi-stage sales tax would be $24 billion per annum. Against that, the offset from the present manufacturers' sales tax is about $15 billion, and the surtaxes now in place on both personal and corporate income tax amounts to $2 billion. Therefore, $15 billion plus $2 billion amounts to

$17 billion. If we subtract $17 billion from $24 billion, that leaves $7 billion when stage two comes into effect.

What did the government say it was going to do? One of the things they said was that this would enable the government to address the impact of the tax rates proposed on the middle level, that is the middle-income level. Honourable senators will recall the figures $17 billion, $24 billion and $26 billion. The ten stages were reduced to three stages, but the jump from $17 billion to $24 billion and the smaller jump from $24 billion to $26 billion will mean a very heavy impact of taxes on the middle-income group. [*See p. 2293*]

Honourable senators, I note that it is 3 o'clock, and at this time I believe it is the desire of the Senate to continue with the Committee of the Whole on the Meech Lake Constitutional Accord. Accordingly, I adjourn my remarks until the next sitting of the Senate.

On motion of Senator Sinclair, debate adjourned.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move, seconded by the Honourable Senator Doody:

> That during the absence of the Honourable Senator Molgat, the Honourable Senator Leblanc (Saurel) do preside as Chairman of the Committee of the Whole.

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

Motion agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Fernand-E. Leblanc in the Chair.

[*Translation*]

Pursuant to Order adopted on June 18, 1987, Messrs. Orr and Scott were escorted to seats in the Senate Chamber.

The Chairman: Honourable senators, I am pleased to welcome Alliance Québec President Royal Orr and law professor Stephen Scott who are appearing as witnesses this afternoon. I believe they may have a preliminary statement to make before the question period.

[*English*]

If you have any declaration to make before we proceed to questions, you are welcome to. The floor is yours, gentlemen.

Mr. Royal Orr, President, Alliance Quebec: Thank you, Mr. Chairman. We do have a short presentation, if that is acceptable.

Mr. Chairman and honourable senators, I should first introduce myself. I am Royal Orr, President of Alliance Quebec. Seated to my left is Stephen Scott, a member of our legal committee, a member of Alliance Quebec, and a professor of law at McGill University.

Honourable senators, the vision of Canada which has consistently inspired the work of Alliance Quebec has been that of a country in which two official language communities can live and work together in mutual respect. In order to accomplish this, we believe that English-speaking and French-speaking citizens must be assured that wherever they go in Canada they will be guaranteed a common denominator of rights and access to basic services in their respective languages.

We have been an active and constructive advocate for this vision of Canada not only in Quebec and at the federal level but also in various forums in almost every province of our country.

Before entering into an analysis of the specific provisions of the agreement before us, we wish to join those Canadians who, regardless of their assessment of the accord, have denounced the process which our First Ministers have adopted. The Constitution represents the single most important legal document in our country. The haste with which our First Ministers signed the accord seems to us unseemly and unacceptable. There appears to have been a conscious strategy to ensure that no changes are made to it. The outcome of the hearings before the Special Joint Committee of the Senate and the House of Commons only confirms this for us. Despite the concerns expressed by many individuals and groups that appeared before it, the signatories of the majority report recommended the adoption of the accord with no amendment. The committee concludes that the terms of the accord reflect a delicate political compromise which would be jeopardized by any suggestions for improvement. In this way the report echoes the federal government's contention that the accord is "a seamless web" which must not be disturbed, and that any improvements should await a subsequent round of constitutional discussions.

Alliance Quebec does not seek to jeopardize the accord, only to improve it. Perhaps no community feels the impact of Quebec's isolation within Confederation more than the English-speaking community of Quebec. Certainly no Canadians feel more strongly about the importance of obtaining Quebec's adherence to the Constitution than English-speaking Quebeckers. We will, however, be neither intimidated by those who say the agreement will unravel if amendments are made to it nor mollified by the suggestion that improvements could be made in future years.

That is why we are here today. We firmly believe that this accord must be improved, and we will continue to advocate changes to it.

We would first like to say a few words about nominations to the Supreme Court of Canada. We are pleased that the proposed constitutional accord addresses the question of Supreme Court appointments and embodies the principle of formal participation of both levels of government in the selec-

tion process. However, it does not deal effectively with the problem of politicization of the appointment process and the possibility of deadlock.

Alliance Quebec therefore endorses the Canadian Bar Association's proposal made before the joint Senate-House committee of an advisory committee. This would ensure community involvement in and depoliticization of the selection process. This would also avoid a potential deadlock. Failing this, we would recommend a reasonable deadlock-breaking mechanism along the lines of the Victoria Charter scheme proposed by the 1971 Constitutional Conference of First Ministers.

We have three comments regarding the interpretative clause of the Meech Lake Accord. Alliance Quebec believes that the interpretative clause fails to reflect adequately the diversity of Canadian society. A document as important as the Constitution should articulate a vision which includes all Canadians. It is therefore surprising that the proposed interpretative clause makes no mention of the original peoples of Canada or of the diverse peoples from many lands who have made this country their home. We therefore recommend that the interpretative clause also recognize multiculturalism and the aboriginal peoples of Canada.

[*Translation*]

Secondly, although we are pleased with the explicit recognition of our community within Quebec, we believe that there should be an equally explicit recognition of the French-speaking communities in each province.

The role of the Parliament of Canada and the provincial legislatures, as expressed in section 2.2, to preserve the fundamental duality of the country, although significant, is insufficient.

Just as the role of the legislature and the Government of Quebec in preserving and promoting Quebec's distinctiveness is affirmed, the role of Parliament and of the provincial legislatures not only to preserve but also to promote Canada's linguistic duality must also be affirmed. The presence of the official language minority communities is critical to ensuring linguistic duality across Canada.

It is therefore unacceptable that the First Ministers would do no more than commit their legislatures, within the constraints of their respective powers, to preserving Canada's duality.

If Canada's linguistic duality is to continue to be an essential facet of our country, our governments must commit themselves to an active role in promoting official language minority communities wherever they exist in Canada.

[*English*]

The question has been asked: Who spoke for Canada at Meech Lake? We must also ask the question: Who spoke for the linguistic minority communities? The timid affirmation of the role of the legislatures to preserve Canada's linguistic duality reveals a narrow vision of a Canada, which is simply a compact between the two linguistic majorities. We therefore recommend that the Parliament of Canada and the provincial legislatures undertake the role of preserving and promoting Canada's linguistic duality.

[*Translation*]

Finally, as for the recognition in clause 2.1(b) that Quebec constitutes within Canada a distinct society, and the affirmation in clause 2.3 of the role of the National Assembly and the Government of Quebec in preserving and promoting that distinct character, Alliance Québec, as it has always done, states its agreement in this regard. We have stated repeatedly that it is both necessary and legitimate for the Quebec government, while respecting fundamental rights, to take positive measures to protect the French language. No one can say for certain what the recognition of Quebec as a distinct society within Canada will mean ultimately or what effect it will have on the French-speaking and English-speaking communities in Quebec. However, we ask as a guarantee the assurance that every democratic society must provide its citizens: the assurance that their fundamental rights will be respected.

[*English*]

In our opinion and in the opinion of many groups and constitutional experts who appeared before the special joint committee, section 16 is the critical flaw in the accord. That clause provides that nothing in the section recognizing Canada's duality and Quebec distinctiveness shall affect the rights of the aboriginal peoples or the multicultural heritage of Canadians. By omitting to protect explicitly all of the Charter rights the First Ministers have left open the possibility that the most fundamental freedoms guaranteed to Canadians by the Charter of Rights may, in fact, be diminished by the present accord.

Senator Lowell Murray, in attempting to justify the federal government's refusal to amend section 16 of the accord, explained to the special joint committee that the "distinct society" clause does not override the rights guaranteed in the Charter. At the same time he rejected the proposal that the whole Charter be saved from the effect of the "distinct society" clause, because this was said to be "totally unacceptable to Quebec." Clearly, this is because it is the intention of Quebec to rely on section 1 of the Canadian Charter when limiting rights to promote the distinctiveness of Quebec. It is obvious that the First Ministers understood this to be the intention of Quebec. In effect, we are being told that what would be considered reasonable limits on Charter rights in Quebec may not be considered reasonable in any other part of Canada. It is a repugnant notion to us that the basic rights of Canadians could vary, depending on who they are, where they live, what language they speak, or to which group they belong.

In an attempt to reassure our community, the special joint committee stated:

> ... in law, the "distinct society" clause is unlikely to erode in any significant way the existing entrenched constitutional rights of the English-speaking minority within Quebec.

We are left wondering at the meaning of all of these qualifiers in this statement, such as "in law," "unlikely," "in any signifi-

cant way," "existing," and "entrenched constitutional." It certainly does not provide any assurance of a flourishing English-speaking community in Quebec, with full and uncompromised constitutional rights.

● (1500)

Alliance Quebec has repeatedly asked federal and provincial authorities for a clear and explicit assurance that our rights cannot be adversely affected by this accord. It is clear to us that they cannot give us that assurance.

The English-speaking community of Quebec had every right to expect that its rights would not be weakened by the accord, and, in fact, that they would be strengthened by the recognition of our community as an essential part of a fundamental characteristic of Canada. Moreover, all Canadians had every right to expect that there would be no retreat from the rights afforded to them by the Charter of Rights. The proposed section 16 makes this assurance impossible. There is no reason to allow for the potential reduction of individual rights to which section 16 may expose us. We therefore recommend that section 16 be amended to read:

> Nothing herein shall derogate from any rights or freedoms accorded by or under the Constitution of Canada.

The proposed 1987 Constitutional Accord has highlighted what remains the most serious flaw in the Constitution—that is the section 33 override provision which allows Parliament or any provincial legislature to declare that any legislation will operate notwithstanding the fundamental freedoms, legal rights and equality rights contained in the Charter. The accord signed on June 3 not only fails to correct this aberration in our Constitution; it has also led Premier Bourassa to suggest that with the adoption of the accord it would be politically more legitimate for Quebec to invoke a "notwithstanding" clause. Mr. Bourassa suggested that in carrying out its role of preserving and promoting Quebec's status as a "distinct society" within Canada, it might be both legitimate and necessary for his government to override fundamental rights such as freedom of expression guaranteed to Quebeckers by the Canadian Charter. We disagree vigorously.

Alliance Quebec firmly believes that the French language, and all that is distinct about Quebec, can be protected and promoted without negating individual rights. A number of groups and individuals called for the repeal of section 33 during the hearings of the Special Joint Committee of the Senate and the House of Commons. We were pleased to see that the report of the committee addressed this issue, and that there was an all-party consensus that the override clause be examined at the next constitutional rounds.

Alliance Quebec wishes to take this opportunity to restate its long-standing position in support of the repeal of section 33. We hope that the Senate will go further than the majority report and recommend the removal of the "notwithstanding" clause.

[*Translation*]

Quebec and Canada are becoming increasingly diversified. We must have the assurance that when our governments are faced with this crucial challenge, they do not opt for a solution that negates our fundamental rights. When all is said and done, Alliance Québec aims to promote that which makes Canada distinctive and that which unites it. In other words, our linguistic duality. Our future as a minority and the future of Canada's linguistic duality cannot be guaranteed unless we and the other official language minorities in this country obtain the tools we need for our development.

[*English*]

Mr. Chairman and honourable senators, we thank you for the privilege of appearing before you, and we will be happy to try to answer any questions you may have.

The Chairman: Thank you, Mr. Orr, for your presentation. I have been given to understand that Alliance Quebec have provided some documents for the information of honourable senators. One is a brief by Alliance Quebec to the Committee of the Whole on the Meech Lake Constitutional Accord.

[*Translation*]

With the French version, *Mémoire présenté par Alliance Québec au comité plénier sur l'Entente constitutionnelle du lac Meech*. Also another document submitted by Alliance Québec, *Analyse des audiences et du rapport du comité mixte spécial du Sénat et de la Chambre des communes sur l'Entente constitutionnelle de 1987*.

[*English*]

The other document, in English, is "Analysis of the Hearings and Report of the Special Joint Committee of the House of Commons and the Senate on the 1987 Constitutional Accord, November 26, 1987."

On my list of speakers I have Senator Wood, followed by Senator Robichaud. I call upon Senator Wood.

Senator Wood: Thank you, Mr. Chairman. I have one question. As a senator from Quebec and co-chairman of the Official Languages Committee, I am very pleased to see Alliance Quebec here today. I believe that Alliance Quebec is a voice for English-speaking Canadians residing in Quebec. Your group obviously took on momentum and viability with the various repressive language laws being debated in Quebec, the present one being Bill 101, which every Quebec court considers illegal.

As an English-speaking senator from Quebec, my concerns are that English-speaking Canadians residing in Quebec must not have their rights compromised in any way by the Meech Lake Accord. As you are aware, there is a consensus that the "distinct society" clause, agreed to by all premiers, will serve to finally legalize Bill 101, bearing in mind the statements of Mr. Bourassa and Mr. Remillard that the "distinct society" clause gives them all the powers essential to their aims and objectives.

My question is: Does Alliance Quebec believe that the rights of English-speaking Canadians in Quebec are compromised in any way under the Meech Lake Accord? And, if so, in what way do you see those rights diminished or weakened?

Mr. Orr: As an alliance, we believe that the rights of English-speaking Quebeckers could be compromised by this accord. Since the very beginning of this whole process we have supported the notion that Quebec's distinctiveness should be recognized within the Constitution. But that being said, we thought it was essential that guarantees of fundamental freedoms had also to be in any kind of constitutional deal that recognized Quebec's distinctiveness. Our concern, obviously, is around a number of issues where Charter rights are becoming increasingly important to protect the interests of the English-speaking community of Quebec. I alluded to freedom of expression guarantees and protections. Obviously, that is an issue in some very high profile cases going on right now—decisions that we are awaiting from the Supreme Court.

Our concern is that the "distinct society" clause, especially when coupled with section 16 as it currently exists, could be used in such a way as to make an argument that fundamental rights in Quebec could be limited more severely, or curtailed more completely, in that province than in other places in order to maintain what any one government may consider to be the essential elements of the distinctiveness of that society.

So, yes, we do believe that our rights are compromised. The lawyers whom we have consulted believe that, and I think that if you look in the document that we submitted to you—namely, the analysis of the testimony that was given this summer at the Joint Senate and House Committee—you will find that a number of other groups have expressed this same kind of concern. I think that probably English-speaking Quebeckers are a lot more directly touched than other groups. That is because, obviously, we are in Quebec and we are a group that does rely on Charter rights and Charter protections to guarantee the interest of our community.

[*Translation*]

Senator Robichaud: Mr. Chairman, I did not realize I would be given the floor so soon. In any case, there are two questions I would like to ask. I don't know which one I should ask first, but my queries will concern statements appearing in your brief on page 2, and I quote:

> We believe that English-speaking and French-speaking citizens must be assured that wherever they go in Canada they will be guaranteed a common denominator of rights and access to basic services in their respective languages.

Very good, this makes eminently good sense. I also see on page 4:

> We believe that equal and specific recognition should be given to the French-speaking communities in each province.

Further on, and again I wish to quote from the brief you submitted today:

> It is a repugnant notion to us that the fundamental rights of Canadians could vary depending on who they are, where they live, what language they speak or to which group they belong.

This also makes very good sense, and in fact it goes without saying, like . . .

[Senator Wood.]

• (1510)

[*English*]

"motherhood".

Having quoted you, how do you explain that recently in our sister province of Alberta a member of the legislature was not allowed to express himself in French? No one can have access to a trial in French in Alberta, according to what I have heard yesterday and today. I refer to Alberta because the situation there is current. That is the first part of my question. The second part is: If these rights cannot be provided in Alberta, why is it that in the province of Quebec, la belle province, a Greek, Italian, Englishman or Irishman cannot have the name of his company published outside his establishment in the language of his choice? I know that there is a lot involved in those two questions, and perhaps I am asking for too much.

Mr. Orr: You have hit on two very good examples of why we are concerned. First, let me deal with the situation in Alberta. The Alliance has already taken a public stance on this shocking situation to the effect that Mr. Piquette's right to speak French must be recognized by the Alberta Legislature. We have been speaking regularly to Mr. Piquette to try to ascertain how we might be helpful in his situation.

I think that this action underscores what some provinces see as their responsibility with respect to preserving the official language minority in their province. If this is how Alberta demonstrates its commitment to the preservation of the French-speaking community in that province, then we think there is no question that the Meech Lake Accord should require some kind of stronger response by the provincial legislatures than a simple agreement as to preservation. The accord should also include the term "promotion," as we have suggested in our brief. This also gets back to the common denominator of services and rights. It is not enough to simply say that everyone has the right to use the official language of his or her choice when dealing with federal public services in any part of Canada. As you well know, for a community to survive it has to have a full range of services under its control, including education, management, health and social services; a whole range of services is necessary. We think that the current situation in Alberta is a classic illustration of why the current level of commitment by provincial legislatures to the preservation of official language minority communities has to be increased and reinforced in the accord with something like a requirement to promote.

On the question of signs, again, this is precisely why we are asking for some clear guarantee of fundamental freedoms. As English-speaking Quebeckers, or as the Alliance Quebec, we have never asked that other governments intervene directly. What we have asked for is that the guarantees of fundamental rights that currently exist in the Constitution remain and that they not be compromised in any way by this accord or any future accord. We see the process of constitutional development in this country as one where we take steps forward in terms of the protection of minorities and individuals, and we see this accord as a serious step backwards in that march of constitutional development.

So, I cannot explain to you why governments choose to behave the way they do toward the official language minorities under their jurisdiction. What we are saying is that the federal government, more than any other government, has the responsibility of making sure that the minority communities have the tools they need—be it promotion of constitutional guarantees or be it clear guarantees of fundamental freedoms—to defend their fundamental interests.

Senator Robichaud: Mr. Chairman, I may be too direct in this, my last, question, but I shall ask the witness and his confrère for an answer. If you were the premier of Quebec today, would you sign the Meech Lake Accord as it stands?

Mr. Orr: Based on everything I have heard Mr. Bourassa say, yes. He has guided the accord through the National Assembly. It seems to meet the requirements of his particular vision of Canada and of Quebec. Obviously, his government is very much behind the accord as it currently stands, but I do not speak for Quebec. I speak for the largest minority community in Quebec, 18,000 English-speaking people. We are saying, first, that it is essential that Quebec be a full partner in the Constitution, but that this current accord has serious flaws, which we firmly believe can be corrected before it is signed into law. In some ways our biggest frustration is with the process we have been through in the past five or six months. During this time we have been involved in actions that have the appearance of public consultation, but we were told from the outset that public consultation will not result in changes to the accord. So it is a very frustrating process and, in some ways, a frightening process for our community, because we feel that our rights are more directly touched upon than, perhaps, the rights of any other group in this country.

Senator Robichaud: Would you echo the sentiments of your colleague?

Mr. Stephen Scott, Professor of Law, McGill University: Of course, it is the president who speaks on behalf of the Alliance. Neither the Alliance, its president nor myself speaks on behalf of the Premier of Quebec. Clearly, it is the Alliance's view that the 1987 Constitutional Accord is gravely flawed as it stands and should not be passed in its present form.

I was very much struck by some of your observations on the positions of linguistic minorities in other provinces, particularly in Alberta, pertaining to the language of administration of justice and pertaining to the language of legislatures. May I say that just this morning Alliance Quebec obtained an order from the Supreme Court of Canada—I have the privilege to represent the Alliance—joining us as an intervener in the Saskatchewan language reference. I just received a copy of the Piquette No. 2 judgment from Alberta, and I shall be studying it. The Alliance's policy has been very strongly that the provisions of section 133 and the parallel provisions in New Brunswick on language of administration of justice and language of the legislatures should apply throughout the country. This position is contained in Alliance policy resolutions, and certainly the secretary of the Alliance would be delighted to give you the documents. Episodes such as you have described are of the greatest concern to the Alliance.

The Alliance intervened in the Manitoba language litigation with a view to trying to get the Supreme Court to oblige Manitoba to pass the constitutional amendment to extend the use of French as a language. We went before the legislature of Manitoba and we argued for that there, and we have been consistently of the view that the rights of the Francophone minority must be protected throughout the federation. Alliance, I think, has not asked for the English-speaking minority of Quebec anything that it has not asked for the linguistic minorities elsewhere. When you apply that particularly to Meech Lake, you see the flaws in section 2, because not only is the French-speaking minority outside Quebec simply to be preserved, rather than preserved and promoted, but there is no statement that this will apply throughout the federation. So as long as a minority somewhere or other is preserved, that is good enough.

• (1520)

Therefore, section 2 is flawed, both from the standpoint of the English-speaking minority of Quebec and flawed from the standpoint of the French-speaking minorities outside of Quebec.

[*Translation*]

The Chairman: Senator Thériault has a supplementary question, then we will get back to you, Senator Robichaud.

Senator Thériault: Once Senator Robichaud has finished, Mr. Chairman.

The Chairman: Once you have finished, Senator Robichaud.

Senator Robichaud: I will end with this, for I know I took too much time.

[*English*]

The premiers have signed this agreement. Do you feel that there is room to manoeuvre for all of the improvements that you are suggesting in your brief here? We all know that there are a number of other improvements that could be made. However, do you feel that it will be possible to bring about those improvements, even after the signing of the agreement?

Mr. Orr: It is difficult to say. Obviously, there are a number of very powerful forces that want to make sure that this agreement is passed. However, we do believe that in a number of provinces in Canada there is some concern about some of the issues we have raised. There is a certain openness to considering serious changes to section 16—at least, that is my understanding. Whether or not that can be done I am obviously not able to say.

However, I do think that we must take seriously the various public forums and the processes that are offered to us to try to come up with the best accord possible. On the question of fundamental freedoms, we would find it surprising if some of the premiers of provinces which will be holding public hearings are able to stand up and say that it was, indeed, their intention to compromise fundamental rights with such things as the "distinct society" clause and section 16. What we have said

right from the beginning, since the appearance of the legal text, is that if this was not their intention, then they should fix it, because it does seem to be a reasonable implication of section 16, taken in conjunction with the "distinct society" clause.

However, if that was their intention, then we have further very serious questions to pose, and we hope that other Canadians will have further serious questions to pose. As far as we are concerned, the constitutional development of Canada cannot proceed in this fashion, where 11 First Ministers—11 men—get together in a room and come up with a constitutional deal which compromises the fundamental rights of any particular group of Canadians. If that is the way we are to go about amending the Constitution in this country, I think we had all better take a very serious look at where this country may be going, because it is a completely inadequate way to advance ourselves as a nation.

Senator Robichaud: Thank you very much, Mr. Chairman.

[*Translation*]

The Chairman: Senator Thériault, then Senators Marsden and Stewart. You have a supplementary, Senator Thériault?

Senator Thériault: Thank you, Mr. Chairman, I will try to be very brief. In fact, my colleague Senator Robichaud almost asked my question when he put his last one.

[*English*]

I would like to ask the Alliance whether, before the signing and up to the present time, you were in contact with La Fédération des francophones hors Québec, and whether or not you are attempting to lobby some of the premiers in support of what the new Premier of New Brunswick has indicated he has in mind with respect to the Meech Lake Accord.

Mr. Orr: Yes, we have been in touch with the FFHQ, senator. In fact, we are in regular contact with the FFHQ. As you can see from the recommendations that we are making with respect to the first part of the interpretative clause, we are clearly making recommendations with respect to the inclusion of the word "promote," as well as "preserve," with those communities very much in mind. That is in addition to our suggestion that there be an explicit recognition of the presence of French-speaking minorities in each province as opposed to just in English Canada, generally speaking.

La Fédération des francophones hors Québec is not as concerned about some of the fundamental freedoms issues as we are. Obviously, that touches us much more closely than it does them. However, I should point out that the president of the Société Franco-Manitobaine appeared before the joint Senate-House committee and supported the position that we have taken on the potential problem concerning section 16. Therefore, at least one Francophone organization has noted that this is a cause for concern and has supported the recommendations that we have made.

On the question of other provinces and other premiers, we have had occasion to speak with representatives of the governments of Ontario and Manitoba as well as representatives of the new government of New Brunswick about their intentions regarding the Meech Lake Accord. We are encouraged in a number of ways by the responses we have received. There seems to be a commitment to use the public processes that they are planning for their provinces in a much more creative way than what we saw here in Ottawa over the summer months. There seems to be more reality to their suggestion that this is a real process that may result in change. We are very hopeful that Mr. McKenna will be able to convince some of his colleagues around the First Ministers' table that some of these matters deserve serious consideration.

However, what we are saying to these people in these various governments is not simply that they should be concerned about these matters. In many instances they are already concerned. What we are saying is that people should be starting to think through how to go about changing this accord. It seems to me the thing we must reject most firmly is the suggestion of the federal government, as well as of the Government of Quebec, that this is a seamless web; that it is, by definition, impossible to make any kind of change or improvement to this accord. This is a political deal like any other political deal. Constitutional deals can indeed be fragile, but if one deal can be struck, I fail to see why another deal cannot also be struck. Therefore, what we are saying to the various premiers and the representatives of certain provincial governments is that they should start thinking about the political means and processes of effecting change to this accord, because we firmly believe that it can be improved without destroying it.

Senator Thériault: Thank you, Mr. Chairman.

The Chairman: Senator Frith?

Senator Frith: Mr. Orr, on page 2 of your presentation you say you want to say a few words about nominations to the Supreme Court of Canada, and you support the proposal of the Canadian Bar Association for an advisory committee. Since we have not had any representation from the Canadian Bar Association at this point, can you tell us what their proposal is, and thereby put it on our record?

Mr. Scott: At various stages they offered suggestions and I have not re-read their proposal recently enough to be able to speak for them. However, since honourable senators were so good as to communicate through one of their clerks that they wanted me to come and testify, I agreed to refresh my memory as to the details.

Essentially, they proposed various schemes whereby there would be input not only from both levels of government but from members of the bar and the general public. I think the intent was to ensure that the process was not one of pure exclusivity of provincial government input.

There was the McKelvey report, and Mr. Williams came to the joint committee with slightly different proposals. The proposals are in the committee debates, but before I try to set them out precisely I had better look at them again.

Senator Frith: You have also referred to the Victoria Charter scheme proposed in 1971 and a deadlock-breaking mech-

anism. How does that differ from the proposal of the Canadian Bar Association?

Mr. Scott: The Canadian Bar Association is quite interested in widening the input beyond governments. The Victoria Charter scheme, in its essence, involved nominating councils—either larger nominating councils or smaller nominating councils. The larger council would consist of all the attorneys general; the smaller council would consist of the Attorney General of Canada, the Attorney General of the relevant province, and a chairman appointed by agreement or by the Chief Justice of the relevant province. It would make a final selection from a federal list of proposed judges.

Under the Victoria Charter scheme it would be impossible to make a Supreme Court appointment unless there was the consent of a particular provincial government. That is, of course, the case with three judges from Quebec.

Moreover, under the Meech Lake scheme cross-nomination is impossible. A judge qualified from British Columbia could only be proposed by the Attorney General of British Columbia, for example, and not Ontario, or a judge from Quebec could only be proposed by the Government of Quebec. So it is a great deal more rigid than the 1971 scheme, which was, indeed, a scheme which Mr. Bourassa himself found quite acceptable in 1971.

Senator Frith: You make no comment in this presentation about the accord's provisions for appointments to the Senate. Do you have nothing in particular to say about that?

Mr. Orr: We did have something to say about that in our first brief. We submitted that brief, as well as this current brief, because we stand behind all of those recommendations. The limitation of time today forced us to choose between the two briefs.

With regard to the appointment of senators, while we thought that it made sense that there be some kind of provincial input, we felt that there should be some kind of process to guarantee that the public saw who was being proposed for appointment to the Senate. We would suggest, at the very least, that the lists of potential nominees be made public.

Our concern here comes from a concern that you see in a number of other points, and that concern is that provincial governments tend not to be very concerned about minorities—certainly official language minorities—within their boundaries. There is no provision and no kind of mechanism in the existing accord to guarantee that the Senate should be reflective of the linguistic reality and the linguistic duality of this country. One could even go further, I suppose, and say that one could not presume, or one should not assume, that those provincial governments will be concerned about making sure other minorities are represented in the Senate in the future.

We thought that there had to be a way of setting up that process so there would be much more public scrutiny of what the provincial governments were doing in terms of their submissions.

Senator Frith: Mr. Chairman, my last question concerns section 16. The presentation you made today does not make particular reference to the interpretative rule of *inclusio unius* and the reason for people being concerned that aspects of the Charter will be affected and some aspects of the distribution of powers might be affected, because section 16 refers to specific provisions of the Charter and specific provisions of the distribution of powers in sections 91 and 92.

I would like to ask Professor Scott what weight he feels would be given to that interpretative rule by the courts when interpreting section 16?

Mr. Scott: Clearly, from our point of view, the scheme would be better off without section 16. The more exceptions are made to the operation of section 2, the more ruthless and inevitable the inference is that section 2 is intended to affect the Charter of Rights, or so much of the Charter of Rights that has not been accepted by section 16.

Senator Frith: That was not mentioned in section 16?

Mr. Scott: That is right. If you have section 2 and you start off by putting a paragraph in that says it is not going to affect the distribution of powers, then what is left are rights and guarantees of various sorts, such as section 133. Then, in addition, you make certain exceptions for multiculturalism and for aboriginal rights. The inference becomes more and more deadly and inevitable that the whole purpose and thrust of it is to say that even if certain kinds of legislation are not demonstrably justified in a free and democratic society, they are, nevertheless, justified by the distinct character of Quebec.

Personally, I believe the courts would do their best to try to avoid this. But you have a problem in damage control. You have section 2 drafted in such a form as to simply present to the courts the problems in damage control. The outcome also depends a great deal on the composition of the Supreme Court of Canada. That is closely related to the submissions which Alliance Quebec has made on that subject.

While it is possible for a fair-minded court to control the problems created by section 2, nevertheless, section 2 essentially creates problems for the court. The problems are heavily compounded by the presence of section 16 and the *inclusio-exclusio* rule.

Senator Frith: Mr. Chairman, that may be a good place for me to yield to Senator Marsden, who might, on that subject, have a question about women's rights.

The Chairman: I have the names of Senator Marsden, Senator Stewart, Senator David and Senator Le Moyne on my list. Senator Marsden.

Senator Marsden: I was not going to raise the question about women's rights, simply because I think you have referred to it very clearly in your recommendation. Senator Frith, you may ask your question if you wish.

Senator Frith: No, that is fine. I think it is clear that the rights that are being referred to in the Charter of Rights would include women's rights as rights that might be at risk in this interpretation.

Mr. Orr: Mr. Chairman, if I may add, there is a rather complete analysis in the document entitled "Analysis of the

Hearings" of a number of positions and arguments that were brought forward precisely on section 16. I believe it is a very complete and very balanced analysis of everything that was heard. If that is of particular concern to the senators, I would invite them to read that analysis.

Senator Frith: You do understand that there are things that we want to have on the record directly rather than having to go to other documentation. Thank you for drawing our attention to that analysis.

The Chairman: Senator Marsden.

Senator Marsden: Thank you, Mr. Chairman. I would like to thank the witnesses for a very clear and powerful brief, especially for the documents that you have tabled that deal with individual rights—section 15 and section 33. I would also like to thank them for the document "Analysis of the Hearings" in its entirety, but especially insofar as it comments on the process. In that regard, I would like to ask my questions. You talk about the limitations of the process. I would ask you to extend your comments on that in this way.

In the province which I represent—the province of Ontario—we had no idea what our premier asked for at Meech Lake or Langevin or, in fact, whether or not he got what he asked for. In the province of Quebec it was very clear to all of us what Premier Bourassa was after. Those requests were made public.

Did the premier and the Government of Quebec consult with you before those requests from Quebec were drawn up between the Meech Lake meeting and the Langevin meeting and subsequent to them?

Mr. Orr: Senator Marsden, the process in Quebec has been rather complicated. Quebec, to its credit, did publicly come out with five points, which they said were the core of their demands. We supported those five points. The process then started to move so quickly and with so little consultation that things began to change between the point when the five points were brought out and the Meech Lake Accord.

There is a distinction between Langevin and Meech Lake. Suddenly the recognition of Quebec as a "distinct society" slipped from perhaps being in the preamble to the Constitution to being an interpretative clause, and that was something that was not necessarily a part of the public demands of the Government of Quebec.

● (1540)

The Government of Quebec held its public hearings on the Meech Lake Accord. It held no public hearings on the legal text. At that time we made our points very clear, and we are continuing to do so. At that time we said we could accept the recognition of a "distinct society," but that there had to be clear, unequivocal guarantees for fundamental freedoms, other Charter rights and other constitutional rights as well.

Between Meech Lake and Langevin, suddenly section 16 appeared, and section 16, as we have just been discussing, has a number of implications with which we are not comfortable. So, at every step of the way in Quebec there has been a certain amount of public discussion and public debate, but each time the First Ministers got together in a room somewhere the result has been quite surprising. Something that was unexpected resulted, something which has implications which were never part of the Government of Quebec's public position has resulted. For example, the Government of Quebec has never said publicly that it is its intent to limit fundamental freedoms with the inclusion in the Constitution of this accord. So, at each step the Government of Quebec, to its credit, has held some kind of public debate or has made some kind of position public, unlike some other governments, but each time we have been surprised by the results of the meetings of the 11 First Ministers.

Senator Marsden: Professor Cairns of the University of British Columbia has said that regardless of whether one likes or dislikes the actual context of this accord, the process is deeply immoral. Would you agree with that? Do you think that this undermines the democratic process of Canadian society?

Mr. Orr: If we were serious about the 1982 Constitution, if we were serious about putting in place a Canadian Charter of Rights and Freedoms, then coming up with a constitutional deal five years after, which a number of experts and a number of groups agree could very well compromise precisely those Charter rights, then I have to say that this is an improper process, that this is not the way we should be proceeding as a country. I find it quite offensive, because one takes certain things as a "given," or we think we are being encouraged to assume certain things that are fundamental to aspects of our political life; that is, the protections the Charter affords. We had thought the only debate around the Charter would be when you repeal section 33 as opposed to having to fight rearguard action to stave off constitutional deals among First Ministers which went further in the direction of compromising that Charter.

Senator Marsden: I know that you object to the entrenchment of this process through Meech Lake—that is, executive federalism. Can you decribe what dangers, from the point of view of your organization, you think might occur in the future if the First Ministers continue to do what we have seen them do over the past couple of years?

Mr. Orr: I suppose my concern stems from the fact that we feel that our community is the group that has been consciously forgotten in this whole process, that our concerns have been systematically denied and denigrated by a number of powerful people in this country. Our experience with this kind of executive federalism, if that is the best way to characterize it, has not been very good so far.

I should underline for people who are not from Quebec the kind of message Quebeckers got the day after the Langevin Accord was signed. In the rest of Canada the premiers went home, and there was a lot of jubilation about, finally, bringing Quebec on side, before people started to reflect on the text. What we got in Quebec was the premier coming back and, in response to criticism that he had not got as much as he could for the province, saying, "Well, there were a number of things

that were acquired, and one of the things that was acquired through the current wording was a kind of political justification for the use of a 'notwithstanding' clause." That was the ultimate power that resided within the Constitution.

So whether or not this interpretative clause recognizing a "distinct society" was powerful enough, ultimately the Constitution gave Quebec that power, and the recognition of a "distinct society" in this accord gives some kind of political justification to the use of a 'notwithstanding' clause.

That was the message we received as English-speaking Quebeckers. That is our experience from this process of constitutional reform. You can understand why we are skeptical about continuing with this. I cannot imagine what they might use this process for the next time around, but I feel fairly confident that minorities, or let me say people who are underrepresented in the corridors of power, will not come out the winners.

Senator Marsden: Thank you. I can assure you that a great many Canadian women share those views entirely. Thank you, Mr. Chairman.

The Chairman: Senator Stewart.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman. To some extent my question has been anticipated. What I want to do today is put Mr. Scott on notice for later, when, as I understand from you, Mr. Chairman, he will be appearing in his own right.

When the Honourable J.W. Pickersgill was here on November 18, I asked him if I was correct in believing that he thought that the "distinct society" rule refers exclusively to language. He replied, and I quote:

> No. It refers not to language but primarily to the Civil Code, I would say.

I notice that it is the language question which seems to be at the centre of your focus, that is, the relationship between the "distinct society" rule and the Charter of Rights, particularly as it relates to language.

I want to shift away from that concern to another; we know, of course, that the "distinct society" rule of interpretation is not to derogate from the powers, rights or privileges of Parliament or of the legislatures. When Mr. Pickersgill was talking about the Civil Code, he said he was talking particularly about the provision for "property and civil rights in the province," subsection 13 of section 92. The question I have is this: In your view, will the "distinct society" rule of interpretation have any effect whatsoever on the interpretation of sections 91 and 92? If Mr. Scott would prefer to leave that question until he appears in his own right, I would be happy.

Mr. Orr: I have one comment on that. In partial response, "distinct society," for us, includes many things. It is not just the French language, it is not just the Civil Code, it also includes the presence of the only English-speaking minority in the country. That is part of Quebec's distinctiveness.

The potential use or impact of that interpretative clause on other sections of the Constitution is something that we, as an alliance, have not addressed. I suspect that Mr. Scott would be able to respond to that during his own appearance.

Mr. Scott: Yes, I think that it is desirable, as much as possible, for me to assist with alliance positions rather than give legal advice in my own right.

May I say that I have been working away at trying to put a brief of my own together, one that is adequate to the issues here. I have done so far two papers, which I intend to integrate into a brief, or am considering integrating into a brief, which deal with quite a few questions honourable senators have been asking today. One is on precisely the "distinct society" provisions and the national objective; the other is on a close analysis of the Supreme Court provisions. Both have rather concrete proposals. They are already in the form of papers now, and I could give them to the clerk at this stage, who might cause them to be circulated if senators wished.

Since they are not on the public record yet, and since it would be of considerable assistance that they should be, I would be grateful if the Senate would care to order that they be printed as appendices, because they are quite detailed and worked out. However, I would certainly give them to the clerk in anticipation of my appearance here in due course, and also try to work out a brief particularly on other issues.

Senator Stewart (Antigonish-Guysborough): That would be entirely satisfactory, Mr. Chairman.

Senator Frith: I have a supplementary question. While Mr. Scott is looking that up, perhaps he would see if he could find any judicial definition of the word "society". I looked it up, as I mentioned on another occasion, in Sanagan, a Canadian authority on words and phrases judicially noted, and found nothing in the alphabetical order for the word "society". I found nothing between "soap" and "sodomy."

Mr. Scott: The whole thing is, in a sense, an exercise in studied ambiguity. There are limits beyond which you cannot define things. If you are to use words like "society", I do not think that you can define it further. Although the Alliance is primarily concerned, obviously, to ensure that whatever any of this means it does not affect fundamental rights and freedoms, that does not mean that it would not like to see a great deal of improvement in the clause and has, indeed, made various proposals—for example, "distinctive" as opposed to "distinct," and so on.

The famous statement by de Gaulle, "Je vous ai compris," in front of the crowd, was precisely the classic exercise in an ambiguous statement which would be understood by everyone to mean what it was wanted to mean. Of course, honourable senators are right in seeing ambiguity in this clause, but it is not altogether unintended, I think. However, to be fair to anyone drafting a scheme like this, I am not sure that you could refine the term "society" very much.

Senator Frith: You understand that I was not asking that it be refined, I was just saying that when you are doing research for your own appearance you might see if the word "society" had ever been judicially defined.

Mr. Scott: I very much doubt that you would find a legal definition of "society," unless it was in a phrase like "the society of railway workers," meaning an unincorporated association.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I wonder if Mr. Scott would consider looking at the way that the term "society" was used for some 450 years in the extensive literature of so-called natural law jurisprudence, where the word "society" always meant a polity. It was the term that was used to translate Aristotle's classical term "polis," and meant "a distinct and independent political entity." Indeed, it was the predecessor of the modern term "nation." There was a long and distinguished usage of the term in that tradition, which was outside the common law world but very close to the civil law world.

Mr. Scott: I will give that some thought; I think I should not steal the Alliance's forum and comment on that.

The Chairman: Senator Marsden, do you have a supplementary question?

Senator Marsden: I do, and it is brief, because it follows on these questions of distinctions.

It would be interesting, when Mr. Scott returns, to know if there is in Canadian constitutional experience a distinction made among "society," "state," "nation" and "culture"—all of which are highly distinct in, say, sociological or political science terms, but may or may not be in judicial terms.

Mr. Scott: These terms tend to require interpretation when they are used in an enactment. Since they have not been used much in enactments in this country, I think there would be a dearth of attempts at legal definition. On the other hand, ordinary words of the language appear in statutes or other enactments and then require definition. The judges just have to do the best they can at that point.

The Chairman: Mr. Orr, do you have anything to add on that subject, or shall I move to another senator?

Mr. Orr: I have nothing on that point, thank you.

The Chairman: Senator David?

[*Translation*]

Senator David: Mr. Orr, I am very glad that Alliance Québec should appear before this committee. I have already had a few meetings with you, being a member of the Committee on Official Languages where your group has given evidence on a number of occasions.

Of course, the main goal of the Meech Lake Accord, and you will admit this, is to bring Quebec back in the Canadian Constitution. One thing for sure is that to reach this goal it took an exercise which lasted for about two years of compromises, which in turn led to discussions of compromise as well, and they went on for 12-odd hours or more in the Langevin Building.

Of course, you are speaking on behalf of what you call the "anglophone minority" of Quebec which amounts to roughly 800,000 people, if I am not mistaken. It is quite obvious that in Quebec you represent a sizable minority, about 20 per cent of the population of Quebec. This minority is supported by about 25 million English-speaking Canadians and 220 million English-speaking North Americans, to the extent that it is a minority within which you might indeed feel rather comfortable.

Still, to me you appear very concerned. I think the word is quite appropriate because you have the impression that the Meech Lake Accord might deprive you of certain basic rights which are still guaranteed under the Charter of Rights which has not been invalidated by the Meech Lake Accord.

If I avoid any reference to the case now before the Supreme Court with respect to signs, if I simply remain within the limits of Quebec without considering other minorities in Canada, for the purpose of this discussion, on behalf of those you represent I would like you to give me very concrete examples of so-called "basic" rights which you do not now enjoy. I think you have them all. Why do you stand to lose with the Meech Lake Accord?

It seems to me that your representations would give me more satisfaction if you were to support them with fairly concrete examples so that I, residing in the same province as you, can see a very real danger in the Meech Lake Accord. In short, I am simply trying to find out whether you are talking about anxiety or about a very probable reality.

Mr. Orr: It is difficult, as you know. When we speak about a constitution, we are speaking about a statute which is normally used in the worst, and not in the best, of circumstances.

First, you spoke about business signs. Naturally, this concerns freedom of expression and it is just an example. Apart from that, there could be the question of guarantees for equal status. As for immigration, the Quebec government has certain policies which are of some concern to us, and we have to look at this issue.

I must also point out that the existing guarantees for our school network are not as firm as many Canadians think. The guarantees which now exist in the Constitution are for the denominational and not the linguistic system; that is a fact. Perhaps it will become necessary for the English-speaking community to use clause 23 of the Constitution to protect its right to manage its own schools.

Naturally, we are somewhat concerned about the potential reduction of basic rights. Freedom of expression is the most obvious for the moment. We are also concerned about the minority language educational guarantees. Also, I must say that if there is a possibility that clause 133 can be reinterpreted to weaken existing rights, this is also a cause for concern.

As I have said, it is rather difficult for us to provide concrete examples. I repeat that constitutions are developed over many decades and it is difficult to say immediately what the results of such an agreement will be.

Mr. Scott might have some ideas about that.

Mr. Scott: Perhaps I shall elaborate on that another time, but there are examples. As Mr. Orr said, we cannot predict the

future, but there is an impact on all legislation and government services. For instance, there is the matter of educational subsidies, the control of the books prescribed for schools, health services, and so on. We might ask that these be provided in English, and the government might refuse to do so administratively or by legislation. We want to be able to rely on the guarantees of equality in all possible or hypothetical situations and in all the legislation. However, we shall be told that Quebec is a distinct society and that the guarantees do not apply to specific legislation or to provincial administrative practices.

Senator David: I am glad to see you agree with the definition of a distinct society. If my understanding of your replies to previous speakers is correct, the distinction you make is not just a matter of language but also of tradition, culture and religion, the latter much stronger in the past than it is today.

While accepting this distinct society, you would like to see it provide safeguards against that distinct character. I think it is right and reasonable to have guarantees for fundamental rights, but when we are asked to make a distinction between fundamental and secondary rights, this often requires legal definitions that are extremely difficult to establish.

Now about your concerns. Considering that the past foreshadows the future, do you not believe that in the case of the English-speaking minority in Quebec, the past leaves considerable hope for the future, especially considering the support afforded by a very sizable population nearby?

You refer to the dangers of immigration. I think that is opened to debate.

About the school system, you referred to the separate school system. However, this is also an important issue for the French-speaking population, where the struggle continues, although to a lesser extent than in the past, to maintain a Roman Catholic school system. The same is true of Protestant schools, although we know perfectly well that the dominant issue on both sides is not so much religion as language. I don't see why the system should be any worse off today than it was before.

I would have liked to have many other examples. The signs issue arose as a result of a law that is now being challenged before the Supreme Court, so I think we should wait for the outcome of this appeal before drawing any conclusions.

Mr. Orr: First of all, you may have noticed that some tremendous changes have been taking place in our schools. Perhaps I should explain the situation in the Protestant schools in our province.

The French-Protestant sector is growing steadily, and within the next three years, we will have a situation where the school board that covers Eastern Quebec will have a majority of French-speaking students. The same will happen to the Protestant School Board for Greater Montreal. In eight or nine years at the most, the PSBGM will be a Francophone institution in the meaning of Bill 101.

So a lot of changes are taking place, and it means we will have a situation in Quebec where the guarantees for a separate school system will not necessarily guarantee language rights.

As for your first question about the recognition of a distinct society, I must say that the Anglophone community is showing an increasing willingness to participate in this distinct society and that it realizes that speaking French is an essential part of that participation. Increasingly, the situation is that if we want to participate fully in the Quebec community, we must do so in French. However, there are two requirements for a minority to be able to participate to that extent. The first requirement is to be able to speak French. The second requirement is that as a minority, one must have access to another political avenue if one does not have a majority in the National Assembly. The traditional avenue is that of the courts, which includes safeguards such as the Quebec Charter and the Canadian Charter of Rights and Freedoms.

As a Quebecer and a member of a minority group, I realize I must participate in French in the province of Quebec, but I also think that the majority should realize that minorities must be given basic safeguards, and especially guarantees for their fundamental rights, to ensure that participation is fair and genuine.

Senator David: My last remark will be to congratulate Mr. Orr who speaks excellent French, much better than my English. You are in fact a shining example of linguistic participation in the Quebec community.

M. Scott: I want simply to add something in reply to the last question. To a certain extent the past can indeed vouch for the future. However things we thought impossible can happen. Who would have thought, say 30, 40 or even 50 years ago, that a Quebec legislature would ever try to abolish English as a language for use in the legislature and before the courts? The fact is, however, that a government has passed and ratified a Bill to that effect. It is only because clause 133 was ruled unconstitutional by the Supreme Court, after a long battle, that this fundamental right of Quebec Anglophones was saved. Without this ruling, what we had thought impossible would have happened. This is why we must show good will toward the Francophone majority and respect their wish that the French culture and language in Quebec be protected, but not to the point of infringing upon individual basic rights.

The Chairman: Before recognizing Senator Le Moyne, I should like to say that the group representing the Native Council of Canada has arrived and wishes to be heard. Well, Senator Le Moyne?

Senator Le Moyne: I will yield, Mr. Chairman, because I would not want to extend unduly the sitting of the Senate.

The Chairman: Thank you. On your behalf, therefore, I want to thank Mr. Royal Orr and Mr. Stephen Scott for appearing before us today as witnesses. Thank you for your presentation and your clear and precise answers to the questions raised by honourable senators. Now, you are excused.

Mr. Orr: Thank you, Mr. Chairman.

Pursuant to Order adopted on June 18, 1987, Messrs. Bruyère and Groves were escorted to seats in the Senate Chamber.

The Chairman: On your behalf, I wish to welcome the Native Council of Canada, as represented by its President, Mr. Louis "Smokey" Bruyère, and its special counsel, Mr. Robert Groves.

Before answering questions, would you like to make a statement, or would you rather answer questions right away?

• (1610)

[*English*]

Mr. Louis "Smokey" Bruyère, President, The Native Council of Canada: Yes, I do, Mr. Chairman. I would first like to introduce Mr. Bradford Morse, a professor of law at the University of Ottawa. He will be seated next to me rather than Mr. Groves.

I wish to thank the Committee of the Whole and all honourable senators for providing the people I represent some voice in the constitutional future of Canada.

Senators are probably all interested in hearing about our proposal that the Senate initiate what we call "companion resolutions." We have circulated the amendments in English and French. Before I get to that initiative, however, I have a little story to tell.

As you know, the right of self-government of aboriginal peoples was reaffirmed in September by His Holiness Pope John Paul II. I had a small part to play in getting the Pope to go the extra distance he did. Believe me, getting the last minute changes to a papal message makes dealing with Meech Lake look easy. Anyway, we had hoped that the Pope's forceful assertion of the moral and legal strength of our case would have some influence on the federal government, on provinces, and on the Joint Committee on the accord.

It is not the first time that a pope's message has failed to get through. Exactly 450 years ago this year another pope, Pope Paul III, issued a famous bull, *Sublimis Deus*. It is generally seen as one of the formative documents of modern international law.

It basically said that Indians were independent men with rights, that they had souls, and that they could not be enslaved or deprived of their territories or liberties.

The Pope's announcement led to an infamous Spanish procedure called the *Requirementó*—the requirement. By way of respecting the Pope, if not the papal bull, Spain required that a clear and public proclamation had to be made at each meeting with Indians to announce that Indians had the recognized right to be independent and free.

As you can guess, Indians were also told that there was an exception to their rights. The exception was if Indians refused "open trade" with Spanish merchants—that was the Spanish term for "free trade"—or if Indians opposed Spanish priests in their missionary work.

If trade or the missions were opposed, a "just war" could be declared, and Spaniards would be absolved of any guilt about killing or enslaving Indians and seizing their lands and resources.

You might understand that even with the loophole, the Conquistadores of the day were not too pleased with the *Requirementó*. It slowed things down. But they managed to get around the dilemma. They did read out the proclamation. But they did so quietly, in Spanish, and in isolated jungle clearings. Then they raided the closest Indian town.

The Langevin accord reminds me of the *Requirementó*. If you look at section 16 of the accord, you will see it in writing. Like the *Requirementó*, it gives the impression of concern and respect. But it is, in fact, nothing more than a face-saving gesture, a way of getting around having to recognize the damage being done to fundamental rights.

Perhaps I should apologize to senators, not for my little story but for Meech Lake and its aftermath. The fact is that it was the 1982 aboriginal rights package that gave First Ministers their only formal on-going role in "facilitating" the procedure of constitutional amendment. Some facilitators!

The Langevin accord takes a procedure that was unique to the aboriginal reform process—formal First Ministers' meetings as the basis for amending the Constitution—and makes it permanent. The only twist is that aboriginal reform is dropped from the agenda. That's gratitude for you!

If it were not for the aboriginal conferences, the precedent and the legitimacy of the First Ministers' coming up with the Langevin accord on their own would have been far less apparent.

I apologize. We should have known better.

What are the aboriginal concerns? Think back to 1982. Was it really only five years ago? Compare the situation we faced then with the reality today. Many of you will recall the battle in 1981 and 1982 between the "people's package" and the "power package." That battle, even if only partly won, was at least public. Some of you were directly involved and know how Canadians from all walks of life were able to become directly involved in improving the draft, especially the Charter.

No one got all that they wanted, and the Parti Québécois refused to go along with it. But a truce, uneasy but stable, was won.

In the 1987 accord the truce between power and people—expecially aboriginal people—was broken. Shots have been fired, and from the darkness of a closed meeting room. Because of the fait accompli approach of First Ministers, we have very little ammunition to defend ourselves.

The accord completely ignores aboriginal peoples and our place in the existing constitutional order. It misstates Canada as it is and as it had a greater chance of becoming—a country housing a number of distinct peoples and societies living in harmony and mutual respect.

Canada is premised on the relations between three—not two—founding societies. The first, and the most distinctive, are the aboriginal peoples.

The accord takes a simplistic, sledge-hammer approach to the amendment procedure. The amending formula is critical to setting out what Canada should be and could be in the future. For this to work it must balance interests—not only the interests of governments but of the peoples involved.

The accord takes a formula that had ten distinct procedures and slashes that number back to seven, all in the name of provincial veto power. In the process two procedures—critical for the rights of peoples—have been simply wiped out.

Section 42 is gone, and along with it the "second round" reform agenda worked out in 1982. All those agenda items are to be locked in to the unanimity procedure. Beyond the effect on Senate reform, this move also clearly strips northerners of any hope for provincehood and signals a new, colonialist partition of the north.

● (1620)

Secondly, the special procedure for the "first round of reform" on aboriginal rights is totally gone. In its place is a seemingly never-ending series of conferences on fish and the future of this place.

The aboriginal reform process from 1983 to 1987 was based on the understanding that aboriginal peoples were the number one, the first round, of reform. It was assumed that concerted effort would be given by all First Ministers until the basic issues were resolved. Section 42 also provided an agenda of other reform items that could be addressed. But we were assured that we were the number one priority of Canada. Aboriginal peoples were finally to get top billing. Aboriginal people felt assured that they would get a secure place in Confederation. Clearly, we were wrong, all of us.

The accord proposes to gut the aboriginal rights provision and to forestall, possibly forever, the completion of the circle of Confederation—and just when we were getting close to an understanding and to making a breakthrough. As Georges Erasmus explained to you a few weeks ago, the first three meetings were spent largely in educating Canadians and Canadian politicians. So, in fact, we really had only one shot at serious and informed discussion on reform, and that was preempted by preparations for Meech Lake, as I point out in the background paper that I have previously circulated.

Again, going back to 1982, that constitutional exercise embraced a vision of aboriginal peoples as being partners in Confederation. The 1982 act recognized the realities of Canada and the need to provide some countervail and some balance, to allow aboriginal peoples effectively to negotiate our place in Confederation. That is why the First Ministers' conference process, legally required, was so important. The accord abandons this vision. The 1982 package provided us with the basis for a distinct aboriginal charter and the means to fill it in. The accord wipes that out, and there is little hope, without a bold and courageous move by the Senate, to right the damage done.

I have to single out for special comment the accord's provision on unanimity. It ensures that the worst inclinations of future politicians will be pandered to. It invites every single province to ransom proposed changes for whatever that province might want, probably out of the federal treasury or whatever is left of federal jurisdiction. Every other province will demand, and get, equal treatment, and it will mean that every effort to amend the Constitution on one issue will lead to a repetition of the Langevin meeting—a grand power play.

With unanimity the accord strips an entire section of society of its right to self-government. Northerners—totally unrepresented in the meetings—have lost any real chance to become provinces. They remain fiefdoms. If they do seek provincehood, then they will be held to ransom and blackmailed for part of their homelands and for their right to participate fully in the Constitution. This is virtually a certainty under the accord.

They say that the definition of a politician is a person capable of holding two contradictory views on any topic. That may be true in the normal course of political life, which often deals with vague and ambiguous realities; but there is no room for equivocation when it comes to applying unanimity in an amending formula. Once in place, it is just short of impossible to go back.

With this thought in mind, I was outraged last Friday night by what the Prime Minister said in response to Tony Penikett's plea for sanity and justice in this matter. Some of you may have seen the Prime Minister's performance on television. It was the purest expression of equivocation I have seen in a long time.

He told Tony Penikett, and the public, that unanimity is not to be feared; "It's not hard," says he; "It's been done before," says he; "Don't be so negative," says he. Yet, on the same day, when asked about applying unanimity to the Free Trade Agreement, he rejected the suggestion utterly. Why? Because, in his own words, "Getting unanimity, believe me, is the exception."

Which Brian Mulroney do we believe? I can only tell you what common sense tells me. Unanimity makes sense only when applied to matters that we all agree should not be questioned or opened up for change except in very extraordinary circumstances. Unanimity defends the status quo in a big way. That is why, in 1982, very few matters were made subject to unanimity. Only "sacred institutions" like the sovereign and minimum language guarantees were to be placed under that onerous procedure. Logic tells me that to apply unanimity to things that do require reform is to invite major trouble. Either those reforms will not happen or someone will have to pay, and pay big. I have already told you how I think northerners will have to pay under unanimity.

As for the prospects for unanimous agreement, I refer you to a recent study published in *Policy Options*. It clearly shows, using a neutral and objective test, how the unanimity procedure is over 100 times harder to satisfy than the general or "7 and 50" rule. I am not surprised that Brian Mulroney thinks that seven out of ten is good enough in Baie Comeau on free trade. He knows how rare the Meech Lakes of the world really are. So why did he allow it to be imposed on the north?

Mr. Mulroney's "Baie Comeau" rule highlights another point that I want senators to understand. The Prime Minister has said forcefully that the Constitution gives Parliament the exclusive power to make treaties. He won't, he says, run the country by committee when he has the clear right to move alone. The fact that treaty implementation may require provincial action leads to the need for some measure of provincial concurrence. The amending formula does not answer what the test should be. It leaves it open. So that is why we get the "Baie Comeau" rule. That is the rule which means whatever the Prime Minister thinks it ought to mean. It may be "seven out of ten" today, it may be "six and 50 per cent" tomorrow, or it may be unanimous consent next week—we don't know. It's his rule and he can make it up as he goes along.

My point is this: What holds for free trade treaties holds even more strongly for aboriginal rights. The fact is that Parliament has the exclusive jurisdiction over treaty-making with aboriginal people. The federal government could tomorrow enter into a treaty agreement with any or all aboriginal peoples that would recognize and constitutionally entrench self-government. No provincial concurrence is required.

So why hasn't Ottawa done this? Why has Ottawa hidden behind the appearance of provincial veto when no veto is actually involved? Why hasn't Mr. Mulroney ever got up in the House, during one of his "aboriginal peoples are my number one priority" speeches, and got tough with hold-out provinces? Why hasn't he made a stand and protected Parliament's jurisdiction when it is to the benefit of aboriginal peoples?

The answer is simple. Mr. Mulroney and the other First Ministers have not really grasped the reality of the special relationship that Parliament has with aboriginal peoples. The Constitution clearly provides that, if and when necessary, the federal government can exercise a tremendous amount of autonomy in protecting aboriginal rights—up to and including amending the Constitution through treaties and land claim agreements.

We all know that provinces are probably necessary if self-government is to be effectively implemented. That is why we have been using the "7 and 50" rule for the last five years. That is why the aboriginal reform process was written into the Constitution in the way it was.

The First Ministers have now allowed that process to die. This simply highlights how imperfect their grasp of the intent and subtlety of the Constitution truly is. It also means that we may, without your assistance, continue to be tossed about in the uncertainty of "Baie Comeau" rules—and, in fact, that is precisely what has happened to us since last March. Mr. Mulroney keeps coming up with a new "Baie Comeau" rule every time we ask the simple question: "What will it take to restart the aboriginal reform process?"

Where do we go from here—the companion resolution approach? You have all had a chance to look at the companion resolutions option. We have tentatively been raising this idea now for six months, and the paper that we have provided tries to flesh out in concrete terms how it could be implemented. All that the approach asks is that the Senate fulfil its constitutional duty and defend the clear interests and rights of aboriginal peoples and northerners. We are minorities who rely on you as the last and, in this case, only line of defence. The task set before you is one that you know yourselves to be inescapable. The rights that I ask that you uphold and advance are precisely those which the Senate was created to safeguard.

The means to carry out this task is straightforward; it is legal; it is without pretence. You are asked to start the ball rolling. It will be left to others to see through the course that you set. But the task cannot be started, let alone completed, without your initiative.

The Senate is asked to initiate an amendment to reinstate the aboriginal rights procedure that was terminated by the accord. The Senate is asked to correct the disenfranchisement of northerners in the Supreme Court nomination process. Finally, the Senate is asked to put an end to the anti-democratic and colonialist imposition of the unanimity rule on the territories.

I have talked to dozens of politicians about this proposal, in Ottawa and in the provinces, and the response has been overwhelmingly supportive. Questions have, of course, been raised, and I feel it only fair to discuss them with you.

• (1630)

The first question that has been put to me is: "Why can't we do the same thing for other issues?" I have given this question a great deal of consideration. In fact, our original proposal was for five or six companion amendments, including some that were adopted by the Liberals and New Democrats in the joint committee report. These were cut back and the other issues rejected. Why? The reasons are simple and straightforward. The success of the companion resolution option depends on whether it meets certain basic tests. First, only a limited number of amendments that are of the "clear and present danger" nature can be sought as companions to Meech Lake. Second, there can be no reasonable opposition to the changes sought. Third, there must be no reasonable doubt about their objectives or necessity. Fourth, the companion amendments must be companionable, not competitive. They must not challenge or affront the core provisions or objectives of the Meech Lake and Langevin agreements. I do not say that these aspects of the Langevin accord must not be challenged or opposed, only that companion amendments must not be asked to do this.

The companion amendments must not involve this place or any legislature in having to directly amend the wording of the Langevin Accord. It is the stance of at least ten of the First Ministers that the accord is a "seamless web" that cannot be tinkered with for fear of killing the whole. We can disagree, but the companion amendments must not challenge this political reality. In my view, the three companion amendments that we are proposing are the only ones that meet these tests. Other issues are either open to reasonable dispute or they involve changing something essential to the Langevin deal. To add any of them to the companion amendments would also undermine the potential to resolve the more clearly supportable amend-

ments regarding the aboriginal-rights-reform process, northern representation in the Supreme Court, and the effect of unanimity on the establishment of provinces in the north.

I note in passing that apparently the Prime Minister suggested to premiers last week that they collectively jump the Langevin gun and pass amendments affecting the Senate under the section-38 rule. Two of our proposed companion amendments can, and should, proceed without waiting for the Langevin accord. They do not in any way depend on the Langevin accord being proclaimed. However, the difference between my approach and the Prime Minister's approach is that I do not ask the Senate or any legislature to use amendment procedures that would not also apply under the Langevin accord. Again, my approach respects the political reality, even though I do not like that reality.

A second question that has been posed relates not to the companion amendments, as such, but to the reasons for our lack of success between 1983 and 1987. Quebec, as many of you know, has been generally blamed by almost all First Ministers for the failure of the aboriginal reform process. I dispute this. The fact is that while Quebec's non-participation was a problem, it was not an insurmountable one. We did, in fact, amend the Constitution without Quebec in 1983. This is often forgotten. If it was not for the distractions of the impending Meech Lake deal, we could well have had an agreement on self-government in 1987, especially if the Prime Minister had invested the kind of energy he did on behalf of Quebec.

Nevertheless, wouldn't Quebec's active participation be a great thing for us? The reality is that this assertion has nothing to base itself on. I have already indicated that, in fact, Quebec stated earlier this year that it would add a sixth demand to its list if the 1987 FMC was successful. They were ready to demand a retroactive veto over self-government. It is our view that it is going to be no easier to deal with Quebec than it has been to deal with Saskatchewan, British Columbia or Alberta. All the more reason, in my mind, for linking the reinstatement of the formal aboriginal reform process to something that Quebec does appear to want, the Langevin Accord.

In closing I would like to say a word on statements from some quarters to the effect that anyone who opposes what the First Ministers have done is somehow "anti"—anti-Quebec, anti-First Ministers, anti-democracy, anti-everything. I do not mind this so much because I am used to the rough and tumble rhetoric of federal-provincial politics. What I find unacceptable is the implication that the First Ministers cannot be questioned, that there is no room for sober second thought, and that reason and justice have to take a back seat to expediency and power. That is what makes me angry. I was brought up to believe that the rule "let no man put asunder" applies only to things that God has wrought.

It is said that a change to any part of the Langevin accord, however meritorious, will lead to the death of the whole package. The companion resolutions approach respects this stance and the political reality behind it. It can proceed unchanged. The companion amendments I am advocating would not involve the Senate in trying to amend the Langevin accord. But if you were to initiate the amendment procedures I have suggested, the direct, negative and permanent damage done to aboriginal peoples and northerners would be significantly reduced. The Senate can initiate the companion resolutions now, right away. You do not have to wait until you decide on the accord. You may then be in a position to view the Langevin accord in a different light.

The NCC is asking that the Senate be political. Some people are mildly upset by this suggestion. They say that "politics" should not intrude into the Senate's deliberations. In my mind, politics is a matter of achieving the achievable in the here and now. It is not a matter of partisanship or advantage. However, it does mean taking advantage of opportunites that are given you to improve the lot of those you are here to represent. The Senate is here to represent the regional and minority interests and concerns. You are here, above all, to represent those who are not always represented or who are not well represented in the majoritarian politics of elected legislatures. The Senate is not undemocratic. Democracy, it has been said, is the worst of systems, except for all the others. The Senate exists to make sure that false, temporary or shortsighted majorities do not knowingly or carelessly undo the diversity and strength of a country in which the electoral map does not always reflect social and cultural boundaries. The Senate exists to temper the excesses of democracy. The Senate has the constitutional right to exercise its power to initiate constitutional amendments. The companion resolutions are achievable. The case for them is compelling. They are a clear and present necessity.

In adopting the resolutions the Senate would revive its proper role in the process of constitutional reform. Adoption would confirm the importance of the Senate's critical role in safeguarding the rights and status of aboriginal peoples and northerners against the tyranny of any majoritarian House of Commons and the parochial interests of provinces. Finally, the companion resolutions, if adopted, would reflect, in a consistent way, the basic duty of the Senate to uphold fundamental rights and values set out in the Constitution and in its Charter of Rights and Freedoms, both of which are violated in spirit and in letter by the Langevin accord.

I have one other suggestion, and that is that the Senate do as Senator Watt asked some of you to do about one year ago, set up a committee of the Senate to look at aboriginal issues as they affect aboriginal people in Canada. I thank you for the opportunity to be here today.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I should like to raise a point of order. Mr. Bruyère has referred again and again in his presentation to draft companion amendments. We have those amendments before us. May I suggest that those amendments be printed so that the record will be meaningful to people who read it?

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of draft companion amendments, see appendix "C", p. 2282.*)

Senator Fairbairn: Mr. Bruyère, before getting to the companion amendments, I would like to ask you, keeping in mind that the federal government has the fundamental responsibility for aboriginal people, whether you and your organization, since the Aboriginal First Minister's Conference and since the Meech Lake and Langevin Accords, have had an opportunity to discuss with officials the background of why, first, native people were excluded from the discussions leading up to the Meech Lake and Langevin Accords, and, second, precisely how your procedure for discussion on self-government will take place, given the fact that funding for this exercise has been removed.

● (1640)

Mr. Bruyère: In answer to your first question, senator, when we asked the question, "Why were we not involved in this process?", the only response we have ever received from the Prime Minister is that none of the matters discussed in the Langevin meetings or Meech Lake meetings affects aboriginal peoples. That was the only response we received from the government side on that subject.

Second, in terms of how we continue this process, since the funding has been cut off, I might say that we find it very difficult, and we will find it much more difficult as time goes on. That is why we see the Senate as being almost our last hope in terms of getting any change in the process back into place.

Senator Fairbairn: On the question of your very innovative proposal for companion amendments, perhaps one of you gentlemen could take me through exactly the process that you have in mind. In other words, is this something that you would foresee being started by the Senate prior to the expiry of our own 180-day suspension of veto procedure? How would you foresee the idea continuing if, at the end of that 180-day process, the accord is reconfirmed by the House of Commons, as it is now? Where would that procedure go after that?

Mr. Bradford Morse, Professor of Law, University of Ottawa: Thank you, Senator Fairbairn.

The Chairman: Are you Mr. Groves?

Mr. Morse: My name is Professor Brad Morse.

Senator Frith: As in "code?"

Mr. Morse: As in "code," yes. Actually, he was a distant relative. However, I will not give my answer in Morse Code, if you do not mind.

Senator, our interpretation of Part V of the Constitution Act of 1982, the amending formula, is that a resolution can be initiated, as in the case with the Langevin accord, in the House of Commons, or it can be initiated in the Senate, or it can be initiated in any provincial legislature in Canada. Therefore, our view of these companion amendments is that they are amendments that can be introduced by way of a resolution emanating from this chamber, or they could emanate from the Government of Prince Edward Island or British Columbia, or from the House of Commons.

In terms of how these companion amendments relate to the Meech Lake Accord from the timeframe of procedural standpoint, our view is that these amendments could be introduced by this chamber tomorrow; that there is no requirement for you to wait out your 180-day period, if that is what this chamber elects to do, or to await your approval or rejection of the resolution that has been ratified in the House of Commons.

Therefore, based on that kind of explanation, there would be no necessity to wait for this matter to then go back to the House of Commons, if you chose not to act within your 180-day period.

However, our further view is that these resolutions could be initiated in this chamber after the 180-day period has expired. Indeed, the Native Council of Canada would recommend to this chamber that it not wait out that period of time. However, it is within your abilities to have the matter introduced in this chamber next summer, next year or the year after. So that these are intended to be companion amendments in the sense that they do not conflict with the language of the Langevin accord, but they are based, obviously, on its existence and on the understanding that that accord has at least been proposed by the House of Commons and is going forward.

Senator Fairbairn: In your view, if seven provinces with 50 per cent of the population supported this proposal now, would you think that these amendments could go ahead separately from the Meech Lake Accord?

Mr. Morse: If we look at the three amendments that we have specifically submitted for the Senate's consideration, very clearly the first one, which deals with the restoration of the First Ministers' conference process relating to aboriginal issues, can definitely go forward without being tied to the results of the Langevin accord.

The second proposal here, dealing with the Supreme Court, really is more directly tied to the Langevin accord. If the Langevin Accord does not become law, then we have not changed the Constitution as to how we appoint judges to the Supreme Court of Canada. There would then not be a necessity for the proposed amendment that we have put forward to ensure that lawyers from the Northwest Territories and the Yukon Territory would be eligible for such appointments.

The final amendment that we have put forward is in relation to the possibility of the territories becoming provinces. Our view of that one is that it could go forward independent of any amendments as proposed in the Meech Lake accord. In effect, what I am suggesting to you is that the Senate can initiate all of these resolutions. If the Meech Lake Accord should die, for one reason or another, there would not be a necessity to go forward with changes on the Supreme Court of Canada's composition and appointments. The other items clearly would be eligible to go forward. If seven provinces approve them and the House of Commons approves them, then they would be eligible to be issued as amendments to the Constitution under

the Great Seal of Canada and, as such, would then become part of the law of the land.

Senator Fairbairn: Mr. Bruyère, can you tell me whether at any time the native people were told, or an indication was given to them, that the provision to revisit the question of the amending formula on the creation of new provinces had been abandoned? As I understand it, in 1983 that become part of the new agenda for the aboriginal conferences, and clearly the intent was to go back to pre-1982 so that the amending formula of seven provinces and 50 per cent of the population would not apply; it would revert to an agreement strictly between the northern territories and the federal government.

At any point, was it indicated to you that this proposition was no longer valid?

Mr. Bruyère: No, senator, at no point was it conveyed to us that there was any change in the rules. This is one of the reasons why we cannot understand how the Prime Minister could say that neither the Langevin accord nor the Meech Lake Accord would affect us. In fact, it will directly affect us in terms of the accord we all signed in 1982 on this subject, which meant that we knew we were going to revisit that subject at some point in time, and there was no indication whatsoever from the federal government—or from any of the provinces, for that matter—that they intended to change it.

The Chairman: Senator Marchand, followed by Senator Stewart and Senator Frith.

Senator Marchand: I want to congratulate Mr. Bruyère on his excellent presentation. Some of the matters that he has raised answer many of the questions that I had. However, perhaps he can expand on some of them.

What is the feeling of your organization with respect to the reference to "distinct society" in the Meech Lake Accord as it relates to Quebec? I have heard your statements and those of Mr. Erasmus about the "distinct society" and the fact that there could be no more distinct societies than those of our aboriginal peoples.

I wonder whether you could expand upon that and tell me if you have any proposal as to whether the Constitution should be changed to include references to the aboriginal peoples as "distinct societies."

Mr. Bruyère: In 1982-83 when the first amendment to the Constitution on aboriginal rights was made, I thought that was putting the aboriginal peoples of Canada in a distinct position. However, in the sense of the aboriginal people in Quebec, there is a fear that this "distinct society" clause will greatly affect the aboriginal peoples of Quebec in terms of the rights that they have as aboriginal peoples. The "distinct society" clause only affects English and French people and does not affect the aboriginal peoples.

Our association in Quebec—the Native Alliance of Quebec—have come forward to us with that fear on behalf of their constituents. We see it as possibly having great implications for the rights of aboriginal peoples. From the national aspect, when we look at the four tests that we have put forward for ourselves in looking at amendments to the Constitution, there is some question about the "distinct society" clause. In that sense, we did not feel that we should raise that as an issue through a companion amendment. If the companion amendments go through as they are, in terms of reinstating the process, then we can deal with that in our second round.

Senator Marchand: I have not seen the reference from your members of Quebec about the "distinct society." Could you expand on what their fears might be? Under the "distinct society" clause, are they afraid, for instance, that the Province of Quebec may wish to take jurisdiction over reserves?

Mr. Bruyère: The Province of Quebec has always said that they will look after their own within their own province. During the First Ministers' meetings, when Quebec's minister was present but the Premier of Quebec was not, that was always the understanding. The Province of Quebec would look after the people within their province, and in that sense the aboriginal peoples would come under provincial—not federal—jurisdiction. That does concern a lot of our people. That clause will greatly affect them, for example, when looking at the off-reserve special education benefits.

There are a number of other ways that will affect them in terms of being designated as aboriginal communities in Quebec. Under this new interpretation they are not aboriginal communities, because that clause deals only with English and French people in Quebec.

Senator Marchand: You will perhaps recall that the Special Committee on Youth recommended that there be a committee established. As I recall, our recommendation was for a standing committee. Could you elaborate on what kind of committee you would like to see established? Would you also indicate what kind of support there is in the native community for this kind an action?

Mr. Bruyère: The committee is a great idea, because it gives our constituents at the community level another opportunity to come forward and voice their concerns over something that directly affects them, such as legislation and the Constitution.

In its first stages the committee could go across the country on a fact-finding mission to find out how much support there is for the government's position in terms of the legislation they are putting forward. I know there is a lot of support for this committee.

Senator Marchand, you and I talked about this some years ago in terms of how a committee could be set up. There is a good possibility that it would be very acceptable to people across the country, simply because they would have an opportunity to talk to the people who are looking at legislation in terms of the second round. Perhaps senators will look at concerns that members of the House of Commons will not.

Senator Marchand: The Penner Committee on self-government have used *ex officio* members from the native community as full participants in the committee process, except where exclusive parliamentary decisions were taken. Do you think that model should be used in the committee you are proposing?

Mr. Bruyère: I believe that model could be very useful. However, they were allowed to do that because it was a special committee. They are not allowed to do that with a standing committee. I am not sure what the rules would be if a committee were developed with the Senate, but we would have to look at that in terms of how we would be able to set that up. I think that committee was an excellent idea, and it gave the members of Parliament a different insight into what they were looking at. It was an excellent thing for the aboriginal organizations, because the organizations were directly involved in the decision-making of what the MPs were putting forward as legislation.

Senator Marchand: I heard what you said about the Government of Quebec being around the table and some of the comments they made respecting our people. In the early 1970s when the James Bay project was started, I recall the fight that the Crees and the Inuit—the Crees in particular—had with the Quebec government regarding the implications of the James Bay project. That fight is still very vivid in my memory.

Could you give us more insight into why the Prime Minister stated on so many occasions that it would have been better for our people, during the two meetings respecting aboriginal issues, if the Government of Quebec had been around the table?

Mr. Bruyère: All the premiers continually said that once Quebec was there it would be easier. We have the distinct feeling from the aboriginal communities in Quebec that it would not be any easier if Quebec were sitting at the table and were full partners in the Constitution with regard to aboriginal rights.

Looking back, you can see how the Bourassa government has taken the aboriginal peoples to the cleaners in terms of the James Bay agreement. The Cree and the Inuit have taken the Quebec government and the federal government to court because they have not lived up to the agreement. In that sense, I do not see how Quebec will be of any help to us at the table when they have not lived up to any of the agreements they have already made with the aboriginal peoples in Quebec. We are now asking them to make a national agreement with people across the country, and I do not see how Quebec will help us in any way.

Senator Marchand: Thank you, Mr. Bruyère, for your excellent presentation.

The Chairman: Senator Stewart, followed by Senator Frith.

Senator Stewart (Antigonish-Guysborough): I have two questions with regard to the "distinct society" rule of interpretation. First, do you think that Parliament has been discharging its responsibilities to the Indian peoples, as set forth in the distribution of powers as between Parliament and provincial legislatures? Second, if the "distinct society" rule of interpretation comes into operation, will that, in your view, open up the possibility that Parliament's capacity to discharge its responsibilities will be altered?

[Senator Marchand.]

• (1700)

Mr. Bruyère: I think the federal government has been shirking its responsibilities to the Indian people in general. One can look at a number of issues in that regard. One can look at the whole issue of non-status Indians and the Métis people of this country and the question of self-government. The federal government has allowed the provinces to become involved in the structures of self-government. That clearly abrogates the federal government's responsibility to Indians and lands reserved for Indians.

When the Native Council of Canada talks about Indians, it talks about all people of Indian ancestry who want to call themselves "Indians." If you look back at the treaties from the maritimes to southern Ontario, they were friendship treaties. All of those treaties said, "And the natural descendants shall derive the benefits of these treaties," or words to that effect. At that time they did not tie things down to being a status Indian with a card and a number on it. They said, "All natural descendants." The federal government has not lived up to its responsibilities in that regard, as far as the Indian people are concerned. It only looks at Indians living on reserves as being under its jurisdiction.

There were at one time three special programs established for Indians who lived off reserves. One was a program providing a special housing allowance, which was taken away in the spring of 1985 when Bill C-31 was enacted to reinstate some Indians. The others relate to post-secondary education and health care. The federal government has not been looking after its responsibilities with respect to those three issues.

Land claims always arise in talks about self-government and how self-government relates to those land claims. In the north right now, where the majority of land claims are, the Indian people and the Métis, the Dene and the Inuit are being told that they cannot discuss self-government in terms of land claims settlements. If land claims are anything, they are real self-government structures in terms of how one sets up one's land and how one looks after one's land, and the infrastructures needed to be put in place.

So, as far as I am concerned, the federal government is not looking after its responsibilities or its area of jurisdiction.

Senator Stewart (Antigonish-Guysborough): The second part of my question was: Do you think, notwithstanding the provision that there is to be no derogation from the powers of Parliament, that the application of the "distinct society" rule of interpretation will in fact have the effect of changing the power of Parliament to legislate in relation to Indians?

Mr. Bruyère: I will let our legal-beagle answer that.

Mr. Morse: Thank you, Smokey—I think!

Needless to say, that is a difficult question to answer. Part of our concern is that it is not possible for myself or anyone else to give you a definite answer, or to be able to say, "This is what the Meech Lake Accord will do." Instead, we are ultimately taking a bit of a shot in the dark. You will get legal opinions suggesting one way that may impact and legal opinions suggesting another way that may impact. Ultimately, as

Professor Forsey likes to say, it will end up being a decision of the Supreme Court of Canada, 5, 10, 25 or more years from now, that will tell us that. We really do not know what the implications of the "distinct society" clause will be. The concerns are that even with the notwithstanding clause that has been put into the Meech Lake Accord to, theoretically, protect the existing sections that deal with aboriginal people, the Government of Quebec may choose to interpret its power to implement the distinct English-French society component in Quebec in ways that impact negatively on aboriginal peoples, such as to say, for example, that education can only take place in English or French, that the Iroquois people and the Mohawk people and the Caughnawaga cannot maintain education in their own language, that the Cree of the James Bay region cannot do that, or the Algonquins of western Quebec cannot do that. We are just not sure. The suggestion that has come from many is that that would be possible.

Given that there is that element of concern, aboriginal peoples are suggesting that they would prefer to see a result that is intended to be a permanent change in Canada, namely, an amendment to the Constitution that is more certain than this. The notwithstanding clause that is proposed is worse than having no such clause, in some ways, because it raises a variety of other unintended negative implications.

But I think the suggestion—and perhaps the majority view of lawyers at this time—is that the "distinct society" clause will enable the Government of Quebec to pursue policies that it could not pursue normally under its section 92 powers, and, during the course of doing so, it can impact negatively on other section 91 powers of the federal government, including its power over Indians and lands reserved for Indians, at least when that is not the sole explicit objective of the legislation.

What Quebec will be saying when it requires education to be given in only English or French is that it is not intentionally depriving aboriginal people from having their own language and instruction in their own language but that that is an unintentional by-product. It will say that its intention is to protect the French language in Quebec, and therefore it is a constitutionally valid exercise of that power. Unfortunately, the results are that aboriginal peoples lose some of their authority.

Senator Stewart (Antigonish-Guysborough): The matter dealt with is education or language rather than Indians.

Mr. Morse: Yes.

Senator Stewart (Antigonish-Guysborough): My second question relates to one of your proposed companion amendments, the one regarding erecting new provinces. Your amendment is clear. What I want to ask you is why, in your opinion, it was decided to make it impossible to extend existing provinces into the territories, or to erect a new province without unanimous agreement?

What I am trying to discover is the motivation behind that change, the rationale of that, because if there is a valid rationale, it would bear upon the desirability of your proposed amendment.

Do you have any explanation as to why this was done in the Meech Lake agreement? For example, we have a fairly good idea why roles and responsibilities in relation to fisheries are placed perpetually on the agenda. One of the premiers told us how that got in there. That gives the Premier of Newfoundland a permanent ace of trumps. What is the explanation for the inclusion of subsections (h) and (i) of the new section 41?

Mr. Bruyère: There are a number of reasons. I will give you some and let Professor Morse give you others.

Back in 1955, or earlier, the provinces expanded their boundaries into the north to acquire resources. Not one of the territories, under this proposal, could become a province without everybody agreeing. Under the old system it was just the federal government. Prior to 1982 the federal government could make a province out of any one of the territories. After 1982 it took seven out of the ten, representing 50 per cent of the population, to make a province. Now it takes all ten of them. It is not likely that there will be a new province, but it makes it more likely that the provinces could then extend their boundaries into the north in terms of the resources that are there. That makes it more saleable to them in terms of why they should not do it.

Senator Stewart (Antigonish-Guysborough): Are you suggesting that if any greedy province—we will not name one—wanted to extend itself into the territories, it would be easier for it to achieve that than it would be for the territories to become a province?

Mr. Bruyère: It would be easier simply because you would have a number of provinces. A number of provinces in the past have expressed an interest. British Columbia, Alberta, Manitoba, Ontario and Quebec have all expressed an interest in terms of extending their boundaries north. So that if you have those five provinces, and they go to the table and say to the other provinces, "We will give up something here because we want this," you get back into a power play situation. It makes it much easier for that to happen. Whereas, if you have the territories coming forward only when they are invited to come forward to the First Ministers' table to become a province, it makes it easier for the provinces who so wish to extend their boundaries into the north.

Senator Stewart (Antigonish-Guysborough): This is a question, you understand, on which I am fairly sensitive, because Nova Scotia is one of the three or four provinces which have not enriched themselves by engorging parts of the territories with their natural resources. We never had that opportunity—and I do not say that we would have not indulged if we had had it. We look at Quebec, which embraced a great part of the north east of the Ottawa river; and Ontario, which was presented with a great part of the north in 1912 by Mr. Borden.

How relevant is this question, aside from concerns of your own people? How relevant is the possibility of putting the natural resources of the territories under provincial jurisdiction, either by creating a new province or by extending one or

more of the provinces? Is that a question which, for some developmental reason, is coming to the fore these days?

Mr. Bruyère: I think it is coming to the fore in a number of ways. I know that the people of the north are certainly concerned about it. When the committee went north, I think it heard quite a bit about the aspect of the provinces being able to extend their boundaries in terms of getting at the natural resources that are there. It is not just the native people in the north who are concerned about this, it is the non-native people as well, because they are the ones who have spent their time there. They have spent part of their lives and part of their earnings in that country and they want the benefit to remain in that country and not come down south all of the time. I think that you will find a lot of opposition to extending the boundaries to the north, because those people want to be able to take advantage of their own resources. They now consider them to be their own resources, because they have spent a lot of time in that area of the country. In that sense, there is a lot of opposition from everyone—not just native people in terms of section 41(e) and (f).

Senator Stewart (Antigonish-Guysborough): Those are the questions that I wanted to ask, Mr. Chairman.

The Chairman: Senator Frith, followed by Senator Marsden and Senator Fairbairn.

Senator Frith: I just have one question, and I imagine that Professor Morse will be the one to deal with it. I ask this question to understand the practical consequences of your suggestion for companion amendments.

Section 38 of the 1982 amending formula provides that:

> An amendment . . . may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by
>
> (a) resolutions—

Notice that that is plural, and not a joint resolution, which it used to be prior to 1982—

> —resolutions of the Senate and House of Commons;

Which must mean separate resolutions. It goes on to say:

> and
>
> (b) resolutions—

Again, plural—

> —of the legislative assemblies of at least two-thirds of the provinces that have, . . .

Therefore, if we passed a companion amendment, it would really be a solo effort. In fact, you are proposing that it be a solo effort. Assuming that we passed it, there is no way that we can force anything to happen, because it is not like, for example, bills or other resolutions that are sometimes sent from the House of Commons to the Senate asking for concurrence or vice versa. Prior to 1982 it was a joint address, with the participation of the provinces not being clear—there was almost every possible form of provincial participation, including, in some cases, none. The joint address was to the Queen and the British Parliament, because they were the ones who had to make the necessary amendment.

[Senator Stewart (Antigonish-Guysborough).]

Let us assume that we pass these draft companion amendments. What pressure will there be on the other partners to the process? The other partners to the process are the House of Commons, dominated by the present government, and the provinces, all of whom except Premier McKenna have supported the present Meech Lake agreement. What pressure would there be on any of them to do anything, or is your idea simply that we would draw attention to the question?

In practical terms, it seems to me that there is no pressure on anyone else to do anything after the Senate has amended it—assuming that the Senate does what you are suggesting.

Mr. Morse: Perhaps I could respond to that from a legal perspective, and then I will turn it over to Mr. Bruyère to give you a political one, as he has spoken to nine of the ten premiers last week.

My interpretation of the Constitution, which I gather is supported by the government—including the government leader in this chamber—is that such a resolution can be initiated in the Senate. The effect of such a resolution legally is that it initiates the amendment process—

Senator Frith: I have no quarrel with that at all. I totally agree with that.

Mr. Morse: —under the Constitution.

Senator Frith: But then what?

Mr. Morse: There is no obligation, as such, on the House of Commons or any provincial legislature to move such a resolution as there is no obligation on any of the provinces to move the Meech Lake Accord, other than the political commitment of those First Ministers who signed it. Under the Constitution there is an effect, namely, that if nothing happens in three years, then the resolution is dead.

Our perception is that there are a couple of effects. First, given the constitutional convention that has begun to develop in Canada over the last five years, a resolution that is initiated will be considered by all other relevant law-making bodies, namely, any of the other provincial legislatures and the two Houses of Parliament.

● (1720)

Furthermore, there is a particular provision in the Constitution that has some impact in reference to these companion resolutions, especially the first one which we have proposed. Section 35.1 of the Constitution Act, 1982 compels the Prime Minister to convene a First Ministers' conference, inviting aboriginal people to appear when there is an amendment that affects any of the aboriginal provisions.

Our view is that if the Senate were to move this companion resolution, one clear legal effect would be that the Prime Minister would be compelled to convene another First Ministers' conference and invite aboriginal people. Again, that does not mean that the Government of Canada has to change its position at such a meeting, nor does it mean that the government, using its majority in the House of Commons, must pass such a proposed amendment, but it does have a triggering

effect on section 35.1, which then triggers the First Ministers' conference.

Our hope and firm belief is, given the incredibly high level of public support for aboriginal peoples in Canada—on the opinion polls of last winter some 77 per cent of Canadians supported the aboriginal position—that this will create the kind of public pressure that leads to political pressure that will lead to government action.

Perhaps Mr. Bruyère can advise you as to what the premiers are saying in reference to this precise proposal by indicating how politically significant it can be.

Mr. Bruyère: As I said earlier, I have been discussing this with a lot of people over the last six months. Last week, in Toronto, at the First Ministers' conference, which I attended as an observer, I was able to talk to all of the premiers with the exception of Premier Frank McKenna, because, quite clearly, every time he moved from the table, there was a federal cabinet minister, a provincial cabinet minister or a provincial premier waiting to talk to him. Therefore, I did not have an opportunity to talk to him.

However, I did have an opportunity to talk to all the other premiers, and they were all quite amazed at the fact that nobody else had thought of this process. They were very interested in it and wanted to look at it. As a result, since last Friday we have sent out copies of this to all the premiers and the appropriate ministers so that they can consider it.

What I asked the premiers was whether some of them would consider placing this before their legislatures. A number of them expressed a direct interest in doing something such as that.

Last spring, at the First Ministers' Conference, Premier Buchanan was very supportive of the aboriginal positions. He was very supportive of this process that we are now asking the Senate to initiate.

Premier Howard Pawley was also very interested. Premier Peterson was very interested. I did spend quite a bit of time with Premier Vander Zalm and he was interested, but God only knows what that means. I spent about an hour with Premier Getty and he seemed to be genuinely concerned that something had to be done for aboriginal peoples, but he felt there had to be a "Made in Alberta" product, and he indicated that the Alberta government is dealing with that through the Alberta constitution. He said that he would not step in the way of any national change. Premier Devine told us that he could not see anything that would necessarily convene another First Ministers' conference, but he was willing to sit down and talk about the issue to determine the direction we could take.

There was a good show of interest and support across the country. This is the first time I have had an opportunity to talk to all the First Ministers since last March, and I was very encouraged by it. It looks as if something could happen, and that is why we are trying to initiate this step here.

Senator Frith: Mr. Chairman, I would certainly like to debate with Professor Morse the question of whether this idea of a convention that he refers to has taken hold under the 1982 amendment, and also whether the Senate, by using the expression "initiating a process," indicates being affected by the previous procedures. It was initiating a process then, but it is initiating a resolution now, not necessarily a process, because we do not send it along to anyone else.

However, if the political will is there to do it, then I have no doubt that this formula will work. The problem, of course, would still be the House of Commons, but I take it your position is that if you get the Senate and enough of the provincial premiers and, therefore, the provincial legislatures on side, that that would have an embarrassing effect on the House of Commons and it would have a useful effect on your cause.

Mr. Morse: We have not received any indication from the Government of Canada that they are opposed to these companion methods. What Prime Minister Mulroney has continually said is that we cannot touch the Meech Lake Accord itself. Given that that is his firm and public position, we have attempted to come forward with an alternative proposal that still allows him to maintain his view that the Meech Lake Accord cannot be touched in any way—the seamless web that will unravel if a puncture is made—yet still allow some of the defects that are present, and are accepted as present in the Meech Lake Accord, to be rectified. There is then, at least, some opportunity for the current government to change its position on this, particularly if it is evident that there are provincial legislatures which are in agreement with the Senate if the Senate chooses to act in this way.

Senator Frith: Perhaps you want to start another loom.

Mr. Bruyère: The legislature in Saskatchewan presented a resolution similar to that contained in Annex 1. It was put forward by one of the members and it was defeated by a vote of 29 to 21. They almost changed the Meech Lake Accord.

Senator Frith: I would like to add one comment just because it is the appropriate time. I have never understood the metaphor "seamless web." A web, I take it, is a web that is made by spiders and, of course, it is absolutely full of seams. It seems to me to be not a very good metaphor, but, nonetheless, everyone seems to understand it, so I suppose it works.

Senator Marsden: Mr. Chairman, I have only one question and it is one of clarification.

In your discussion of the companion amendments and why they must be restricted to those that you have presented to us this afternoon you argued—and I trust I have this correctly—that it would not be possible to propose an amendment that would come into conflict with the intention of the Meech Lake Accord.

As you know, some of us are very worried about the conflict between the Charter of Rights and this "distinct society" clause. In responding to Senator Stewart's question about the "distinct society" Professor Morse said that he was just not sure what that means. I assume that you are sure that a "distinct society" takes precedence over the Charter, otherwise one would be able to add a companion amendment clarifying that. Am I interpreting you correctly?

Mr. Morse: I think that one of the effects of the notwithstanding clause that was put in here, that was intended to address possible concerns from aboriginal peoples and other ethnic groups, namely, clause 16 of the Meech Lake Accord, by virtue of the language that it uses, which is that section 2 of the "distinct society" clause now going into the Constitution Act of 1867 is not intended to touch a small list—under a standard principle of statutory interpretation that you would readily be so advised by your counsel—one must come to the conclusion that section 2, therefore, does touch everything that is not mentioned on the list. There is a very old principle, *inclusio unius est exclusio alterius*, which is the Latin expression for those Latinophiles in the chamber. The effect, then, would be that there is a suggestion that section 2 can be allowed to override other provisions of the Charter.

Of course, the Government of Quebec has had the ability to override provisions of the Charter, and, under the former government, exercised that power, namely, the section 33 opt-out provision.

Our feeling is that although we are clearly dissatisfied with the "distinct society" clause as it is drafted because of the uncertainty it raises in relation to the rights of aboriginal peoples in Quebec, amending the notwithstanding clause is truly an amendment of the Meech Lake Accord. If the Prime Minister is to be taken at his word—and many premiers have said the same—that we cannot touch the Meech Lake Accord, that whether we are happy with it or not, it is now a deal that is cast in stone, then we have concluded that all we can do, at least over the short run, is try to seek changes that complement the Meech Lake Accord and thereby rectify some of its unintended abuses without actually trying to amend any of the clauses contained in it.

• (1730)

Senator Marsden: Therefore, you conclude that the precedence of "distinct society" over the Charter is an intended abuse. Could you say "yes" into the microphone?

Mr. Morse: Let me put it this way: If the First Ministers did not intend it, then perhaps it was due to the problem in trying to draft constitutional amendments at 3 o'clock in the morning. Of course, the same First Ministers have been telling aboriginal peoples for a number of years, "We can't draft in a rush; we must draft with great care; we must know what everything means," and for that reason we engaged in dozens and dozens of meetings at the technical and ministerial levels as well as the four First Ministers' Conferences. Therefore, one either concludes that they intended this or that they made the mistake of not following their own advice, because the result is language that does have that effect. The only way we can readily see addressing that so as to cover all of the concerns being voiced by a number of different groups, women's groups and others, would be to amend the Meech Lake Accord. And that, we are advised by nine of ten premiers and by the Prime Minister, cannot be done.

Senator Fairbairn: Mr. Chairman, my question was asked by Senator Stewart and had to do with the extension of boundaries, which was such a large issue when we travelled in the north. I can only hope that it will not be necessary to get a higher power than the Pope to get you back into the constitutional process!

Mr. Bruyère: Do you have one in mind?

Senator Fairbairn: Thank you very much, gentlemen.

The Chairman: Are there any further questions?

Senator Frith: Mr. Chairman, just for the record, I must withdraw my criticism of the metaphor "seamless web." In checking the *Oxford Illustrated* I found the first definition of "web" to be "a woven fabric, especially whole piece, in process of weaving or after coming from the loom." So there are indications of some webs that might have seams. However, I return to my other metaphor, that the witnesses are seeking to set up another loom.

The Chairman: In the name of honourable senators, I wish to thank the two witnesses who appeared this afternoon from the Native Council of Canada. That, honourable senators, concludes this afternoon's session on the Meech Lake Accord.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Fernand-E. Leblanc: Honourable senators, the Committee of the Whole, to which the Meech Lake Accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, because the task force on the Meech Lake Accord is required to report to the Committee of the Whole next Tuesday, I move that the committee have leave to sit again Tuesday next, December 8, 1987.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the acting whip on our side tells me that all of the items standing in the names of senators on this side—I am always worried when I use that expression and look over at

loyal attendants Corbin and Le Moyne. Perhaps I will say that all remaining orders adjourned in the name of Liberal senators will stand.

Hon. C. William Doody (Deputy Leader of the Government): Not having done a poll on this side, honourable senators, I will, nevertheless, risk offering the same message to the house and move that all remaining orders stand.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Doody: Honourable senators, having gotten away with that one, I move that all inquiries stand.

The Hon. the Acting Speaker: Is it agreed?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 2240*)

FOREIGN AFFAIRS

ELEVENTH REPORT OF COMMITTEE

WEDNESDAY, December 2, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred an inquiry calling the attention of the Senate to the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada; the support for such action among the Turks and Caicos Islanders and Canadians; and whether any of the following steps might be usefully taken prior to a formal union or association:

1) adaption of a common currency;
2) designation of Canada's Governor General as the Queen's representative for the Islands;
3) a closer economic association between the two countries;
4) any change in procedures to our mutual advantage that would assist the entry of Canadians to the Islands, and of Islanders to Canada; and
5) provision of efficient direct air service between the two countries.

has, in obedience to the Order of Reference of March 17, 1987, examined the said reference and now reports as follows:

The Committee held an in camera meeting with two witnesses from the Department of External Affairs, Mr. John Graham, Director-General, Caribbean and Central America Bureau and Mr. Myles Godfrey of the Western European Division. Mr. Frederick Livingston, Senior Country Program Director, Caribbean Region, Americas Branch, from CIDA also gave testimony at this meeting.

The Turks and Caicos Islands are two groups of Caribbean islands which geographically form the south-eastern archipelago of the Bahamian chain. They lie about 500 miles southeast of Florida and about 90 miles north of Haiti and the Dominican Republic. The Caicos group of islands is separated from the Turks group by a 22 mile-wide channel - the Turks Island Passage. The total land area of the Islands is estimated at 193 square miles. The Turks and Caicos Islands have a pleasant, warm climate, although they lie in a zone that is hit occasionally by hurricanes. Only six of the more than 30 islands are inhabited. According to the last census, the total population numbered about 8,000. There has been substantial emigration from the islands, notably 14,000 islanders who have gone to the Bahamas to live and work. In recent years, substantial immigration to the Islands, much of it illegal, has taken place, mainly from Haiti and the Dominican Republic. Haitians are now said to constitute 10 percent of the population.

The status of the Turks and Caicos Islands is that of a British Associated State. They constitute an internally self-governing dependency with a ministerial system of government. Under the 1976 constitution, the Governor appointed by the United Kingdom, retains responsibility for external affairs, internal security, defence and certain other matters. Otherwise he is normally required to act on the advice of the Executive Council. This Council comprises the Governor, the Chief Minister who is elected by and from among the elected members of the Legislative Council, three official members -- the Chief Secretary, the Financial Secretary and the Attorney General -- and three other ministers from among the elected members of the Legislative Council. The Legislative Council consists of eleven elected members, three members appointed by the Governor after consultation and three ex-officio members. The Turks and Caicos have two major political parties: the Progressive National Party (PNP) and the People's Democratic Movement (PDM).

In July 1986, following a commission of inquiry into alleged government corruption, the British government suspended the ministerial functions after the Commissioner had reported that three ministers, including the Chief Minister, were guilty of unconstitutional behaviour and of ministerial malpractice and were unfit to hold office. The presiding Chief Minister and two other elected members were arrested and are serving jail sentences in Florida for drug trafficking offences.

Since that time, as an interim measure, the Islands have been administered by the Governor with the aid of an appointed advisory council composed partly of members of the Legislative Council. A constitutional commission headed by Sir Roy Marshall was appointed to review the situation and its report was presented to the British Parliament on March 31, 1987. This report recommended a restoration of the ministerial system, the holding of new elections and certain new administrative arrangements. The U.K. government subsequently announced that new elections would be held in 1988.

The present Governor, charged with the administration of the Islands since the 1986 suspension of the government, has no mandate to discuss a proposed association between the Islands and Canada. Nor has he or members of the advisory council made any moves to do so. For this reason, the British Government could be expected to react negatively to any formal Canadian initiative for closer economic or political links at this time and to consider it as a challenge to its sovereignty over the Turks and Caicos Islands. Accordingly, there is need for great caution on the part of Canada, particularly during the period when there is no elected government on the Islands.

The Committee concludes that caution is all the more called for since the U.K. government has indicated that a duly-elected legislature will be in place by 1988. In the opinion of the Committee, the earliest appropriate time for Canada to consider this subject would be after the 1988 elections on the Islands and then only if and when the new Turks and Caicos government raised the subject with Canada. Canada not having had a colonial past, could send the wrong signals abroad respecting its international posture if it were to take the initiative in this matter, even after a new government has been elected for the Islands.

The Committee recommends that the Canadian Government should take no initiative of its own nor support any proposal either from the Turks and Caicos Islands or Canada to form a closer political or economic association.

Respectfully submitted,

GEORGE C. VAN ROGGEN
Chairman

APPENDIX "B"

(*See p. 2242*)

THE ESTIMATES, 1987-88

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (C)

WEDNESDAY, December 2, 1987

The Standing Senate Committee on National Finance has the honour to present its

FOURTEENTH REPORT

Your Committee, to which Supplementary Estimates (C) laid before Parliament for the fiscal year ending March 31, 1988, were referred, in obedience to the Order of Reference of November 19, 1987, submits its report as follows:

The Committee heard evidence from the following witnesses:

From the Treasury Board:

Mr. A.J. Darling, Deputy Secretary, Program Branch;
Mr. Brent DiBartolo, Chief, Estimates Division.

The appendix to this report contains some material prepared by Treasury Board at the request of the Committee; this material is classified under the following four section headings:

1. List of One-dollar Votes Included in Supplementary Estimates (C), 1987-88 and Additional Explanations;

2. Summary of Voted Items (greater than $5 million) Included in Supplementary Estimates (C), 1987-88;

3. Statutory Items Included in Supplementary Estimates (C), 1987-88; and

4. Summary of Expenditure Framework and Estimates for 1987-88.

Supplementary Estimates (C), totalling $2.9 billion are the first regular supplementary estimates for the 1987-88 year. They were preceded by two special supplementary estimates; Supplementary Estimates (A) totalled $700 million for a special grains program and Supplementary Estimates (B) totalled $693 million for regional industrial development. Of the total $2.9 billion, $1.0 billion is required for statutory purposes while the remaining $1.9 billion is being requested as new spending authority. The sixteen items which make up the $1.0 billion for statutory programs are briefly described in section 3 of the appendix. The voted items having a value of greater than $5 million are described in section 2. The Committee was informed that there are seventeen one-dollar votes included in these estimates; twelve authorize the transfer of funds from one vote to another; four authorize the payment of grants; and one seeks to increase the loan guarantee authority of Indian and Northern Affairs with respect to mortgages for Indians.

These supplementary estimates bring the total estimates for the year to $114.4 billion, of which $114.3 is for budgetary purposes. Viewed another way, these estimates bring the total statutory estimates for the year to $73.2 billion or 64.0% of the total and the voted estimates to $41.2 billion, or 36.0%. A summary of the main and supplementary estimates for 1987-88 showing cumulative totals is shown in section 4 of the appendix.

The remainder of this report focusses on aspects of these estimates.

Reduction in the Valuation of Assets

Of the $2.9 billion requested in these estimates, a total of $1.36 billion is required for debt forgiveness and asset revaluations for crown corporations. While this amount is requested, it will not appear as an expenditure nor will it affect the deficit since an allowance has been made in past years in the Statement of Assets and Liabilities in the Public Accounts of Canada.

Each fall, the Treasury Board asks departments whether the value of loans or investments in crown corporations for which they are responsible, is fully recoverable. At the end of the year, if these loans or investments have not been forgiven formally and remain unlikely to be recovered, their total value is included in the "allowance for valuation" item in the Statement of Assets and Liabilities in the Public Accounts. The effect of this is to reduce the total value of the loans or investments in this statement. At the end of the 1985-86 fiscal year the total value of the "allowances for evaluation" item with crown corporations stood at $3.7 billion.

When the government decides to forgive the value of a specific loan or investment in a crown corporation, it notifies Parliament through the supplementary estimates process. If this reduction has already been accounted for in the "allowance for valuation" item, the net value of assets does not change. That is, the recoverable amount of loans or investments in specific crown corporations is reduced and the general "allowance for valuation" item is reduced by the same amount.

In these supplementary estimates the government is indicating that loans or investments to specific crown corporations totalling $1.36 billion is to be forgiven and that the general reserve, "allowance for valuation" is to be reduced accordingly. Some of the major corporations affected are: St. Lawrence Seaway Authority ($625 million); Marine Atlantic ($327.6 million); Montreal Port Corporation ($133 million); Vancouver Port Corporation ($76.5 million); Saint John Port Corporation ($37.8 million); and the Jacques Cartier and Champlain Bridge Inc. ($60 million).

The Committee was informed that in 1979 the government decided that part of the loans to some crown corporations was unrecoverable. At the same time, officers of these corporations were also informed of this decision. The Committee was unable to obtain any good reason why eight years had elapsed between the time of declaring these loans uncollectable and the time of their forgiveness. If the government had anticipated that there was some possibility of collecting these loans, a delay would have been considered reasonable. But this was not the case. The Committee concluded that since no collection action on these loans was anticipated, they should have been forgiven in 1979 when they were considered uncollectable.

VIA Rail

The Department of Transport seeks authority to provide VIA Rail with $122 million for operating requirements over and above the $500 million granted in the Main Estimates. The Committee learned that VIA Rail, like other crown corporations, is accountable to a Minister of the Crown through an annual submission of a corporate plan. Treasury Board officials indicated that they carefully scrutinize all requests such as that of VIA Rail to ensure that the money is to be used with due regard for economy and efficiency. Yet, it was clear that Treasury Board does not interfere with management's responsibility to deliver an effective service.

The Committee has, for some time, been concerned that the effectiveness of public enterprises is not being reported adequately. The Auditor General's mandate in the area is to ensure that there are adequate procedures in place to measure effectiveness. It is not his responsibility to report on effectiveness. The Part III's in the Estimates report on effectiveness of government operations, but do so very inconsistently. The Committee intends to follow-up in this area by undertaking a review of the responsibilities for reporting on effectiveness through comprehensive auditing of public enterprises.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

APPENDIX TO THE REPORT

LIST OF ONE DOLLAR VOTES INCLUDED IN SUPPLEMENTARY ESTIMATES (C), 1987-88

The 17 One Dollar Votes included in these Estimates are listed in Appendix I by ministry and agency along with the page number where each vote may be located in the Estimates.

These One Dollar Votes are grouped below into categories according to their prime purpose. The votes are also identified in Appendix 1, according to these categories. The category for each vote has been designated by an "X". In those instances where a vote falls into more than one category, the prime category is designated by an "X" and other categories by an "*".

A. Twelve votes which authorize the transfer of funds from one vote to another. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates.)

B. Four votes which authorize the payment of grants. (An explanation of the new requirement and the source of funds is provided in Supplementary Estimates.)

C. One miscellaneous vote which adjusts the amount of loan guarantees associated with on-reserve housing and for the Indian Economic Development program. (An additional explanation is provided for the Indian Affairs and Northern Development Vote 5 in Appendix II.)

Estimates Division
November 16, 1987

APPENDIX I

List of One Dollar Votes in Supplementary Estimates (C), 1987-88

Page	Department/Agency	Vote	Categories		
			A	B	C
16	Communications	1c	X		
34	Employment and Immigration	15c		X	
60	External Affairs - Canadian International Development Agency	30c		X	
72	Indian Affairs and Northern Development	5c			X
78	Indian Affairs and Northern Development	35c	X	*	
86	Justice	1c	X		
94	National Health and Welfare	1c	X	*	
96	National Health and Welfare	10c	X		
100	National Health and Welfare	20c	X		
104	National Health and Welfare	35c	X		
106	National Health and Welfare	45c	X		
108	National Health and Welfare	55c	X		
138	Transport	10c		X	
138	Transport	25c	X		
138	Transport	35c	X		
148	Treasury Board	1c		X	
150	Veterans Affairs	1c	X		

APPENDIX II

Additional Explanation

Category C - Miscellaneous $1.00 Votes:

Indian Affairs and Northern Development

Vote 5c — To extend certain authorities made under the provisions of Vote 5, Appropriation Act No. 3, 1972 and Vote L53b, Appropriation Act No. 1, 1970.

Explanation — Through 1972-73 Main Estimates, Parliament authorized the Minister of Indian Affairs and Northern Development to guarantee loans made to Indians by the Central Mortgage and Housing Corporation and other approved lenders. The cumulative aggregate amount outstanding was not to exceed $25,000,000, which has been increased several times, reaching $350M in October 1985. This vote seeks to increase the guarantee authority to $575,000,000.

Vote L53b of Appropriation Act No. 1, 1970 authorized the establishment of a program of loans and loan guarantees for the purpose of assisting Indian economic development. Since its creation, Appropriation acts have been used variously to increase the level of loan and/or guarantee and/or statutory default payment authorities. The purpose of this vote is to rationalize at a level of $60,000,000 the combined amount of loan guarantees and statutory default payments under this program.

Summary of Voted Items ($5M or Greater)
Included in Supplementary Estimates (C), 1987-88

Department Item	Funds Transferred ($Millions)	Increased Appropriation Requested ($Millions)	Total ($Millions)
AGRICULTURE			
Agri-food Program			
- Freight Rate Assistance Program for Grain Producers	-	19.0	19.0
- Payments for producers for designated Agricultural Commodities	-	9.0	9.0
- Tobacco Diversification Plan	-	6.5	6.5
Canadian Forestry Service			
- Federal-Provincial Forest Renewal Agreements	-	19.9	19.9
- Increased contribution to the Maritime Forest Research Complex	-	8.0	8.0
COMMUNICATIONS			
- Transfer of National Programs from National Museums	11.5	-	11.5
- Increase in the Cultural Initiatives Program	-	6.0	6.0
CANADIAN FILM DEVELOPMENT CORPORATION			
- Write-off recorded financial claims	-	6.3	6.3
NATIONAL MUSEUMS OF CANADA			
- New Accommodations	-	17.2	17.2
EMPLOYMENT & IMMIGRATION			
Immigration Program			
- Additional Operating Costs	-	9.3	9.3

Summary of Voted Items ($5M or Greater)
Included in Supplementary Estimates (C), 1987-88

Department Item	Funds Transferred ($Millions)	Increased Appropriation Requested ($Millions)	Total ($Millions)
ENERGY, MINES & RESOURCES			
- CEDIP Administrative Requirement	-	9.4	9.4
ATOMIC ENERGY OF CANADA LIMITED			
- Nuclear Power Demonstration decommissioning program	-	8.0	8.0
EXTERNAL AFFAIRS			
- Summits Management Office	-	21.2	21.2
- Participation in EXPO 88, Brisbane, Australia	-	5.9	5.9
CANADIAN COMMERCIAL CORPORATION			
- Forgiveness of financial claims	-	10.0	10.0
CANADIAN INTERNATIONAL DEVELOPMENT AGCY			
- Class grant for international institutions and organizations	5.0	-	5.0
FINANCE			
- Additional Operating Costs	-	10.8	10.8
INDIAN AFFAIRS & NORTHERN DEVELOPMENT			
Indian and Inuit Affairs Program			
- Implementation of an Act to amend the Indian Act	-	9.7	9.7
- Indian Child Welfare Agreements	-	5.6	5.6
Transfer Payments to Territorial Gov'ts			
- Provision of justice services under the Young Offenders Act	-	17.3	17.3
- Transfer of forest resource program to GNWT	7.1	16.9	24.0

Summary of Voted Items ($5M or Greater)
Included in Supplementary Estimates (C), 1987-88

Department Item	Funds Transferred ($Millions)	Increased Appropriation Requested ($Millions)	Total ($Millions)
NORTHERN CANADA POWER COMMISSION			
- Loans for capital expenditures	-	6.7	6.7
HEALTH AND WELFARE			
- Funding for the National Drug Strategy	1.3	4.6	5.9
- Increased non-insured health services to registered Indian & Inuits	-	46.5	46.5
- Olympics 88 National Communications Program	-	7.5	7.5
HOUSE OF COMMONS			
- Members Annual Allocations	-	6.0	6.0
NATIONAL RESEARCH COUNCIL OF CANADA			
- Space Station Major Crown Project	-	21.6	21.6
SECRETARY OF STATE			
- Official languages promotion	-	5.1	5.1
SUPPLY AND SERVICES			
- Unsolicited Proposals Program (UPP)	-	10.0	10.0
TRANSPORT			
- Forgiveness of debt and interest - various Crown Corporations	-	1,349.4	1,349.4
- Payment to Marine Atlantic Inc.	24.4	-	24.4
- VIA Rail - Operating Requirements	-	111.9	111.9

STATUTORY ITEMS INCLUDED IN SUPPLEMENTARY ESTIMATES (C), 1987-88

Increases (to previous projections)

- $ 350,000,000	Energy	Canadian Exploration and Development Incentive Program
- $ 330,000,000	Fiscal Transfer Payments	Fiscal Equalization
- $ 275,000,000	Public Debt	Public Debt Charges
- $ 93,000,000	Agri-Food	Payments for named commodities under the Agriculture Stabilization Act
- $ 63,000,000	Income Security	Old Age Security Payments
- $ 52,626,084	Northern Canada Power Commission	Write-off certain debts and obligations
- $ 26,400,000	Energy	Canada/Newfoundland Development Fund
- $ 14,500,000	Canada Deposit Insurance Corporation	Loans to the Corporation in accordance with the CDIC Act
- $ 5,000,000	Grains and Oilseeds	Payments in connection with the Prairie Grain Advance Payments Act
- $ 2,500,000	Energy	Canada/Newfoundland Offshore Petroleum Board

Decreases (from previous projections)

- $ 150,000	Fiscal Transfer Payments	Statutory Subsidies
- $ 3,819,000		Youth Allowances Recovery
- $ 5,000,000	Energy	Payments to Nova Scotia
- $ 30,000,00	Agri-Food	Reduced payments under the Crop Insurance Act
- $ 75,000,000	Income Security	Guaranteed Income Supplement payments
- $ 84,000,000		Spouse's Allowances payments

SUMMARY OF EXPENDITURE FRAMEWORK AND ESTIMATES FOR 1987-88

Expenditure Framework at time of Main Estimates

Budgetary Main Estimates	$110.1 billion
Projected Total Budgetary Estimates	$114.0 billion
Projected Budgetary Expenditures (includes consolidation of accounts)	$122.5 billion

ESTIMATES TABLED TO DATE FOR 1987-88

	TO BE VOTED	STATUTORY (in thousands of dollars)	TOTAL
Main Estimates			
Budgetary	$37,826,901	$72,314,176	$110,141,077
Non-Budgetary	59,184	(128,545)	(69,361)
	$37,886,085	$72,185,631	$110,071,716
Supplementary Estimates (A)			
Budgetary	$700,000	-	$700,000
Non-Budgetary	-	-	-
	$700,000	-	$700,000
Supplementary Estimates (B)			
Budgetary	$583,110	-	$583,110
Non-Budgetary	110,000	-	110,000
	$693,110	-	$693,110
Supplementary Estimates (C)			
Budgetary	$1,871,808	$ 999,557	$2,871,365
Non-Budgetary	8,889	14,500	23,389
	$1,880,697	$1,014,057	$2,894,754
TOTAL ESTIMATES TABLES			
Budgetary	$40,981,819	$73,313,733	$114,295,552
Non-Budgetary	178,073	(114,045)	64,028
	$41,159,892	$73,199,688	$114,359,580*

*Details do not add to total due to rounding.

Present Expenditure Framework

Total Budgetary Estimates	$114.4 billion
Projected Total Budgetary Estimates	$116.9 billion
Projected Budgetary Expenditures (includes consolidation of accounts)	$124.2 billion

APPENDIX "C"

(*See p. 2262*)

DRAFT COMPANION AMENDMENTS

NATIVE COUNCIL OF CANADA
OTTAWA, DECEMBER 2, 1987

ANNEX 1

Draft Companion Amendment

Issue 1: Reinstatement of the Aboriginal Reform Process

SCHEDULE

CONSTITUTION AMENDMENT, 1987(A)

Constitution Act, 1982

1. The Constitution Act, 1982 is amended by adding thereto, immediately after section 35.1 thereof, the following section:

"35.2 (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened at least once every five years by the Prime Minister of Canada to address matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples, the first such conference to be convened no later than one year after this section comes into force.

(2) For each conference convened under subsection (1), the Prime Minister of Canada shall invite representatives of the aboriginal peoples of Canada to participate in the discussions on those matters.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

(4) Nothing in this section shall be construed so as to derogate from subsection 35(1)."

CITATION

2. This amendment may be cited as the Constitution Amendment, 1987(A).

Note 1. This amendment requires application of the s. 38 general amendment procedure and is not consequential to or reliant on the passage of the proposed Constitution Amendment , 1987 (Langevin Accord).

ANNEX 2

Draft Companion Amendment

Territorial Representation in the Supreme Court

SCHEDULE

CONSTITUTION AMENDMENT, 1987(B)

Constitution Act, 1867

1. The Constitution Act, 1867 is amended by adding thereto, immediately after subsection 101C.(4) thereof, the following subsection:

"(5) For greater certainty, a reference in this section to the government of a province other than Quebec or to the bar of that province shall include the government of a territory and the bar of that territory."

CITATION

2. This amendment may be cited as the Constitution Amendment, 1987(B).

Note 1. This amendment would require application of the unanimous amending procedure (s. 41) and is consequential to passage of the proposed Constitution Amendment, 1987 (Langevin Accord).

ANNEX 3

Draft Companion Amendment

Establishment of Provinces in the Territories

SCHEDULE

CONSTITUTION AMENDMENT, 1987(C)

Constitution Act, 1982

1. The Constitution Act, 1982 is amended by adding thereto, immediately after section 44 thereof, the following section:

"44A. Notwithstanding anything in this Part, Parliament may exclusively make laws amending the Constitution of Canada in relation to the establishment of provinces in the Yukon or Northwest Territories."

OR

1. The Constitution Act, 1982 is amended by adding thereto, immediately after section 45 thereof, the following section:

"45A. Notwithstanding anything in this Part, an amendment to the Constitution of Canada in relation to the establishment of provinces in the Yukon or Northwest Territories may be made only in accordance with subsection 38(1)."

CITATION

2. This amendment may be cited as the Constitution Amendment, 1987(C).

Note 1. Either of these amendments would require the application of the unanimous procedure (s. 41) but would not, as drafted, be consequential to or reliant on passage of the proposed Constitution Amendment,1987 (Langevin Accord).

THE SENATE

Thursday, December 3, 1987

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

PRIVILEGE

Hon. Jack Marshall: Honourable senators, I rise on a question of privilege. I want to table new information on the Billy Bishop inquiry which is revealing and relieving. The release was telephoned to me by the National Film Board. I quote the following release:

> The National Film Board of Canada today announced that an historical documentary about Canada's World War I hero, Billy Bishop, will soon go into production.
>
> The NFB has already done one film on Billy Bishop, a docu-drama that gives a perspective on the nature of heroism and the legend of Billy Bishop, entitled "The Kid Who Couldn't Miss." The NFB feels it is also important to make a documentary on Canada's most decorated military figure, Billy Bishop. The production will be entirely financed by the National Film Board.

Honourable senators, my reaction was to respond to that release by indicating that I was pleased to hear from the board that a documentary on Bishop's career was planned. I added the following:

> A new film, a real documentary about Bishop, will be welcomed. It is obvious that the NFB has recognized the concerns of veterans and other members of the general public who are admirers of Billy Bishop. In my opinion, the board deserves credit for taking the initiative in making a true documentary about Canada's most highly decorated military figure.

Honourable senators, I contacted individually all the members of the subcommittee and I will be reporting to the committee on December 7. At that meeting a detailed position will be agreed upon in light of today's announcement.

Hon. Senators: Hear, hear!

[*Translation*]

ROYAL CANADIAN MINT ACT
CURRENCY ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Fernand-E. Leblanc, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, December 3, 1987

The Standing Senate Committee on National Finance has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred the Bill C-46, An Act to amend the Royal Canadian Mint Act and the Currency Act, has, in obedience to the Order of Reference of Tuesday, November 17, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

On motion of Senator Leblanc (Saurel), bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—SECOND REPORT OF COMMITTEE OF THE WHOLE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole on the Meech Lake Constitutional Accord has the honour to present its second report respecting authorization to incur special expenditures in accordance with the guidelines governing the financing of Senate committees.

I ask that this report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this House.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 2300.*)

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

Senator Molgat: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be now adopted.

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

[*English*]

Hon. Orville H. Phillips: Honourable senators, I would like to ask Senator Molgat to explain the item of approximately $50,000 for professional and clerical services.

Senator Molgat: I believe that the report has been distributed to all honourable senators. The request for funds arises out of a decision made by the steering committee, which was reported to the Committee of the Whole and approved, that we place advertisements in newspapers across Canada advising Canadians that the Senate is carrying out a study of the Meech Lake Accord and subsequent texts and that it would welcome briefs from Canadians. There has been some urgency in this matter, because, as senators are aware, if the Senate wishes to express an opinion by means of a resolution, there is a deadline of 180 days under the present constitutional arrangements within which to do so. Therefore, the advertisement should be placed very soon. The $50,000 amount, then, is to provide for the advertisements across Canada and for the assistance of technical personnel dealing with that matter.

Senator Phillips: Before asking my second question, honourable senators, I should say that we are very glad to have the honourable senator back from his "vacation" in Haiti.

I find it rather odd that the proceedings of the Committee of the Whole, which have been reported in the *Debates of the Senate*, do not constitute sufficient notice. Is the honourable senator implying that the record of the Senate is insufficient notice to the general public?

Senator Molgat: Honourable senators, I should first like to thank the Honourable Senator Phillips for his comments about my return. I, too, am glad to be back. With regard to his specific question, I wish that all Canadians would indeed read the *Debates of the Senate*. I think it would be a great advantage to the nation if they did, but, unfortunately, they do not. There seems to have been some confusion in the minds of people regarding the hearings on the Meech Lake Accord. Because there was a joint committee sitting during the summer, some people concluded that when that committee reported and the House of Commons passed its resolution the matter had come to an end.

Senator Frith: I told you so!

Senator Molgat: That is not the case, of course. The Senate has a major responsibility in this regard. In fact, it seems to me that the Senate, on constitutional matters, has a prime responsibility as the body charged with regional representation. So, the decision of the steering committee—it was a motion passed by the steering committee and reported to and approved by the Committee of the Whole—was that advertisements should be placed so that Canadians would know, without any question, that the Senate is pursuing this study and that it wishes to hear from Canadians.

• (1410)

Senator Phillips: Honourable senators, I have one further question. The honourable senator referred to the assistance of technical personnel in placing the advertisement. Can he tell us who the technical personnel are and the cost involved as separate from the cost of placing the advertisement?

Senator Molgat: Certainly. I am not certain of the exact name, but I believe it is called the Humphreys Group. I now see that the correct name is Humphreys Public Affairs Group Incorporated.

I had the pleasure of working with them when we had the Joint Committee of the Senate and the House of Commons on Senate Reform and found that they did an excellent job for us. I believe they have done some work for other Senate committees, possibly the Standing Senate Committee on Fisheries. No—I see Senator Marshall shaking his head. However, I do believe they have done work for other committees of the Senate, and also a lot of work for the House of Commons.

My experience with them is that they are indeed well qualified and do a good job. They worked with us on the Meech Lake Task Force in the North, and I believe that my colleagues who were on that task force will agree that they did an excellent job in that regard.

Senator Phillips: The honourable senator neglected to answer part of my question. I asked for a breakdown as between the cost of hiring the Humphreys Group and the cost of the advertisement.

Senator Molgat: I want to make it clear that this does not involve simply the placing of the advertisement, quite obviously. It involves the whole of the media activities across the country as a whole. It would involve whatever needs to be done in informing the media as to who will be appearing before the committee, making sure that there is proper coverage, and so on. Their fee will be $10,300. The advertising—namely, insertion of the public notice in newspapers across the country—will cost $39,664. The number of newspapers is not listed in the report to the Senate, but it was listed in the submission to the Internal Economy Committee. It will involve 123 publications across the country, in both languages.

[*Translation*]

Hon. Paul David: Honourable Senator Molgat, could you please tell me what you mean by the minority press? Is it the ethnic press? Would the Quebec English-speaking community, for instance, be considered as a minority group? What is the definition of the term "minority press"?

Senator Molgat: Honourable Senator David, I would like to be able to give you a definite answer, but I must admit that I do not really know. I can only conclude that this term refers to the French language press. I know that we are going to advertise in all newspapers throughout Canada, especially in certain regions with a French language minority where there are no daily newspapers. These are regions where newspapers are published sometimes weekly and sometimes even monthly. We judge it to be important to advertise in these newspapers. I would think that this is what the minority press means. It is the French language press.

Hon. Jacques Flynn: Can the honourable senator tell us whether the advertisement will include a notice to the public to the effect that the Senate has only had a suspensive veto in such matters since 1982 and that, after 180 days, whatever the views of the Senate, if the House adopts the resolution once more, the work of the Committee of the Whole will have been completely useless, even though it might have gone on for months or years?

Senator Molgat: I thank the Honourable Senator Flynn for that suggestion. I did not have the impression that it was necessary to include this detail in the advertisement. Rather, the advertisement should explain to the public that the Senate is interested in hearing the views of Canadians, that it is carrying out this study and that it is asking for submissions by Canadians. We shall set a final date for accepting briefs for the Senate and we shall then decide which of those people will be invited to appear before the committee. It seems to me that if the advertisement contains too many details, it will lose some of its impact and usefulness. I hope that it will not be necessary to include all those details.

Senator Flynn: It would be to avoid the confusion mentioned by Senator Frith.

• (1420)

[*English*]

Hon. Heath Macquarrie: Honourable senators, I have been out-manoeuvred by more glib members of my own party. I was going to say in reference to the Humphreys Group, as Senator Molgat described them, and as one who was up in the glorious and far north with the task force, that I think that this particular public relations group did a very fine job. That is all I shall say. I shall not reconstruct the advertisement today. I merely wanted that comment to be on the record.

Senator Molgat: Honourable senators, indeed, I would point out that the advertisements that were placed for the trip to the north by the task force were prepared by the Humphreys Group. They recommended what should appear in the advertisement, and they will be recommending the wording in the case of the proposed advertisements. From my past experience I can indicate that they have been very good.

Senator Macquarrie: Hear, hear!

Motion agreed to and report adopted.

HAITI

CURRENT SITUATION—NOTICE OF INQUIRY

Hon. Gildas L. Molgat: Honourable senators, I give notice that on Tuesday next, December 8, 1978, I will call the attention of the Senate to the situation in Haiti.

NATIONAL DEFENCE

EXTENSION OF DEADLINE FOR PRESENTATION OF SPECIAL COMMITTEE REPORT—NOTICE OF MOTION

Hon. Henry D. Hicks: Honourable senators, I give notice that on Tuesday next, December 8, 1987, I will move:

[Senator Flynn.]

That notwithstanding the Order of the Senate adopted on Tuesday, 7th of April 1987, the Special Committee of the Senate on National Defence be empowered to present its final report no later than Thursday, 15th December 1988.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Joan Neiman: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at three thirty o'clock in the afternoon on Tuesday next, 8th December 1987, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon Senators: Agreed.

Senator Neiman: Honourable senators, I simply want to tell you that the committee had arranged a meeting with the Minister of Employment and Immigration for tomorrow morning, but we have been obliged to postpone the hearing. In fact, the only time the minister can be with us is Tuesday afternoon next from 3.30 to 4.30 p.m. That is the reason for making this request.

• (1420)

Hon. Eymard G. Corbin: Honourable senators, I would like to ask the chairman of the Standing Senate Committee on Legal and Constitutional Affairs if she can inform me at what stage of its program will the committee deal with Bill S-7, the bill regarding Opus Dei?

Senator Neiman: Honourable senators, this motion has nothing to do with the matter that has been raised by Senator Corbin.

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

Hon. Senators: Agreed.

Motion agreed to.

The Hon. the Speaker *pro tempore:* Perhaps, Senator Neiman, you can now answer Senator Corbin's question.

Senator Neiman: I have advised Senator Bélisle, who is the sponsor, that the committee may be able to have at least one meeting on this bill at some time next week. It certainly will not be on Tuesday when we are hearing from the minister on another bill, but I will keep interested senators informed as to the arrangements and as to whether it will be Thursday, Friday or even Wednesday of next week.

Senator Corbin: When you speak of "interested senators," that, of course, would include myself. You mentioned Senator

Bélisle's name. It would include myself and my colleagues "in joint action."

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, December 8, 1987, at 2 o'clock in the afternoon.

Motion agreed to.

[*Translation*]

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

DEADLINE FOR PRESENTATION OF INTERIM REPORT AND EXTENSION OF DEADLINE FOR PRESENTATION OF FINAL REPORT—DEBATE ADJOURNED

Hon. Gildas L. Molgat: Honourable senators, with leave of the Senate and nothwithstanding Standing Order 45(1) I move:

That nothwithstanding the Order of the Senate adopted on Tuesday, 17th November, 1987, the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to present an interim report to the Committee of the Whole no later than Thursday, 17th December, 1987, and

That the Task Force present its final report to the Committee of the Whole no later than Monday, 8th February, 1988.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal Provincial Relations): Honourable senators, would the chairman explain why the committee of the Whole is attempting to extend the deadline for presentation of the final report? If I am not mistaken, the committee was to submit its final report next week.

Senator Molgat: Honourable senators, I will be pleased to explain what has happened.

First of all, concerning the drafting of the report, one of our officers who was from the Parliamentary Library was unable to travel up North with the group, for a good reason, ill health. So we only had one officer with us. Therefore, to prepare the report we had to wait for the records of the proceedings. It takes a certain amount of time to obtain those records. Therefore the report was not prepared as expeditiously as we would have liked.

There are also problems with respect to translation. First, before dealing with translation, the committee itself must reach an understanding. This in part is my problem, because I have been away these last six days, and not by choice. But my return was delayed and I repeat that was not a matter of choice either. So there were a number of things I could neither do nor arrange.

Secondly, the committee decided, when it met, that at this point we would simply produce a record of what we had heard in the North. The factual part. We will come up with a preliminary report that will simply explain what we heard. We therefore expect to have the opportunity later of making recommendations.

One of the reasons for a certain amount of delay is that, as you know, we visited three communities in the North. We were at Whitehorse, Yellowknife and Ikaluit. We did not go to places like Baker Lake, Cambridge Bay, et cetera.

Still we have some applications from people living in those places who might ask to appear. This would provide an opportunity to give them a chance to come to Ottawa and meet with the committee without impinging on the deadlines or whatever. So this would give us a little more flexibility. Those in my view are the reasons why we have asked that the deadline for submitting the final report be extended to February 1988.

There is another small detail, honourable senators. We picked that date, of February 8, 1988, for a rather personal reason. Our dear colleague who accompanied us everywhere in the North, Senator Le Moyne, is due to leave this place on February 17, 1988, I believe.

And since the House of Commons has a scheduled recess in February and I suspect the Senate will have the same recess, we decided on a reporting date that would fall before Senator Le Moyne's departure. Accordingly, he will be able to work on the committee's report with the other members.

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): I would like to ask a question of Senator Molgat. I gather that the decisions regarding the postponements, and the reasons for them, are decided by the steering committee of the task force rather than by the steering committee of the Committee of the Whole. Is that standard procedure? There is a rather substantial steering committee of the Committee of the Whole—if I may be modest about it—in terms of size, at least. Obviously, they are not included in the planning or in the reasoning or in the decision-making process of the task force. They are a different entity, which I find unusual.

Senator Molgat: The decisions have been taken by the task force itself. All of the members of the task force were invited to the meeting, and, in fact, almost all of them were there. Out of eight members of the task force seven members attended.

If I may make a comment in passing, I have never worked with a committee where there was as good and as constant attendance by the members as was the case with the northern hearings.

The task force in this regard is similar to a subcommittee or, indeed, a special committee. It is empowered to make decisions for its own working methods, provided it does not go beyond the power that the Committee of the Whole has vested in

itself. If it limits itself to that, then it is the master of its own operations. It is on that basis that the task force is requesting, by decision of the task force, that there be this extension.

I suppose there would be an interesting rule point as to whether or not it should obtain that permission from the Committee of the Whole or from the Senate itself. This would be an interesting matter to discuss, and I had not looked at it that way. I believe the task force was created by the Committee of the Whole and then sanctioned by the Senate. However, it is an interesting rule point.

Senator Frith: If you are erring, you are erring on the right side.

Senator Doody: Honourable senators will forgive me if once again I take the opportunity to point out the difficulties that arise when you use a Committee of the Whole. That committee, in my opinion, was designed to do a clause-by-clause examination of legislation and not to act as an investigative body, which is what we are attempting to do in this chamber at the present time.

● (1430)

Every step you take is a step in new, uncharted fields, which might lead to questions, which might establish precedents, which might make it difficult for committees and legislatures to conduct their business properly in the future.

Senator Frith: Or might create some for the Senate.

Senator Argue: Spoken like a true Conservative!

Senator Doody: Or create some work for the Senate.

Hon. Heath Macquarrie: Honourable senators, if we could terminate this contretemps here, I will give my considered view.

As one who attended the meeting this morning, and, indeed, as one who attended all meetings of the task force—and I hate to do this—

Senator Doody: But you will!

Senator Macquarrie: I will, yes—I bring in a small, minor, simple anxiety which I had this morning, that once the task force comes back from the true north strong and free, and there are witnesses here before the Committee of the Whole, I found it difficult to think that we of the task force would, in Ottawa, have a particular brief over what was said on our geographic area now that we had returned to the national capital. If someone expressed the desire to come to Ottawa and appear before the task force rather than the Committee of the Whole, then, as I said this morning, we would have proper jurisdiction and authority to hear them, since our life will not be terminated for some weeks yet.

But I am wondering, in practical terms, if someone from the North comes to Ottawa, should they not be invited to give their views to the Committee of the Whole itself rather than to the task force. I am wondering if perhaps it would not be a good thing to reflect upon this in the tranquility of the weekend and then deal with it on Tuesday.

[Senator Molgat.]

I want to say that Senator Molgat was a most excellent chairman on our northern trip. He made us proud all of the time. Thank God he is back from Haiti. I went to Haiti once in more tranquil times and I praised my Presbyterian God for getting me out of there safely, while Senator Molgat was there in more difficult times.

I suggest that we deal with this matter on Tuesday.

On motion of Senator Macquarrie, debate adjourned.

QUESTION PERIOD

[*English*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

DATE OF SIGNING—IMPOSITION OF DEADLINE

Hon. Louis-J. Robichaud: Honourable senators, I should like to ask the Leader of the Government in the Senate a question that has to do with the negotiations still going on regarding the Free Trade Agreement between Canada and the United States, but the question does not have anything to do with the merits of free trade *per se*.

It always intrigued me that there was a deadline of October 4 for the signing of the general principles of the agreement. There is still a deadline of January 2 for the final legal text to be adopted.

For what reasons were the deadlines of October 4, 1987, and January 2, 1988, imposed by each government?

This is something I believe Canadians are entitled to know. I am one of those in the dark. I do not know, myself.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, many months ago the United States administration sought and received from Congress authorization to negotiate this agreement with Canada, adopting what is called a "fast-track" procedure.

One of the aspects of the fast-track procedure is that when the matter eventually comes to a vote in the Congress, it will be a matter of a "yes" or "no" vote. It is not possible for the members of Congress, for example, to amend the agreement at that time. I emphasize that the deadlines are United States deadlines imposed on their administration; for our part, we are not facing any deadlines in Canada. October 3 or 4 was the last date by which the President of the United States could send a message to the Congress indicating that it was his intention to place before Congress a treaty with Canada, and January 2 is the last date by which the agreement can be signed by the two parties under the fast-track procedure.

Senator Robichaud: Honourable senators, that puzzles me. I do not want to be political—I do not want to say that I am in favour of or opposed to the free-trade negotiations going on, and all of that—but it intrigues me that we were forced by the

United States Congress to meet a deadline in October. We are now forced to meet a signing deadline as of January 2, 1988, to satisfy the Americans. On our side, in Canada, there is all the flexibility in the world whereas the Americans have absolutely no flexibility. Could there not be the danger, then, that within the agreement there might be something that the Americans could impose upon the Canadians? This not only intrigues me, it somewhat frightens me.

Senator Murray: Honourable senators, first, the deadline is on the United States negotiators and on the United States administration; the deadline is not on us.

Second, I think it is generally agreed in this country that it was in everyone's interest, however, that the so-called fast-track procedure be adopted for the negotiation and ratification of this treaty in the United States.

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION—INDEXING OF PENSIONS

Hon. Hazen Argue: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. Can the Leader of the Government in the Senate report on whether or not there is any progress in the Air Canada lockout? Are the parties likely to come together soon? What information does the government have?

As I said yesterday, it seems to be a reasonable request by the union that their pensions be indexed to the cost of living.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I appreciate the honourable senator's opinion on the issues at stake between the company and the union. The government has not taken a position on those issues. Our position, as I said yesterday, is that the resolution of this dispute lies with the parties, and we encourage them to resolve it as soon as possible and without further inconvenience to the travelling public.

• (1440)

Senator Argue: I should like to ask whether the Minister of Labour has any contacts at this time, or if he is making any contacts, with either party to the dispute. Has Bill Kelly got a watching brief? Is his assistant or associate deputy minister playing any role today? I think that is a reasonable question to ask and I would think the minister would have that kind of information.

Senator Murray: Honourable senators, I have not inquired today of my colleague, but I can tell the Senate that as of yesterday it was the view of my colleague, the Minister of Labour, that intervention by government or by his department by way of mediation would not be useful or productive at this time.

Senator Argue: I take it from the minister's response that there has been contact. I think that is what his answer must mean.

There is a feeling around that this is a ploy by the government to influence the Air Canada corporation, if I may put it that way, with regard to its labour relations in the hope that the deal that is made or the settlement that is eventually reached will leave the unions in a relatively weak position so that the proposed price, or the possible price, for the sale of Air Canada to private interests may be greater. Is this a method being used by the Government of Canada to make the Air Canada corporation more palatable for purchase by private interests?

Senator Murray: Honourable senators, I do not wish to be argumentative or offensive, but I do not think it adds anything to our deliberations here or, indeed, to the problems that may exist between Air Canada and its union for an honourable senator to come in here retailing rumours that he hears, as he put it, "around."

Senator Argue: They may or may not be rumours. We have seen this government take particular actions which have been anti-labour with regard to the postal strike. They are on an anti-labour binge today, because they are not taking any position on de-indexing. I, for one, think there could well be a good deal of reason for that feeling that the government wants to soften up the unions so that the Air Canada corporation may have attached to it a higher price when the government gets around to privatization, and which I hope will not happen.

Senator Murray: This repeated solicitude for organized labour comes strangely from one who left the NDP because he found the company of the Canadian Labour Congress uncongenial.

Senator Argue: My leaving the NDP had nothing whatsoever to do with any conflict I had with the rank and file of the trade union movement. At that time I felt there was too close an association between that party and certain labour leaders who were associated with what seemed to be American dominated unions.

I think the things I said at that time have been justified by events, because Canadian unions are now taking a more independent position, a clearly Canadian position.

The minister increases my suspicion that the government wants to get a higher price when it gets around to privatizing Air Canada by making the unions weaker.

Senator Murray: Honourable senators, in a more substantive way, I do have this much to add to what I told the Senate yesterday and today, and it is that if my colleague were to receive a request from the official spokesmen for the parties seeking mediation, without setting preconditions and indicating flexibility, he would give serious consideration to such a request.

Senator Argue: I hope that that word leaks to Air Canada, because they are the people who need to be prepared to come to the bargaining table.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to two

questions. If honourable senators want me to read them, I will; otherwise I ask that they be printed as part of today's proceedings.

PARLIAMENT HILL

CONDITION OF ROADWAYS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on October 13, 1987, by the Honourable Senator Bosa, regarding Parliament Hill—Condition of Roadways.

(*The answer follows:*)

The roads on Parliament Hill have been repaired, patched, and re-topped many times over the past number of years, and this work continues. Public Works has also decided that a more permanent solution is required and has undertaken a major study on refurbishing all Parliament Hill's grounds, roadways, and underground services. The study is in its early stages with design guidelines, priorities, and strategies being developed. No cost estimates or implementation schedule have yet been identified. Presentations will, of course, be made to the appropriate parliamentary committees as the study proceeds.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—AVAILABILITY OF STUDIES—GENERAL DESIGN OR CONCEPT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have a delayed answer to a question raised in the Senate on November 17, 1987, by the Honourable M. Lorne Bonnell and the Honourable John B. Stewart, regarding Prince Edward Island—Proposed Fixed Crossing to Mainland—Availability of Studies—General Design or Concept.

(*The answer follows:*)

The following is the list of studies undertaken to determine the feasibility of a fixed crossing for the Northumberland Strait:

1. Fishery and Environmental Resources, May, 1987.

2. Vessel Traffic and Bridge Safety Study, June 30, 1987.

3. Assessment of Winds, Waves, Tides and Currents, May, 1987.

4. Ice Climate Study, June, 1987.

5. A Study of Freezing Precipitation Icing, April, 1987.

6. Potential for Sea Spray Icing on Proposed Northumberland Strait Bridge, April, 1987.

7. Tunnel Feasibility Report, June, 1987.

8. Erosion and Scour Assessment, July, 1987.

9. Economic Feasibility Assessment for the Northumberland Strait Crossing, June, 1987.

10. Social Impact Assessment of Construction and Operations of a Fixed Crossing between Prince Edward Island and New Brunswick, May, 1987.

11. Northumberland Strait Bridge Substructure, May, 1987.

12. Northumberland Strait Bridge Substructure, June 19, 1987.

13. Financial Analysis of the Northumberland Strait Crossing Project, May, 1987.

It is Public Works policy not to release project estimates. As a result, certain parts of studies numbered 11 to 12, and complete study numbered 13 will not be released because it contains information that will be used to determine the financial feasibility of the project.

Complete copies of studies numbered 1 through 9, and part of studies 10 and 11, will be tabled in the Senate early next week.

PRIVILEGE

Hon. Heath Macquarrie: Honourable senators, I want to assure my colleagues that this is the first time I have risen on a question of privilege, and I hope it is the last. I think it is a very painful, unfortunate form of parliamentary confession.

Yesterday I made some remarks in reference to the report of the Standing Senate Committee on Foreign Affairs on the Turks and Caicos Islands. Although I am the deputy chairman of that committee, I did not have the format of the report in front of me. I thought that my suggestion of many days earlier had been followed. It was that in the final paragraph the three words "at this time" be included in regard to all these negatives that the Canadian government should never do, like taking no initiative of its own, or support any proposal either from the Turks and Caicos Islands or Canada to form a closer political or economic association. Indeed, someone told me that that had been noted in the report.

Had I thought for a moment that those words were not in the report, and that the committee was suggesting that we were foreclosing for all time any kind of acceptance of an interest in the relationships with us from these lovely islands, I would have made remarks of a far different calibre, and much closer to and perhaps even beyond those made by Senator Argue. I apologize to him for not having done more research than I did and to have assumed in good faith that things were as I thought they would be.

It is not the end of the world, but I hope that the 12 or 15 Canadians who read Senate *Hansard* will now know why I said something yesterday in relationship to the report which was totally askew. That is all I am asking.

Some Hon. Senators: Hear, hear!

[*Translation*]

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—THIRD READING

Hon. Michel Cogger moved third reading of Bill S-14, an Act to authorize Cooperants, Mutual Life Society to be continued as a corporation under the laws of the province of Quebec.

Motion agreed to and bill read third time and passed.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jean Bazin moved second reading of Bill C-90, to amend the Unemployment Insurance Act, 1971.

He said: Honourable senators, I would like to submit to your attention for second reading Bill C-90. The purpose of this legislation is to amend the Unemployment Insurance Act in order to extend the variable entrance requirement, or VER.

The Unemployment Insurance Act enacted in 1971 provided that to be eligible for unemployment insurance benefits, a claimant needed at least 14 weeks of insurable employment. At the end of the 1970s, the VER was instituted in order to make that requirement more flexible, thus helping many Canadians who lose their job when they have only from 10 to 13 weeks of insurable employment in their account.

● (1450)

[*English*]

As provided for by the variable entrance requirement, or VER, the number of weeks of insurable employment that a UI claimant needs to qualify for regular benefits depends on the rate of unemployment in the region where he or she lives. In regions of high unemployment, for example, claimants can qualify for UI benefits with as few as ten weeks of insurable employment. As honourable senators may know, the present VER legislation is due to end on January 3, 1988. We propose to renew it again. By doing this we will ensure that thousands of Canadians living in regions where the economy is weaker will continue to qualify for unemployment insurance benefits.

Statistics show that the Canadian economy is doing well. However, in some regions economic recovery is slower and the rate of unemployment remains higher than the national average.

[*Translation*]

The principle of the VER recognizes that it is more difficult to find and keep a job in a region of high unemployment. This is, in fact, one of the most important aspects of the UI program since it takes into account the labour market conditions in each region of the country.

Honourable senators, if the VER is not renewed, all claimants will, as of January 4, 1988, have to show that they have 14 weeks of insurable employment in order to be entitled to unemployment insurance benefits. This means that more than 100,000 unemployed Canadians could be unable to meet the entrance requirements to receive UI benefits.

[*English*]

Many Canadians would thus find themselves in difficulty and would, by necessity, turn to other sources to support themselves and their families. Inevitably, they would have to turn to provincial welfare programs. This government believes that we must continue to provide financial support to Canadians in the designated regions—that is, to those who need it the most. Unemployment insurance claimants need to know where they stand with regard to their entitlement. Therefore, it is important that Bill C-90, to renew the VER for a 12-month period, be passed as quickly as possible.

[*Translation*]

As I mentioned earlier, the VER enables us to recognize economic disparity between regions when deciding the entitlement of UI claimants. It is in this connection that the VER was created and it is for this reason that we want to continue it for the next year.

This is the amendment which I am proposing in Bill C-90. I ask senators to approve the renewal of the VER for a twelve-month period until January 3, 1989. Thank you.

On motion of Senator Corbin, debate adjourned.

[*English*]

TAX REFORM 1987

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Stewart (*Antigonish-Guysborough*), for the adoption of the Twentieth Report of the Standing Senate Committee on Banking, Trade and Commerce (Tax Reform in Canada), tabled in the Senate on 1st December, 1987.—(*Honourable Senator Sinclair*).

Hon. Ian Sinclair: Honourable senators, in yesterday's *Debates of the Senate* at page 2247, in the second-last paragraph of my speech, there is something, to use Senator Macquarrie's word, "askew." I started by saying, "What did the government say it was going to do?" To my absolute amazement, and while I expect many things from this government, I found that *Hansard* said that the lowest rate on which people would be taxed was $17 billion. I can assure senators that the government has not introduced anything quite as good as that.

Honourable senators, what is proposed under tax reform is the reduction of the number of tax brackets from ten to three. Those tax brackets and rates are: 17 per cent on the first $27,500 of taxable income; 26 per cent on taxable income between $27,500 and $55,000; and 29 per cent on taxable income above $55,000. Those are federal rates, and to those rates are applied, for all provinces except Quebec—for all provinces that are part of the tax collection agreement—the provincial tax rates as a proportion of the basic federal tax. They range from 60 per cent in Newfoundland down to 50 per

cent in Ontario down to 46.5 per cent in Alberta. The combined rates, therefore, are significantly higher for those tax brackets that I have indicated.

In our report we have set out in a table what the effect will be, and I ask honourable senators to note that that does not take into account the surtax on personal income.

As the report of the committee indicates, we have two major concerns about stage one of the tax reform. The first has to do with the way in which the new tax brackets will affect middle class incomes, particularly those incomes of middle class families with more than one child. Simply put, the marginal rates are too high. Our second concern has to do with investment income and the proposed treatment of it under tax reform, and, in the more general sense, the integration of personal and corporate taxes. I will have more to say about that later.

As I have indicated, the committee was of the view that in terms of both marginal rates and absolute rates the tax rates proposed for middle income Canadians are too high. That is true not only in relation to other brackets but also in relation to the existing tax system. I would first like honourable senators to recall that one of the major changes under tax reform is that a family's taxable income, in most cases, will be essentially identical to its total income. That is a marked difference that arises from using tax credits rather than deductions and allowances, as is done under the present system.

Therefore, in looking at family incomes the committee has developed a series of charts, which are set out in our report. Our analysis has demonstrated that under the new set of proposals, with respect to the net tax gain of a two-adult family with one or two children and one wage earner in the middle income bracket, the divergence becomes very great indeed. That divergence is highest where the income is between about $28,000 and $50,000 per annum. Indeed, one comes out, at a net tax, less favourably under the new scheme if one has two children and has $46,000 of taxable income—we assumed that this was all wage income—than one would under the old scheme.

● (1500)

The effect of the committee's analysis was to recognize that significant bias against families. It is for that reason that honourable senators will find that the committee's first recommendation deals with family income. The purpose is to obviate the proposed tax credit for those families supporting children and to go back to the old system of having family allowances, and having those family allowances not taken into income.

Honourable senators might say that this is a very unusual step in view of the fact that the committee did recognize and support the movement away from allowances, and so on, to the conversion to tax credits; and the committee appreciated the effect of that on the whole realm of progressivity.

When honourable senators recall what I have just said about the divergence between net income of people with families and the adverse effects, they will understand that by doing this we have eliminated that very large spread between the curves in our statistical analysis, as set out in the report, and have brought them more into harmony.

[Senator Sinclair.]

While it does still adversely affect families, it does not do so to the great extent that the proposals do. It still does not completely eliminate the advantages under tax reform for people who have no children, and the impact is still less favourable on people who have more than one child.

The committee went on to look at another matter of concern. In some of our provinces children are still at school, continuing their education, when they are over 18 years of age. That applies particularly to the province of Ontario, but it applies also to other provinces. We have therefore recommended that the $130 tax credit for financially dependent children between the ages of 18 and 21 be reinstated.

In addition, the committee felt it was wrong not to recognize the necessity of supporting those lower income families who experienced considerable problems in supporting their children who were continuing their secondary education. The committee therefore decided to extend that tax credit of $130 per child for children who were completing secondary education, even though they were over 21. There are many students taking post-secondary courses in medicine, law, and in other professions, and who remain in school beyond 21 years of age.

There are a number of other recommendations. Another point that bothered the committee is that there is a drawback, an erosion of benefits to a family, if a child who is deemed to be financially dependent has income exceeding $500 per annum. That amounts to $10 per week, and we think it is absolutely ridiculous to start taking away or eroding the credit for a dependent child after he or she makes $10 per week. The person who delivers your morning or evening paper is making more than $10 per week, and any teenager working in a convenience store or in a fast food facility is making considerably more.

Here again, the impact is particularly heavy on low-income families or teenagers who are still at school and who are trying to help their families by undertaking work evenings or at weekends. So we have drawn that to the attention of the government.

There are a number of other recommendations. I will not go through them all. Let me move away from families, which was our first concern, to our second major concern, which had to do with corporates and the bias that we found against investment income. There were two things that bothered us. The first is that if we adopt the purport of the white paper and move to take capital gains into income to 75 per cent after the second tranche, we will be double-taxing if the corporation has a tax base in excess of 20 per cent.

That is down very significantly from the 25 per cent that is in existence this year, and is down significantly from the 35 per cent which existed some time ago. The whole aspect of double taxation is something that we believe should be addressed, and therefore we have stated that there should be a cap put on the taking into income at 66 2/3 per cent rather than 75 per cent.

I will again refer to families, but here we were looking at a different type of family. I refer to the families of more elderly people who have been very active in using the investment tax. We have suggested that the $1,000 investment deduction be converted to a credit at 17 per cent. If we take 17 per cent of $1,000, there will be a credit of $170. If adopted by the government, that would be particularly beneficial for those who are elderly, for those who have a few Canada Savings Bonds or a little bit of interest income from bank accounts, or if they had worked for such companies as Bell Telephone or some of the paper companies who have had in place for many years schemes under which employees were able to build up savings plans or hold stocks in the companies they worked for. The committee felt that by making it a credit the impact on people with higher incomes would not be that bad or that objectionable.

Another aspect that bothered us was that a process was being adopted here that certainly made taxation much more difficult to follow. I refer to the provisions which have been introduced with regard to preferred shares. The committee agreed that while some action was necessary, what has been proposed is so complex and so difficult that it would be almost impossible to discern how one could structure one's preferred shares to meet the requirements as set out in the white paper. Technical people representing the bar and the accounting profession who appeared before the committee were all very much against those proposals.

I should like to draw the attention of honourable senators to one other matter—namely, that dealing with MURBs. There seems to be a penchant on the part of this government—and here it was reflected again—to not give effect to existing contractual relationships but to change the rules in the middle of the game. What is proposed here really is to take a contract and limit its application to 1990. So any advantage that a person had by investing in MURBs would run out by 1990. It also provides that anyone acquiring a MURB from another person after these rules go into effect will not have any benefit at all.

● (1510)

The effect of that provision on the investor is that he is locked in. Not only is he locked into his investment, because he cannot sell it to anybody, but his contract insofar as taxes are concerned is reduced. Surely there should have been some grandfathering here.

This government has said on numerous occasions that it is very supportive of R&D. However, in looking at the tax reform papers, the committee was shocked to find that what the government is proposing is a limit on the amount of tax credits for R&D of one-half of taxable income. At present, of course, tax credits for R&D can be fully applied to taxable income. The result of this provision will be to force R&D across the border into the United States, and to make it impossible for many small companies to carry out their R&D programs. There is a cost involved here, according to the people from Finance. The evidence before the committee was, and the view of the committee is, that this so-called revenue loss is completely illusory. The fact is that there will be no R&D taking place.

There is another unfortunate aspect. I think all the committee members recognized the need to secure more revenue flows for real estate companies. Nevertheless, what is proposed here is not only a capitalization of soft costs in real estate but a capitalization of carrying costs on vacant land. The effect of capitalizing costs on vacant land is to make it impossible to recover the capital amount until the asset is sold. If you capitalize soft costs, of course, you can get CCAs—capital cost allowances—because they apply to buildings or to projects. CCAs do not apply to land. Consequently, we are recommending that carrying costs—that is, taxes and interest—on vacant land not be capitalized but be charged against the taxable income of developers, and we are leaving the proposal on soft costs capitalized against buildings.

We have some recommendations in regard to taxes on automobiles used for business. We believe that the rules proposed are much too restrictive and that they make it very difficult for people who make their living with their car, travelling sales people and others. We accept the $20,000 limit for the capital cost of an automobile, but we say that to that figure they should add the cost of transport and the cost of taxes, because the taxes on automobiles in various jurisdictions vary and, of course, the cost of transport varies. The price at Oshawa is $20,000, but in Goobies, Newfoundland, the price is higher.

The committee received over 2,000 letters from taxpayers. Some people say that the people of Canada do not know that the Senate exists or that the people of Canada do not expect anything from the Senate. Now they will have to wonder what caused some 2,000 Canadians to have a different view and to write asking for our assistance in dealing with their concerns. One of their major concerns with the white paper was the proposal to tax the investment part of life insurance policies at 15 per cent. Here again, this measure would have a heavier effect on families with lower incomes, because the 15 per cent would apply irrespective of the level of income. We are suggesting that the government not proceed with that provision.

I think every witness who appeared before the committee said that the general avoidance proposal of the white paper is unworkable. None of them understood what this provision, commonly referred to as the "put-in-business class," would do. What it means is that you will have to get a ruling in advance on every business transaction. If that is not bad enough, the Department of Finance is now proposing a charge of $65 per hour for the work involved in arriving at a ruling. You are completely in the hands of the department as to how many hours each ruling will take. I sometimes think that the deputy minister forgets that he no longer works for Stikeman, Elliott, that he is working for the people of Canada. One witness said, "I think they put this in here just to get us mad." He could be right, because we have received the same reaction from every single witness or group from the accounting profession, the

bar, everybody who dealt with the proposal. They asked, "What is the government trying to do to us here?"

One of the problems we have, and with these comments I shall conclude my remarks, is with the objective of stage one in that it was to be revenue neutral. Our proposals, if adopted in every respect by the government, would result in a net reduction in revenue of something under $1 billion. We came to the conclusion that while we depart from revenue neutrality, we do so for good reason, to be fair, in particular, to families and to offset some very Draconian aspects of the proposals, and with the knowledge that the second stage does not need to be long delayed. The second stage involves the change from a manufacturer's sales tax to a multi-sales tax, or value-added tax. It is for that reason that we feel that, notwithstanding the costs involved in our proposals, they should be favourably considered.

Some Hon. Senators: Hear, hear!

Hon. Douglas D. Everett: Honourable senators, I have a question for the chairman. As I understand the white paper, the amount expended on charitable donations will result in a tax credit. That tax credit will be at the lowest marginal tax rate. This would mean that if somebody has a marginal rate higher than the lowest rate, he or she would not receive a 100-per cent deduction as they do now under the present act. If I am correct in that assessment, I wonder if the committee addressed this matter and whether the chairman has any views on it as it relates to the amount of money that will be given to charity in the future.

Senator Sinclair: We looked at the proposal dealing with charitable donations and we came to the conclusion that it could have an adverse effect on such donations. However, we felt that since there was no hard evidence as to the effect of this proposal, the situation should be closely monitored, and if the result is as some people suggest—namely, that the provision will result in more affluent people cutting back because of the way this tax credit is calculated, which is at the lowest rate, that is to say, 17 per cent—some action should be taken.

Senator Everett: Honourable senators, I have another question dealing with tax credits. I am thinking of the person who is looking after, say, a spouse or child with a chronic medical condition and who is spending considerable amounts of money to look after that person. For example, it could be somebody with a debilitating disease such as multiple sclerosis. The other person has the income and is willing to look after the disabled person in their own home and provide the help and assistance that the victims of that disease, and other similar diseases, require.

● (1520)

Under the present Income Tax Act, as the honourable senator knows, a person who is making those sorts of donations can deduct the full amount of those donations from their income, thereby reducing their taxable income. They therefore do not pay any tax on the portion that they expend on behalf of the afflicted person.

[Senator Sinclair.]

Again, as I understand it, under the proposed act the tax credit will only be available to people who are prepared to pay privately for the care of their afflicted relative instead of having the public pay for them. However, they will only be allowed the tax credit at the lowest tax rate, thereby inviting, in fact, a tax on what they are expending on the care of the sick person.

Senator Sinclair: Unfortunately, that is one of the drawbacks of converting to credits. There is no doubt about it, that the conversion to credits has some unusual and unfavourable aspects. However, we are supportive of the conversion, notwithstanding the indication of difficulties such as Senator Everett has pointed out, because of the general advantage that it brings about. We recognize the difficult task that faces the department in bringing about a balanced system of tax reform.

On motion of Senator Doody, debate adjourned.

FOREIGN AFFAIRS

CONSIDERATION OF ELEVENTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Buckwold, for the adoption of the Eleventh Report of the Standing Senate Committee on Foreign Affairs (Turks and Caicos Islands), presented in the Senate on 2nd December, 1987.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, yesterday I adjourned the debate on the report tabled by Senator van Roggen. That was the eleventh report of the Standing Senate Committee on Foreign Affairs, and it dealt with the order of reference it had received earlier this year concerning the Turks and Caicos Islands. The reason I thought I should adjourn the debate was that at the time I did not have at my disposal the text of the report, and, for that matter, very few senators had, because it had not been circulated or left on our desks, as is usually done with committee reports on the day that they are tabled in the chamber. Therefore, I could not be a party to approving a report without seeing its contents.

It is not that I have any particular desire to see Canada engulf the Turks and Caicos Islands. During most of the year I am lukewarm to the idea, although at this season I tend to warm up a bit to the suggestion. Nevertheless, I thought that we were proceeding too expeditiously with the adoption of the report. We had given Senator van Roggen leave to comment briefly, and there ensued a debate. Senator Argue stepped in, and then Senator Macquarrie, the distinguished deputy chairman of that committee, also made some comments. They, of course, knew what they were talking about since they were members of the committee. I, as a senator asked to pronounce myself on that report, did not know what it contained. Therefore, I did what I did.

I have since examined the report and I can say that I am generally satisfied. On the face of the evidence which is

contained in the report, I, too, would probably come to the conclusion that the committee arrived at. However, I find it passing strange that the committee held only one meeting on the matter, on May 7 of this year. Furthermore, that meeting was held *in camera*. I inquired from the officials of the committee if there were minutes of that meeting, or, indeed, a printed verbatim report, and have been informed that there were no minutes kept and that there is no verbatim report available. Three witnesses were heard at that meeting—two from External Affairs and one from CIDA—all Government of Canada officials. No one else was invited to appear before the committee.

Therefore, I believe that the report is tainted. I am not saying that in a negative fashion, but I cannot say that it is a positive comment on the report, either. I am asking questions here. The committee had the benefit of the views of three government officials. The Canadian public has not had the opportunity—and, indeed, was not given an opportunity as far as I know—to voice its views and opinions with respect to the suggestion that Canada and the Turks and Caicos Islands get together at some point in time and form some kind of political union.

However, when one reads the terms of reference—in fact, when one reads the inquiry and the way in which it was worded—one would think that the committee would have attempted to seek the views of interested Canadians on this question. I would like to quote briefly from the text of the minutes. It says:

> Your Committee, to which was referred an inquiry . . .

And there then follows the inquiry:

> . . . calling the attention of the Senate to the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada; the support for such action among the Turks and Caicos Islanders and Canadians; . . .

And, honourable senators, I dwell on the phrase "and Canadians." As far as I could find out, the views of Canadians—with the exception of government officials—was not sought by the committee. It could well be that the committee in its wisdom, having heard the views of the government officials, decided that there was no point in pursuing the examination of that inquiry. Therefore, the public not only could not attend the single meeting that took place on the matter but was, of course, not invited to appear at any subsequent meeting that the committee could have decided to institute to examine the order of reference in the spirit in which it was put in the hands of the committee.

Therefore, I find the committee report wanting in that respect. I understand that in the given political situation in the Turks and Caicos Islands there is no merit or advantage for the Canadian government to pursue this matter. However, this matter is not a government initiative; it is a private initiative on the part of a senator, and I feel that it ought to have been treated with more generosity, if I may use those terms. In fact, I feel that an initiative should have been taken along the lines of the text of the inquiry itself, to invite interested Canadians to make their views known to the Senate.

● (1530)

There being no written record of what went on in the committee, one could always suspect that there was possibly some kind of pressure put on the Senate committee from some quarters to not proceed with this matter at this time. That is only a possiblity. If that had occurred, I am not suggesting that senators would have succumbed to that kind of pressure, but it could well be that there was that indirect pressure from some quarters not to proceed any further with this matter.

Therefore, I find that justice has not been done to the inquiry. I say this very impartially. I am not overly interested in union with the Turks and Caicos Islands. I am saying this strictly in terms of procedure. With the same breath I would say that I have the highest respect for all of the members of that committee—the chairman, the deputy chairman and its members. However, I have not found an explanation as to why they have not sought the views of, if I may use the expression, Canadians generally. I feel that that should have been done. It was not done, and the conclusions of the report do not contain an explanation as to why the committee did not follow that road. In fact, the conclusion deals with the governmental aspect of the question.

I would like to quote from the report:

> The Committee concludes that caution is all the more called for since the U.K. government has indicated that a duly-elected legislature will be in place by 1988. In the opinion of the Committee, the earliest appropriate time for Canada . . .

I suppose one should read the "Government of Canada," because that is what is intended here.

> . . . to consider this subject would be after the 1988 elections on the Islands . . .

I cannot agree more with that, but what prevented the committee from having one additional public session in order to hear the views of Canadians interested in the matter? In that way we would have a more balanced report.

We now have the opinion of the government officials, but we do not have the other side of the coin. I have heard debate both in the other place and in this place, and I suspect there are Canadians who have a keen interest in the matter who could have come forward and given us good reasons why it would be in Canada's interest to pursue this matter further or, on the other hand, to put a stop to the nonsense, if they thought it was nonsense. I have no real personal views on that.

In conclusion, honourable senators, I think that the report has not done proper justice to the question that was put in the house by our colleague, Senator Argue. I wish the aspect that I have just raised had been dealt with properly—at least, on the surface—by the committee.

The Hon. the Speaker *pro tempore:* It is moved by Senator van Roggen, seconded by Senator Buckwold, that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Senator Argue: On division!

Hon. Royce Frith (Deputy Leader of the Opposition): In the circumstances, I think it would be advisable to adjourn the debate in the name of Senator van Roggen in order to give him a chance to speak to the points raised by Senator Corbin. I move the adjournment of the debate in Senator van Roggen's name.

Senator Corbin: Honourable senators, I thank Senator Frith for raising that point. I had made a note to suggest that. I am grateful to Senator Frith for raising it. If the record needs any clarification, Senator van Roggen ought to be given that opportunity.

On motion of Senator Frith, for Senator van Roggen, debate adjourned.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FIFTEENTH ANNUAL MEETING HELD IN BANFF, ALBERTA—DEBATE ADJOURNED

Hon. Heath Macquarrie rose pursuant to notice of Friday, October 9, 1987:

> That he will call the attention of the Senate to the Fifteenth Annual Meeting of the Canada-Europe Parliamentary Association held in Banff, Alberta, from 21st to 25th September, 1987.

He said: Honourable senators, I ask leave to table the report of the Fifteenth Annual Meeting of Delegations from the Canadian and European Parliaments dealing with the meeting on which this inquiry is based.

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

Hon. Senators: Agreed.

Report tabled.

Senator Macquarrie: If you will be gracious enough to suspend your interest, I will resume my remarks next week.

On motion of Senator Macquarrie, debate adjourned.

POST-SECONDARY EDUCATION

FORUM IN SASKATOON, OCTOBER 25-28, 1987—DEBATE ADJOURNED

Hon. Henry D. Hicks rose pursuant to notice of Thursday, October 29, 1987:

> That he will call the attention of the Senate to the Forum on Post-Secondary Education held in Saskatoon, Saskatchewan from October 25-October 28, 1987.

He said: Honourable senators, I am sorry that this inquiry has stood for so long. Due to the interruptions that have taken place since notice was given, I have not yet had an opportunity to speak to it. I can speak to this in a relatively short time this afternoon, and tidy up the matter.

In the Throne Speech which was delivered in this chamber on October 1, 1986, reference was made to the federal government's intention of convening a forum to consider the question of post-secondary education in Canada. In due course that forum was arranged, and it was held in Saskatoon, Saskatchewan, from October 25 to 28, 1987. The forum was attended by some 600 people from all walks of life in Canada—educators, people from business and industry, people from the labour movement, and a few politicians. I suppose I belong in the last named category, because the Standing Senate Committee on National Finance, which had previously published a report on post-secondary education, was, late in the day, asked to name a representative to participate in the Saskatoon forum. I was the member of the Standing Committee on National Finance who was chosen to represent the committee.

• (1540)

The conference, even though it had some 600 participants, I must say, was extremely well organized, and ran better and was even more productive than I could ever have expected it to have been. It was opened on a Sunday evening with greetings from the Mayor of Saskatoon, from the minister, the Honourable David Crombie, and from the Chairman of the Council of Ministers of Education of Canada, the Honourable Rolland Penner, and from the Premier of Saskatchewan.

After the polite greetings and introductions, three significant addresses were made, one by Maurice Strong, one by Claude Castonguay, presently Chancellor of the University of Montreal, and one by Rosemary Brown, a former NDP member of the legislature of British Columbia and now a professor of some degree at Simon Fraser University. Those speeches, I may say, were all of a general nature. They were well worth listening to, but they dealt in most general terms with problems in education and some ideas of the respective speakers as to what might be done in the future to improve the situation in Canada. Then on Monday morning the forum got down to business with keynote speeches on the three themes of the conference, the first by Paul Gallagher, who talked about the challenges and opportunities facing post-secondary education in Canada; the second by Michèle Fortin, who talked about accessibility to and participation in post-secondary education in Canada; and the third from Ron Watts, a former principal of Queen's University. He talked about the framework for managing and financing post-secondary education in Canada. I was more interested in the third theme than in the other two, and I had rather hoped that the workshops which ensued would consider those themes separately. But that was not done.

There were 22 workshops averaging, as you can calculate, between 25 and 30 persons each. They were split up fairly well across the spectrum of Canadian society from among those delegates to whom I have already referred. Each workshop considered seriatim each of the three main themes of the conference. As I said, I could speculate as to whether we might have gone a little further and achieved a little more if there had been more specialization in the workshops, but that was not done. Each workshop dealt with each of the three themes.

I was in Workshop No. 9, which was chaired by a young lawyer from Montreal, Michael Goldbloom. He did an

extremely good job in chairing the workshop, in keeping the subjects before the participants, and in soliciting the views of all. There was a rapporteur, and I may say that I thought Workshop No. 9, of which I was a member, was extremely well run and really got its teeth into some of the problems and the difficulties that we are facing in post-secondary education.

I believe from my contact in the corridors and otherwise that not all workshops were as well arranged or handled as the one I was fortunate enough to participate in, and that the result of the workshops was perhaps a little uneven.

Finally, at the plenary session on Wednesday morning an excellent job was done by the same three persons who introduced the themes in summarizing the conclusions of the various workshops.

In due course there will be a report on this. I will not attempt to go into any detail today, because I do not have the documents before me, and, of course, as a participator in only one of the 22 workshops, I cannot claim that I have the whole picture. But this will be brought together and made available in a report on the conference which, it is hoped, will be forthcoming fairly soon in the new year. The three theme introducers, Mr. Gallagher, Madame Fortin and Professor Watts, did an extremely good job of summing up.

That was the form the forum took. What can I say about it in general terms, and before seeing the report which will bring together the views expressed in the 22 workshops which constituted the forum? I can make two observations which have some relevance and, I think, some importance. The first I have already alluded to, and that is that the conference was extremely well organized and was more successful from the point of view of participation and facing the problems that were before us than I could ever have expected or imagined.

The second is, to me, a much more important one. I think there was evident in the work of the workshops and the conference, and the conversations that took place at the receptions and in the corridors between sessions, and so forth, a strong conviction that it is essential that we have some national authority in relation to post-secondary education in Canada. The bickering between the federal government and the provinces must stop, and the efforts of both parties must be better coordinated. I think that that was a view that was shared by many of those who participated in this conference. That was referred to by some of the speakers in the plenary session and in what I have described as the corridor conversations.

In any event, this view was shared by even a great many of the delegates from the province of Quebec who, traditionally, have not wanted to accord any role in education to the federal government. I think there is an awakening realization in Canada that we do need some kind of national authority in respect of post-secondary education, and not only with respect to research but with respect to the whole spectrum of post-secondary education.

Some of my friends accuse me of wishful thinking in making this statement, because I have been one who, for a long time, has felt that the federal government ought to have a higher profile in respect of post-secondary education, and in respect of post-secondary education at all university levels, not just research. Perhaps you might say, "especially research," and "especially post-graduate secondary education," but I think the federal government should have a higher profile in respect of the whole spectrum of post-secondary education. If this is wishful thinking on my part, I can point to some evidence that it is shared by other people who, ten years ago, would not have thought this way at all.

One of the things which was most satisfactory to me was the sponsorship of this forum. As I said, it originated in a paragraph in the Speech from the Throne of October 1, 1986, but the conference was actually sponsored not only by the federal government, through the Department of State, but also by the Council of Ministers of Education. The Chairman of the Council of Ministers of Education, to whom I have already made reference, was in attendance and was a participator in the forum. If there could be more meetings which brought together the representatives of the provinces, either through the Council of Ministers, which seems to me at the present time to be the most logical vehicle for that representation to be expressed through, and the federal government, I believe that we might make some progress. I think Canadians do feel that if we are to have universities and research institutions of an international standard, we have to have more national involvement in the managing and financing and the statement of the goals of those institutions than we do at the present time.

In short, honourable senators, I went to the conference not expecting a great deal, and I was pleased that there seemed to be emerging the opinions and attitudes to which I have just referred.

I look forward with interest to the summation of the report of the conference, and, if I think it appropriate, will have something further to say to honourable senators when that report becomes available. In the meantime, it may be—I certainly hope it is so—that a start has been made. We shall watch with interest the growth of this seed which was sown in Saskatoon. Let us hope it will grow into a strong tree, which will add to the fabric of Canadian education and Canadian society generally.

● (1550)

Honourable senators, I was asked to move the adjournment of this debate—unless some other honourable senator wishes to speak now—in the name of Senator Leblanc, who wishes to say something about it later on, he being the chairman of the Standing Senate Committee on National Finance.

On motion of Senator Hicks, for Senator Leblanc, debate adjourned.

The Senate adjourned until Tuesday, December 8, 1987, at 2 p.m.

APPENDIX "A"

(*See p. 2286*)

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS—
SECOND REPORT OF COMMITTEE OF THE WHOLE

THURSDAY, December 3, 1987

The Committee of the Whole on the Meech Lake Constitutional Accord has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on June 11, 1987, to hear witnesses and make a report on the Meech Lake Constitutional Accord and texts subsequently agreed to, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

GILDAS L. MOLGAT
Chairman

THURSDAY, December 3, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the budget presented to it by the Chairman of the Committee of the Whole on the Meech Lake Constitutional Accord for the proposed expenditures of the said Committee with respect to hearing witnesses and making a report on the Meech Lake Constitutional Accord and texts subsequently agreed to, as authorized by the Senate on June 11, 1987. The said budget is as follows:

Professional and Other Services	$ 49,964
Transportation and Communications	1,500
All Other Expenditures	1,000
	$ 52,464

ATTEST:

GUY CHARBONNEAU
Chairman

EXPLANATION OF COST ELEMENTS

Professional and Other Services (including salaries)

1) Media Relations - The Humphreys Public Affairs Group Inc.	$10,300	
2) Advertising Public notice of 1/8 of a page, for one insertion in daily newspapers (and minority press) throughout Canada (approximately 123 publications) for the purpose of inviting the submission of briefs (see attachment A)	39,664	
		$49,964
Transportation and Communications Postage, Freight & Courier Service		1,500
All other expenditures		1,000
TOTAL		**$52,464**

APPENDIX (A) TO THE REPORT

COMMITTEE OF THE WHOLE ON THE MEECH LAKE CONSTITUTIONAL ACCORD

APPLICATION FOR BUDGET AUTHORIZATION FOR THE PERIOD NOVEMBER 1, 1987 TO MARCH 31, 1988

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate of Thursday, June 11, 1987:

"The Senate resumed the debate on the motion of the Honourable Senator MacEachen, P.C., seconded by the Honourable Senator Frith:

That the Meech Lake Constitutional Accord and texts subsequently agreed to be referred to a Committee of the Whole for the purpose of hearing witnesses and making report.

After debate, and—
The question being put on the motion,
The Senate divided and the names being called they were taken down as follows:—

...

Therefore, the motion was resolved in the affirmative."

Charles A. Lussier
Clerk of the Senate

SUMMARY

Professional and Other Services (including salaries)	**$ 49,964**
Transportation and communications	**1,500**
All other expenditures	**1,000**
TOTAL	**$ 52,464**

The foregoing budget was approved by the Committee on the 19th day of November 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

Gildas Molgat
Chairman, Committee of the Whole on the Meech Lake Constitutional Accord

Date: November 19, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date:

APPENDIX (B) TO THE REPORT

THURSDAY, December 3, 1987

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the budget presented to it by the Chairman of the Committee of the Whole on the Meech Lake Constitutional Accord for the proposed expenditures of the said Committee with respect to hearing witnesses and making a report on the Meech Lake Constitutional Accord and texts subsequently agreed to, as authorized by the Senate on June 11, 1987. The said budget is as follows:

Professional and Other Services	$ 49,964
Transportation and Communications	1,500
All Other Expenditures	1,000
	$ 52,464

ATTEST:

GUY CHARBONNEAU
Chairman

THE SENATE

Tuesday, December 8, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

REVISED STATUTES OF CANADA, 1985 BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-94, to bring into force the Revised Statutes of Canada, 1985.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

DISTINGUISHED VISITORS IN GALLERY

The Hon. the Speaker: Honourable senators, I would like to draw to your attention the presence in our gallery of His Excellency Abdalla Nasser Al-Dhorafi, Minister of State for Youth and Sports of the Yemen Arab Republic, and Mr. Taha Qirbi, Honorary Consul of this very friendly country.

We wish the minister a pleasant and fruitful visit in Canada.

Hon. Senators: Hear, hear!

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND

On the tabling of documents:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have been informed that the environmental reports dealing with the Prince Edward Island crossing are due here some time this afternoon. I know how interested some honourable senators are in those reports, so if the documents arrive, I will ask leave to table them.

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

Hon. Senators: Agreed.

QUESTION PERIOD

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government in the Senate. Can the leader report to us what further developments have taken place with regard to the Air Canada lockout and bring us up to date on the situation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my honourable friend will know that the Minister of Labour had sent a telegram to the parties to the dispute reminding them of the considerable inconvenience to the travelling public caused by this dispute, reminding them also of their responsibilities to the public under the Canada Labour Code to resolve their differences through negotiations, and noting that there have been no formal meetings of the parties since November 15.

Mr. Cadieux urged them to reconvene their negotiating committee and to resume negotiations without the setting of any preconditions. Since that time the parties have responded in the affirmative to the minister's request for the resumption of negotiations. I am informed that they are, at present, endeavouring to schedule a meeting, which will probably take place on Thursday.

Senator Argue: Honourable senators, I welcome that move and am pleased with what is now taking place. Can the minister say whether or not the Minister of Labour, before sending the telexes, had discussed this question with Air Canada, or was the matter of the resumption of negotiations an initiative of the minister without prior discussion with either party?

Senator Murray: Honourable senators, I am not aware of any discussions that my colleague has had directly with the parties, but I shall inquire.

Senator Argue: Perhaps there is another matter about which the minister might inquire. Could he ask the Minister of Labour whether or not the dispatches went out from his office simultaneously? My information is that apparently Air Canada knew about the request at least some time before the union received it. This might simply have been due to something that happened in the course of the normal delivery, but I would be interested to know whether the messages went out at

precisely the same time or whether Air Canada was give earlier notice.

Senator Murray: I shall also make inquiries on that point.

ARCTIC SOVEREIGNTY

NEGOTIATION OF CANADIAN CLAIM—PARTICIPATION OF TERRITORIES

Hon. Paul Lucier: Honourable senators, I have a question for the Leader of the Government in the Senate. I am sure that there is a logical explanation for all of this, but it seems that yesterday the Secretary of State for External Affairs, Mr. Clark, conceded that we have not made any progress in the regular bilateral discussions concerning Arctic sovereignty, and then proceeded to sign agreements concerning Arctic sovereignty.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): He proceeded to what?

Senator Lucier: They are going to sign an agreement—

Senator Murray: I am sorry, but my friend has stated that the Secretary of State for External Affairs proceeded to do something. What is it that the Secretary of State has allegedly proceeded to do?

Senator Lucier: He is negotiating to sign an agreement; he is proceeding to sign an agreement—

Senator Murray: He is negotiating to sign an agreement?

Senator Lucier: Yes, on Arctic sovereignty. Perhaps there is a good reason for our spending billions of dollars on nuclear submarines to somehow show the flag through the ice to strengthen our claim to the North, and to show that the North belongs to us, while at the same time we are negotiating an agreement with the Americans that does not include submarines. Perhaps the minister could explain to us how an agreement that does not include submarines can strengthen our claim to the Arctic.

Senator Murray: Frankly, honourable senators, the question, at the moment, is hypothetical. I think it would be better put if and when such an agreement is concluded and tabled in this house.

Senator Lucier: Honourable senators, it seems that what we have learned from this government—with the Free Trade Agreement, the Meech Lake agreement and many others—is that by the time such agreements reach this chamber, it is too late to talk about them. All agreements seem to reach the Senate cast in stone—they cannot be touched! To suggest that we should not talk about such agreements until they are signed seems a little ludicrous. If we are going to discuss spending billions of dollars on submarines to show that we own the Arctic, and if we are going to discuss the signing of agreements with the Americans, should not the two things be related? I realize this may sound somewhat strange to the government, but I think that some people in the Arctic would like to know the answer to that question.

Senator Murray: Well, I am not sure what the question is, except that so far it seems to be quite hypothetical. As I recall, my honourable friend is against the decision of the Canadian government to proceed with nuclear submarines in the North.

• (1410)

Senator Lucier: Then, honourable senators, I guess I am not too surprised at why we are in so much trouble, if the Leader of the Government does not understand the question. If he is concerned only about whether I am opposed to submarines in the Arctic, then he is absolutely right. It makes as much sense as having an icebreaker in the Arctic to show Canada's sovereignty. As I said before, an icebreaker in the Arctic is excellent for breaking ice, but not for any other purpose. Is the Leader of the Government suggesting that the government is not negotiating to sign an agreement with the Americans on the sovereignty of the Arctic? Is none of that going on, and is the government not considering submarines for the Arctic?

Senator Murray: The answer to the last question, so far as the Canadian government is concerned, was contained in the defence white paper that was tabled some months ago. Meanwhile, I can tell the honourable senator that we have been discussing, and will continue to discuss, with the United States an agreement on Arctic cooperation.

Hon. Peter A. Stollery: Honourable senators, I have a question supplementary to that asked by Senator Lucier, which I thought made a lot of sense. He and I, and other Canadians, would like to know what is being discussed. A committee on free trade has been meeting in the other place, with a deadline for its report. But the agreement seems to have existed only as of Monday. There certainly have been other issues which the government has asked committees to study, even though the government has not finalized its agreements. Senator Lucier, representing the Yukon, is certainly justified in knowing a great deal more about what the government is proposing, and which we have seen reported in today's press, about a rather difficult-to-follow change in policy regarding Arctic sovereignty; and I, too, would like to know a little more about that.

Senator Murray: Honourable senators can hardly expect me to comment on so-called leaked documents that appear in the media. In due course, as and when an agreement is concluded, it will be brought here; the contents will be known to honourable senators, and they can address themselves to it in a rational and coherent way.

Senator Lucier: Perhaps I could ask another question of the Leader of the Government. As Northerners, we have just been taken to the cleaners on the Meech Lake Accord because of that same procedure. Is the Leader of the Government suggesting that, as Northerners, we should not discuss or ask anything about the agreement until it is signed? Once the Meech Lake Accord was signed, we were told, "Of course, you are being taken to the cleaners on it, but that's too bad, the agreement is in place. It is a seamless web." We have heard

that expression used before, and it is now being used in connection with the Free Trade Agreement. We have not yet seen that agreement, but we are being told that we cannot change it. Others can speak for the rest of Canada, but is the Leader of the Government suggesting that the new way for the people of the North is that once you have done it to us you will tell us what you have done, and that's the end of it?

Senator Murray: Honourable senators, questions of Arctic cooperation have been in the public domain for some considerable time; they have been the subject of discussion in this and the other place, and they have been touched upon in the reports of parliamentary committees, and so on. It is not as though anyone is foreclosing the right of the honourable senator or anyone else to express his or her views on the subject. I believe that we are well aware of his views on this matter, but it is the duty of the government to conclude agreements of this kind on Arctic cooperation, and that is what we are proceeding to do.

Senator Lucier: Honourable senators, perhaps I could ask one more question. Since the Leader of the Government says that negotiations on cooperation agreements in the Arctic have been ongoing for some time, I ask him if the elected people of the North have been included in those negotiations at any time since they testified before our task force that never once were they consulted with regard to the Meech Lake Accord? Can we assume, since the honourable senator has indicated, that there have been ongoing negotiations, that the government discussed this matter with the people of the Yukon and the Northwest Territories?

Senator Murray: Honourable senators, with the greatest respect, the subject matter of these discussions with the United States is not the responsibility of the territorial governments. The subject matter is squarely the responsibility of the Government of Canada.

Senator Lucier: But the matters concerning the Meech Lake Accord were the responsibility of the Governments of the Yukon Territory and the Northwest Territories, but they were never discussed with those governments. Is the honourable senator saying that the government does not discuss anything with them? I guess that is its position.

Senator Murray: Honourable senators, we have had very close cooperation with the governments of the territories on any number of matters in the past several years. Surely the honourable senator is aware that this government devolved to the territorial governments quite a number of province-like powers and programs. This process has been going on for some time, and it will continue.

FISHERIES

MUSSEL INDUSTRY—GOVERNMENT ASSISTANCE

Hon. M. Lorne Bonnell: Honourable senators, the Leader of the Government in the Senate has been having a hard time explaining the actions of his government, and I know that if he tried all day it would still be difficult. However, before asking my question, I want to congratulate him on his action and on what he has done on behalf of the potato farmers of New Brunswick and Prince Edward Island. After I brought to his attention the losses to potato farmers in Prince Edward Island and New Brunswick in the 1985 crop year, he went to the Minister of Agriculture and the subsidy grants that I requested came through. For that I want to thank him. I know that it was pressure from the Leader of the Government that made the Minister of Agriculture come forth with the payments.

Senator Argue: But you started it.

Senator Bonnell: I started the ball rolling here and the Leader of the Government finished up.

Honourable senators, at the present time we have another major catastrophe in Prince Edward Island. Some algae or some toxin in the water has got into our mussels. The Prince Edward Island cultured mussel industry was just getting off the ground. It was at the point where it was a $3 million to $4 million industry, and it was a real boon to our economy. This catastrophe has struck the private fishermen who culture these mussels. As a result, 20,000 pounds of mussels had to be buried in the River of Morell last week. These mussels were ready for shipment, but they could not be shipped because they had been taken off the market. In the village of Murray River 100,000 pounds of mussels had to be buried. The fishermen who culture these mussels are private enterprisers with no insurance. This catastrophe could mean the end of this industry in Prince Edward Island if there is no help.

Could the Leader of the Government in the Senate tell me whether the Minister of Fisheries and Oceans of Canada and the Government of Canada are considering compensation to assist these fishermen of cultured mussels in not only Prince Edward Island but in the Magdalen Islands and the other provinces across Canada where the mussel industry can be found, because people everywhere are not buying mussels at this time? Is the Government of Canada considering assistance for these people to save many of the island fishermen in the cultured mussel industry from going bankrupt?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall have to make inquiries on the matter. In the meantime, I can tell the honourable senator that our pre-occupation these past few days has been with protecting the health of consumers, who might have been affected as a result of this misfortune. However, I shall make inquiries on the question asked by the honourable senator.

Senator Bonnell: Honourable senators, I thank the minister for considering the health of consumers, for they must come first. We realize that. However, I ask him to take this matter also to his government and put the same kind of pressure on the Minister of Fisheries as he put on the Minister of Agriculture in order to assist these fish farmers in Atlantic Canada and in the Magdalen Islands, and thus save from bankruptcy this very important industry for Canada.

• (1420)

Senator Murray: Honourable senators, my friend's supplementary gives me an opportunity to say that while I have no objection to his basking in the reflected credit that is due to the government for its assistance to the potato farmers, this was done pursuant to a public commitment made by the Prime Minister of Canada to the provinces concerned, and following upon extensive discussions between the Minister of Agriculture and his provincial counterparts in Prince Edward Island and New Brunswick.

As for the economic impact on the industry of this misfortune with regard to mussels, I will have to take that question as notice. I will convey the honourable senator's representations to the appropriate minister.

ROYAL CANADIAN MINT ACT
CURRENCY ACT

BILL TO AMEND—THIRD READING

Hon. Ethel Cochrane moved the third reading of Bill C-46, to amend the Royal Canadian Mint Act and the Currency Act.

Motion agreed to and bill read third time and passed.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bazin, seconded by the Honourable Senator Flynn, P.C., for the second reading of the Bill C-90, An Act to amend the Unemployment Insurance Act, 1971.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, I shall not take very long, since I have no prepared text. I do not enjoy the opportunity, as do some members of this institution, of having researchers who can jot down a few thoughts on paper for them. I have to do practically all of my own research, so I will speak off the cuff and shoot from the hip today, if you will bear with me for a few moments.

Last Wednesday or Thursday I was asked to handle this bill—if I may use that expression—on behalf of my side of the house—even though I sit on this side of the house. I am talking, of course, on behalf of the official opposition. However, I spent the weekend in New Brunswick, and I had little opportunity yesterday to spend much time in my office because of excessive travel delays due to the Air Canada strike. In fact, I spent all of this morning and the noon hour at meetings. I merely stepped into my office this morning to hang up my coat, and then proceeded to my other duties as a senator. Therefore, I do not have a prepared text, and I hope that honourable senators will forgive me if I err in my presentation on the legislation, on behalf of my party, this afternoon.

Bill C-90 extends for another year certain provisions of the Unemployment Insurance Act to those regions or those individuals who can qualify under the variable entry requirements. I find this legislation unnecessary. The government spent millions of dollars on a commission—generally referred to as the Forget Commission—to take an in-depth look at all aspects of the unemployment insurance program and other programs in Canada. That commission tabled its report last year.

To my surprise, it seems that the government has decided not to implement the recommendations of that commission. I can understand that some of the recommendations would be rather embarrassing to the government of the day. Needless to say, action should have been taken in regard to certain categories of unemployed workers in Canada who dearly need this type of assistance to carry them from year to year and from seasonal job to seasonal job. This is the intent of this special amendment to the Unemployment Insurance Act.

Instead of carrying this section over from year to year, the government ought to have made this a permanent feature of the unemployment insurance legislation at the earliest opportunity. Where will we be at this time next year? Will we be faced with another request to extend the provisions of this particular section of the Unemployment Insurance Act for another year? I am afraid so. Unfortunately, I believe that will be the situation.

There will always be situations in parts of the country where some workers will not be in a position to accumulate 14 weeks of work in order to benefit from the generosity of the unemployment insurance legislation as it exists. There should be no hesitation on the part of the government and on the part of well-minded legislators to make that a permanent feature of the legislation, as it was for many years, until the government of the day decided to extend it on a year-to-year basis.

I come from a region where, because of the lack of job opportunities and because of the seasonal nature of many employment activities, it is indeed difficult for people to accumulate enough weeks to qualify for unemployment insurance as is so easily done in the Oshawa region, "that very high employment area of Canada." In fact, many of the people of New Brunswick expatriate themselves every summer to western Canada to help in bringing in the crops. They also go to southern Ontario and elsewhere. In that way they can accumulate enough weeks to qualify for UIC benefits. They cannot do that in New Brunswick, because the employment opportunities do not exist for many able-bodied women and men who would dearly like to work. They have to go outside of their province to find work in order to qualify for UIC benefits.

I was one of the members of Parliament from the Atlantic provinces in the mid-1970s who forced the government of the day to bring in this type of legislation. It went very much against the grain of the minister of the day, but we were successful in bringing our case to our caucus and to the attention of the Prime Minister, and he recognized the soundness of our approach. It was as a result of that intervention by

members of Parliament, both senators and the elected members, that that became a feature of the act.

● (1430)

With that little bit of history, honourable senators, I certainly can find no objection that would justify delaying this amendment to the act. I think it should go forward speedily.

My last comment is this, that I enjoin the government of the day—and I am not talking here in any partisan sense, because I think such is the responsibility of any national government—to ensure that this type of provision does, in fact, become a permanent feature of the legislation, if we are to eliminate the inequities and inequalities that exist in certain parts of the country in terms of possibilities of employment.

Hon. Senators: Hear, hear!

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if no one else wishes to speak, I move, on behalf of Senator Bazin, who introduced this bill, that it be referred to committee.

Hon. Royce Frith (Deputy Leader of the Opposition): You should ask for second reading first.

Senator Doody: Before I do that, I would like to congratulate Senator Corbin, who has demonstrated a tremendous ability to do an outstanding job without the benefit of research or research assistance. We are very proud of him.

Senator Corbin: If I may respond briefly, I have a *caveat*. I had to dip into my rich background as an elected member to be able to make these few remarks today. Had I been a new senator in this chamber, I would have needed assistance to know what this legislation was all about. It is because of historical experience that I was able to perform so well today. I think of the poor senator who comes from nowhere who is plunged into this political forum and who does not have that type of background; surely he would require research assistance of some sort to perform ably.

The Hon. the Speaker *pro tempore:* It is moved by the honourable Senator Doody, on behalf of Senator Bazin, seconded by the Honourable Senator Rossiter, that the bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Hon. Charles McElman: Honourable senators, before we proceed further, I believe that His Honour should have given a warning that the debate was about to close so that any senator who might be interested in speaking would have had the benefit of that warning.

The Hon. the Speaker *pro tempore:* I should have said, "If the Honourable Senator Doody speaks now, his speech will have the effect of closing the debate on the motion for second reading of the bill."

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

[Senator Corbin.]

On motion of Senator Doody, for Senator Bazin, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING

Hon. Peter Bosa moved the second reading of Bill C-254, to amend the Citizenship Act (period of residence).

He said: Honourable senators, at the outset, I wish to express my thanks to Senator Macquarrie who very graciously relinquished the sponsorship of this bill in my favour.

Hon. Senators: Hear, hear!

Senator Bosa: I also want to say that it is coincidental that two bills that have the same objective were presented in the two houses almost simultaneously: My bill, that is Bill S-8, was given first reading in this chamber on April 14; and Bill C-254, which was presented by Mr. Bob Pennock in the other place, was given first reading there on April 27.

I have spoken at some length on second reading of Bill S-8 on June 16 and do not intend to repeat everything I said on that occasion, but I do wish to say a few words in order to put the objectives of this bill into perspective.

When the Citizenship Act was presented in 1977, new rules regarding that act came into force. Applicants for citizenship still had to meet residency requirements, that is to say, at least three years of residence in Canada within the four years immediately preceding the application. But, in contrast to the former law, there was no provision relating to spouses of diplomats. They were, therefore, to be treated in the same way as all other applicants. On its face, this might be interpreted as requiring continuous physical presence in Canada, making it virtually impossible for a foreign spouse to meet the residency requirements unless the Canadian public servant were posted back to Canada for three years. In actual fact, court decisions have made the situation much more equivocal than that.

In 1981 Pamela McDougall submitted a report to the government. The issue of foreign spouses was raised there briefly. It states:

> Some concern was expressed about the difficulties facing foreign-born spouses of members of the Service who wish to become Canadian citizens. We are assured by the Department of the Secretary of State that these problems no longer exist: in general, foreign-born spouses who manage to become landed immigrants will no longer be discriminated against with respect to establishing Canadian residence for purposes of acquiring citizenship, simply because they leave Canada to accompany their husbands or wives posted abroad. We applaud this move and urge that the new situation be communicated clearly and rapidly to all employees. We also encourage the government to make explicit provisions to cover these cases if the occasion arises to amend the relevant legislation.

It appears that the Department of the Secretary of State was referring to the decided cases when it assured the commission that the problems no longer existed. But they still do.

In fact, I came upon this problem when I was a member of a Canadian delegation to the Inter-Parliamentary Union in Buenos Aires in October of 1986. The delegation had been invited to the Canadian embassy for a reception, where I met the second secretary and vice-consul in the embassy, Mr. R. Tanner. Mr. Tanner had married a French national. I had a conversation with them during the course of which I learned that Mrs. Tanner wanted to be come a Canadian citizen, but because they were posted abroad she did not meet the residence requirements of the present Citizenship Act. It was this conversation which led me to sponsor Bill S-8.

It is a good piece of legislation; it is highly supported by members of the Department of External Affairs. I understand that there are some 200 cases which would be affected directly by this legislation—I do not know how many other cases there might be with other Canadians serving in the Armed Forces or those who are in the service of the provinces. Departmental officials are anxious that this bill be given Royal Assent so that persons affected by this amendment can take advantage of it.

I hope that honourable senators will support this legislation and that they will give it speedy passage.

Hon. Heath Macquarrie: Honourable senators, I would like to commend Senator Bosa on his remarks when sponsoring Bill S-8 some time ago. I still remain convinced that this is the kind of measure which we can pass expeditiously and unanimously, because its purpose is to correct the ill effects of justice delayed.

• (1440)

I am impressed that Bill C-254 is a Private Member's bill from the other house, and having served there for a number of years I know that it is rare to see a Private Member's bill go further than first reading. A colleague, who was a member of the Liberal Party, year after year sponsored a Private Member's bill to have the likenesses of Canadian Prime Ministers appear on our paper money. He introduced that bill year after year, and then one day a minister walked in and said that the government was going to introduce such a measure. The appropriate minister did not even refer to the backbencher from his own party, but he, the backbencher, did the sharp thing and stood up and withdrew his bill. A minor satisfaction, but not a major one, I suppose one could say.

The catalyst of this measure arose from events that took place in Tehran some years ago. Honourable senators will recall that the spouses of the two people who were most active were embarrassed at a later date when Canada sought to give recognition to those two members of the embassy and their spouses. That situation has since been corrected, but it is very important that this measure go through so that such an embarrassing development shall never occur again.

In that connection, I remember that from time to time over the years the Chargé d'Affaires of Iran would say that the normalization of relations between our country and his would depend upon an apology from the Canadian government for the efforts made by those people to help the hostages. On that rare occasion when I could speak for my country, I said: "If you are waiting for that, you will never get it, because the people of Canada are very, very proud of what was done, and no government that I could conceive of would ever repudiate that effort." That is in my mind today as I reiterate my support for this useful, valuable and somewhat delayed measure.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Peter Bosa: Honourable senators, I move that the bill be referred to the appropriate committee.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Bosa is quite right to move that the bill be referred to the appropriate committee, and the appropriate committee, under the rules, that deals with employment and immigration matters is the Standing Senate Committee on Social Affairs, Science and Technology. That is the appropriate committee to refer the bill to.

On motion of Senator Bosa, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

CONSTITUTION ACT, 1867

BILL TO AMEND (QUALIFICATIONS OF SENATORS)—SECOND READING—DEBATE ADJOURNED

Hon. Len Marchand moved the second reading of Bill S-12, to amend the Constitution Act, 1867 (Qualifications of Senators).

He said: Honourable senators, the primary purpose of this bill, as I explained on June 23 when I introduced it on first reading, is to remove from the Constitution the property qualification for senators. By way of a consequential amendment, the bill would also remove from the Constitution the requirement that each Quebec senator represent an electoral division in that province.

I would like to read to you a recommendation contained in the 1984 report of the Special Joint Committee on Senate Reform. In the chapter entitled "Reforms That Should Be Made Now" the committee makes the following statement, at page 37:

> The *Constitution Act, 1867* requires that those appointed to the Senate have assets totalling at least $4,000. The original purpose of this requirement is no longer valid, and the property qualification is now anachronistic. The requirement should be removed by a constitutional amendment under section 44 of the *Constitution Act, 1982.*

Honourable senators, at the time of Confederation the property qualification for senators was neither unprecedented nor inappropriate. It must be recalled that in 1867 there were property qualifications both for membership in the House of Commons and for the exercise of the franchise. So it was not something unusual. The property qualification was, in fact, in keeping with the political philosophy and practices of the time.

It was also in keeping with the desire of the Fathers of Confederation that the British House of Lords should serve as a model for the Canadian Senate. Since the New Canadians had no hereditary peers, it was decided that senators, in addition to being appointed for life, should also be persons of some substance, and should represent the interests of property holders. As Sir John A. Macdonald said at the time:

> The rights of the minority must be protected, and the rich are always fewer in number than the poor.

This sounds, in today's more democratic world, like something said with tongue in cheek, but I believe that at the time it was said in all seriousness. In any event, the idea of a property qualification was agreed to in the conferences at Charlottetown and Quebec, and the result was that a senator, since 1867, has had to own land in his or her own right within the province for which he or she was appointed to the value of $4,000 over and above all charges and encumbrances, and have a net estate worth at least $4,000.

The property qualification, therefore, served as an essential element in creating a second chamber similar in principle to that of the British model. At the same time, it ensured that property interests and a certain class of society would be represented in the Senate.

At that time $4,000 represented a significant, if not a great, stake in the community. Today, not only is that amount totally unrealistic with regard to its original purpose but the idea of a property qualification itself is totally unrelated to the modern role of the Senate.

E. Russell Hopkins, former Law Clerk and Parliamentary Counsel to the Senate, referring to the modern role of the Senate, summed it up very well in the following words:

> Like the House of Lords, the Senate was to have a dignified, secondary and largely negative role. But political institutions, and living constitutions, inevitably change with the passage of time, and so it has been with the Senate. The modern Senate, while it acts as a revising body in respect of legislation emanating from the Commons, now exercises a variety of functions of a useful, important and positive character which were not envisaged by the Fathers of Confederation.

Honourable senators, the property qualification has become so anachronistic that today it no longer has any meaning. As I said when I introduced this bill, it has become a "silly requirement." I repeat that I think we should do away with it.

When I introduced Bill S-12, a point of order was raised, I think by Senator Flynn, regarding the appropriateness of presenting a bill to amend the Constitution Act, 1867 instead of a resolution. It was questioned whether amendments such as those contained in Bill S-12 could be effected by way of a bill when other amendments to the Constitution require a resolution. My earlier quotation from the 1984 report of the Special Joint Committee on Senate Reform makes it clear that it was the view of that committee that a bill, pursuant to section 44 of the Constitution Act, 1982, is the correct procedure. Also, as I said at that time, I was assured by the Law Clerk of the Senate that a bill was the proper way to proceed.

• (1450)

I have since then received from the Law Clerk a written opinion confirming that a bill is, indeed, the proper procedure. In that opinion, of which I have copies for any senators who are interested, the Law Clerk states that:

> The normal procedure for constitutional amendment involving federal institutions is set out in section 44 of the Constitution Act, 1982. It provides that, unless another amending formula is specified elsewhere in the Constitution, the Parliament of Canada may amend the Constitution of Canada by enacting laws.

Section 44 of the Constitution Act, 1982, for those senators who do not have a copy in front of them, reads as follows:

> 44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

Honourable senators, I have a personal reason for sponsoring this bill. Subsection 23(3) of the Constitution Act, 1867 is the provision of the Constitution that sets out in detail the property qualification for senators. It is worded in such a way as to provide for persons whose interests in land are of the kind that are possible under both the common law and the civil law systems.

It does not, however, and never did, provide for persons who are Indians and who lawfully possess land on a reserve. Their interests in land are of the kind described in the legal system of land holding set out in section 20 of the Indian Act.

Under this system title to reserve land is held by the Crown, and an individual's interest in such land is evidenced by a Certificate of Possession issued by the Minister of Indian Affairs. Although an Indian has a right to dispose of a Certificate of Possession by sale or otherwise, all transfers are subject to the approval of the minister, a very difficult procedure.

I am a member of the Okanagan Indian Band and own some land on our reserve near Vernon, B.C. I do not know the precise value of it in market terms, but it is certainly worth more than $4,000. Yet, when I was summoned to the Senate, my property on the reserve did not qualify me for appointment. In appointing me to the Senate in June of 1984, Prime Minister Trudeau asked me if I owned $4,000 worth of freehold property in B.C. Luckily, I was able to say, "Yes," because I owned a house in Kamloops—me and the bank!

A few months ago I was talking to some members of the family of the late Senator Gladstone. I understand that when he was appointed to the Senate in 1960, he was a successful

rancher on the Blood reserve. However, he owned property only there. In order to qualify as a senator, he had to rush out and buy at least $4,000 worth of property off the reserve. Honourable senators, this is the main reason why I am asking that the existing property qualification for senators be removed from the Constitution. It discriminates against Indians who have land holdings only on reserves.

In the course of drafting a bill that would do away with the property qualification for senators it became clear that the removal of this requirement would affect the special situation with regard to Quebec senators.

As honourable senators know, the Constitution provides that each senator representing Quebec must be appointed for one of the original 24 electoral divisions of that province. In accordance with this requirement, each Quebec senator has the choice of either owning property or residing in the electoral division for which he or she is appointed.

In drafting Bill S-12 a decision had to be made with regard to this special provision for Quebec. There were three possible ways to proceed: one, to amend it by deleting the reference to owning property in an electoral division; two, to simply leave it unamended; or three, to delete it entirely.

To delete the reference to a property qualification and leave unamended the reference to a residence qualification would impose on Quebec senators a new residence qualification, since each Quebec senator would then have no choice but to reside in his or her electoral division.

To leave the entire provision unamended would be to retain a provision giving to Quebec senators a choice that would have become meaningless, since one of the alternatives, that of satisfying the electoral division requirement by owning property, would have been removed.

It was therefore felt that the best way to deal with the special provision for Quebec, which no longer seems necessary, was simply to delete it. A further benefit of the deletion of the provision is that Quebec senators who come from areas within the province that did not form part of the original 24 electoral divisions will be able to reside in their home regions, which at present are unrepresented in the Senate.

Honourable senators, ever since 1867 proposals have been advanced for Senate reform by prime ministers, politicians, political scientists and groups of concerned citizens. Nevertheless, it remains to be seen if any of the wide-ranging suggestions for change will ever take place. In the course of some of the research I have been able to do I came upon the work of Professor Jonathan Lemco in the publication entitled "The Journal of Commonwealth and Comparative Politics" of November 1986. Jonathan Lemco is a professor at the School for Advanced International Studies at Johns Hopkins University. He is also a political analyst. This is what he stated:

> It is most likely that in spite of the many calls for reform, few changes of substance will actually be implemented.

However, he further stated:

> . . . this is not to say that no reforms of the Senate are possible or that none would be creative.

One of the "modest changes" he suggests is that "the anachronistic property qualification be abolished." The Joint Committee on Senate Reform also places this proposal in the category of "Reforms that Should be Made Now." Since it was a proposal of the joint committee of the two houses, there is no reason why it should not receive the support of both houses.

I ask honourable senators, therefore, to give serious consideration to the bill in the hope that we might, as senators, show some initiative by taking at least one small, but positive, step forward in the area of Senate reform.

On motion of Senator Doody, debate adjourned.

SENATE TASK FORCE ON MEECH LAKE CONSTITUTIONAL ACCORD AND YUKON AND NORTHWEST TERRITORIES

DEADLINE FOR PRESENTATION OF FINAL REPORT EXTENDED

On the order:

> Resuming the debate on the motion of the Honourable Senator Molgat, seconded by the Honourable Senator Hicks:
>
> That notwithstanding the Order of the Senate adopted on Tuesday, 17th November, 1987, the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to present an interim report to the Committee of the Whole no later than Thursday, 17th December, 1987, and
>
> That the Task Force present its final report to the Committee of the Whole no later than Monday, 8th February, 1988.—(*Honourable Senator Macquarrie*).

Hon. Heath Macquarrie: Honourable senators, I have looked over the few remarks I made at the last sitting. I hope this is not a case of incipient smugness, but I am satisfied with what I said at that time and will not add further argumentation. I can only say that we had a most excellent 8.00 a.m. meeting of the task force this morning, and it is possible that our esteemed chairman will, when he closes the debate, have some suggestions to make as to our flexibility, viability and classical structure.

Hon. Gildas L. Molgat: Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator Molgat speaks now, his speech will have the effect of closing the debate on the motion.

Senator Molgat: Honourable senators, I, too, had the opportunity in the interval to re-read the comments made by the Honourable Senator Macquarrie. I must agree with him totally that his remarks were absolutely in order and quite proper. The point that he was particularly making was that, because the task force has now returned to Ottawa, if there were other witnesses to come forward on this matter, it would be more appropriate if they appeared before the Committee of the Whole rather than before the task force. That, I think is

absolutely sensible. As he said, the task force held a further meeting this morning and, on reviewing its work schedule and the amount of work that has to be done, the task force requests a further change to the motion that was presented last week. Rather than present an interim report next week and a final report in February, the task force would prefer to present just one report, its final report. In other words, there would be no interim report, but only that final report in February. We are finding that more time is being taken in the preparation of the report than we expected—namely, the translation work involved—and we therefore request that additional time. The new motion will annul the previous motion completely.

● (1500)

I therefore move, with leave of the Senate and pursuant to rule 23, that the motion be modified to read as follows:

> That notwithstanding the Order of the Senate adopted on Tuesday, 17th November, 1987, the Senate Task Force on the Meech Lake Constitutional Accord and on the Yukon and the Northwest Territories be empowered to present its final report to the Committee of the Whole no later than Monday, 8th February, 1988.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to.

[*Translation*]

THE ESTIMATES, 1987-88

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (C) ADOPTED

The Senate proceeded to the consideration of the Fourteenth Report of the Standing Senate Committee on National Finance (Supplementary Estimates (C) 1987-88) presented in the Senate on December 2, 1987.—(*Honourable Senator Leblanc* (*Saurel*)).

Hon. Fernand-E. Leblanc: Honourable senators, on Wednesday last I tabled the report of the National Finance Committee on Supplementary Estimates (C). That report contains a great deal of information about these supplementary estimates and the anticipated estimates of the Government of Canada for the current fiscal year. The report also contains specific information about statutory expenditures, non-statutory expenditures, and about $1 votes. This is the kind of information found in the report of the National Finance Committee for each regular supplementary estimate. I say regular, because while this is the third supplementary estimate for the 1987-88 fiscal year, it is also the first regular supplementary estimate. The first and second supplementaries were special estimates; the first dealt with special payments to grain producers; and the second dealt with regional economic development.

[Senator Molgat.]

As honourable senators will see from our report, Supplementary Estimates (C) total $2.9 billion. Of this, $1 billion is for statutory expenditures, an additional $1.4 billion is to record the forgiveness of certain loans to crown corporations, and the remaining $500 million for unforeseen budgetary requirements.

I would like to focus now on a major issue raised in our report, namely the forgiveness of loans. When the National Finance Committee reported on Supplementary Estimates (C), 1985-86, we noted that crown corporations only may be forgiven a debt.

Private individuals and corporations may have their debt deleted, but never forgiven. Treasury Board concurred with the committee that this was not fair and agreed to change the Financial Administration Act to reflect this, whenever that act was opened for amendment. In these supplementary estimates we see another problem with debt forgiveness.

Almost all of the $1.36 billion in debts owed by crown corporations which are being forgiven by these estimates, was considered uncollectable in 1979. For that matter, an item was included in the Statement of Assets and Liabilities in the Public Accounts to reduce the value of assets of the Government of Canada accordingly. Furthermore, enterprises such as the St. Lawrence Seaway Authority were told back in 1979 that their debt of $625 million was scheduled for forgiveness. Yet it took eight years to record this loan as uncollectable and eliminate it from the books. I could understand if there were any chance of recovering some or all of the debt, but when the debtor is notified that there will be no collection action, why does it take eight years to get around to cleaning up the books? This is too long. Frankly, I do not know if there are other outstanding loans deemed uncollectable that are cluttering up the accounts, but if there are, there should be a concerted effort to sort this out in the near future.

Finally, I want to conclude my remarks on Supplementary Estimates (C) by reporting to the Senate on the way in which I believe the National Finance Committee has been, and can continue to be very effective. From time to time, we produce lengthy but very timely reports on specific subjects. For example, this spring we tabled a report on federal financial involvement on post-secondary education. Our report concluded that the role of the federal government in this field should be confined to specific areas such as research, and accessibility for the disadvantaged. We also concluded that the federal government has little role to play in the general direction and administration of our colleges and universities. That role is the responsibility of the individual provinces. It is also the role of the Council of Ministers of Education, assuming it wishes to take up this role. Unfortunately to date, it has not done so. But if what I hear from the National Forum on Post Secondary Education is correct, the Council of Ministers has recognized this deficiency and will expand their activity in this area. I will be pleased to elaborate on this later when debate resumes on the motion introduced by Senator Hicks on December 3 last.

But the major accomplishments by this committee are done in a quiet way. They are done by focusing on the books of the government and on its estimates, and by reporting on areas

which are in need of improvement. For example, the Auditor General has agreed with the findings of this committee in its report on the 1987-88 Main Estimates that the accounts receivable of the government are in need of review.

Treasury Board has agreed with the committee's findings that the debt forgiveness/deletion process is inconsistent; they have also agreed with the committee that the method of displaying vote transfers in supplementary estimates may lead to misunderstandings. In fact, we expect to receive a draft revision to the form of the supplementary estimates any day now.

This is the kind of work that has made the National Finance Committee successful. It is not very visible work but it is satisfying to know that our efforts are being watched and listened to, and our advice followed.

Honourable senators, if no other senators wish to take part in the debate right now because they will naturally have an opportunity to do so when the bill is brought forward to implement those estimates, then I move the debate be concluded.

Hon. Royce Frith (Deputy Leader of the Opposition): Senator Leblanc, you are not proposing concurrence in the committee's report?

Senator Leblanc (Saurel): I move that the debate on the report be concluded.

Senator Frith: So your are not proposing the report be concurred in?

Senator Leblanc (Saurel): I could move the report be concurred in, except I think we will be able to get back to it when the bill is presented in this house.

Senator Frith: Concurrence in the report by the Senate makes things easier.

Senator Leblanc (Saurel): Then, honourable senators, I move that the report be concurred in.

The Hon. the Speaker *pro tempore:* Is that agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

• (1510)

[*English*]

ILLITERACY IN CANADA

ORDER STANDS

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Fairbairn calling the attention of the Senate to the question of illiteracy in Canada.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this order has stood in my name for some time to give other senators an opportunity to speak to it. I do not intend to speak on this order. If I remember correctly, the inquiry was introduced by Senator Fairbairn, so I suggest that we stand the order in her name. She can then decide whether she wants to close the debate.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order stands in name of Senator Fairbairn.

HAITI

CURRENT SITUATION

Hon. Gildas L. Molgat rose, pursuant to notice of Thursday, December 3, 1987:

> That he will call the attention of the Senate to the situation in Haiti.

He said: Honourable senators, the only way that I can describe the situation of Sunday, November 29, in Haiti is to say that it was a horrible atrocity and a crime against humanity. I do not think that there is any doubt that the people who committed the murders of that day were the Tontons Macoutes, who go back to the regimes of the Duvalier dictators. However, I do not think that there is any way that the blame should not come to rest on the present Provisional Government of Haiti. They could have prevented what happened, but they took no action. The army was not available. It was not called out, and so it made no attempt to protect the public. The police did exactly the same. The armed bands were able to roam at will anywhere in Haiti, and no attempt was made to stop them. In my view, the civilized world cannot accept this kind of activity. We must react as democratic countries.

Before I go into the details of what I saw and did in Haiti, perhaps it would be useful for me to explain why I was in Haiti. Some three years ago, I believe, the American Congress established funds for the assistance of democratic processes in the world. These funds are distributed to the two main political parties in the United States, the Republican Party and the Democratic Party. Both parties have established non-profit organizations, or institutes, that operate at arm's length from their political parties. The organizations are linked by some of their personnel, but such personnel are not people in office. For example, the Honourable Walter Mondale, who was a candidate in the last presidential election, is now the President of the Democratic Institute. So the organizations are linked in this way, but they are not operated by the political party. The role of these organizations is to assist democracy wherever they can in the world, not to interfere in political activities in those states, but to assist.

To give you an example of some of their work, it was the NDI, the National Democratic Institute, and the NRI, the National Republican Institute, that helped in the Philippine elections by sending monitor teams. I refer to the famous election when President Marcos was deposed, and which precipitated democracy taking hold in the Philippines. Honourable senators will recall that my colleague, Senator Graham, was the Canadian representative on that occasion. The connec-

tion between ourselves and the NDI is that they belong as observers to Liberal International. As a result, it is normal, when they are seeking to set up an international delegation, that they contact Liberal International. This is how Senator Graham became an observer in the Philippines and how I became an observer in Haiti.

Some may ask: Why was it that the NDI was particularly interested in Haiti? Honourable senators will recall that after the revolution which took place, I believe, on February 7, 1985, when Duvalier was removed from power, the Haitian people decided that they would attempt to move toward democracy. You must remember that there has not been a democratic system in Haiti for some 30 years, that there has been a dictatorship for that time. There were no political parties and no means of getting the democratic process going. So, the NDI arranged a number of meetings of political leaders, assisted in getting political parties developed, and so on.

Meanwhile, the Haitian people themselves proceeded to draw up a new constitution. I must say, having read it, that I find it a most interesting and democratic instrument, an instrument that should ensure, if followed, that there will be no return to dictatorship in Haiti. The bulk of the constitution deals with how the country will work once a democratic government is elected. At the very back of the document, in the last two pages, are the temporary provisions—what is to happen between the riddance of Duvalier and the election of a new government. The election of a new government, a new president, a new Senate, and a new House of Representatives was to be held and they were to take office on February 7, 1988, as approved in the constitution. This constitution was overwhelmingly approved by the Haitian people in a plebiscite in March of last year. It has the support of the Haitian people.

● (1520)

The constitution accepted that the National Council of Government—the CNG, using the French terminology—was to carry on until February 7, 1988, with the right to govern and keep peace and order.

However, the constitution also established a separate body called the CEP—Conseil d'élection provisoire. This body is a very democratic body. It is not appointed by the government. It is appointed by a series of interest groups in the province. For example, the Executive Branch have the right to appoint one person; the Episcopal Conference, one person; the Advisory Council, one person; the Supreme Court, one person; the agencies involved in human rights have the right to appoint one person; the Council of the University appoints one person; the Journalists' Association, one person; the Protestant religions, one person; the National Council of Co-operatives, one person. In all, nine individuals picked by these various groups—and not picked by the government—have the specific responsibility of seeing to it that there is a democratic election. Therefore, whilst admittedly having some difficulties with the government, the CEP has been functioning since that time to establish the election procedures.

In all of this, as you know, they were assisted by Canada. We were one of the countries that gave major assistance, something of the order of $1 million, I believe. The American government assisted very substantially, and there was assistance by volunteer groups such as NDI.

One of the provisions in the constitution is that the CEP must decide who can be a candidate, and again the rules are quite clearly laid out in the constitution. It eliminates for a period of ten years anyone who had a major responsibility in the Duvalier regime and who assisted that regime. In other words, anyone who promoted the previous dictatorship is not allowed to run for public office for ten years.

The CEP then rejected 12 candidates who, in their opinion, had been very closely involved in promoting the Duvalier regime. Those people were eliminated. However, that still left 23 presidential candidates. Therefore, there certainly was not an overall rejection of candidates or an attempt by the CEP to pick a candidate. They left the Haitian people with a choice of 23. Similarly, for the Senate there was a wide choice.

Nevertheless, the government felt that this was interference, and there were difficulties during the course of the summer. The government attempted to cancel the responsibilities of the CEP and take over in their stead. The Haitians reacted; the government withdrew; the CEP took up its position once more and proceeded with the electoral process, preparing the country for an election. Honourable senators will remember that this is a country where there has not been an election for 30 years; where there has been a very repressive regime. Haiti is also the poorest country in the North and South American region and the country with the highest rate of illiteracy.

Nevertheless, the election procedures went on. All was not easy. Two presidential candidates were murdered in the period leading up to the election. In many cases electoral offices were burned; the headquarters of the CEP were burned down; the main printing bureau that was printing the ballots was burned down; there was a constant lack of control by the government. The government did not protect the electoral process.

Nevertheless, the process continued, and in October the registration process was successful. Voters were asked to come and register at 6,000 locations in Haiti. Five hundred were allocated to each poll, and out of a population of something in the order of 6 million people over 2 million Haitians came to register. These people wanted to take part in the electoral process.

Meanwhile, no action that I have been able to observe was ever taken by the government to seek out the murderers of the two presidential candidates or to determine who was involved in the burnings and riots that occurred. So much for the events leading up to the election.

Honourable senators, we were part of an international delegation, and when we returned to Miami that delegation issued a statement. I will ask to have distributed to honourable senators a copy of that statement. I might point out that we were not prepared to issue the statement while we were in

Haiti. This statement contains a list of the individuals and countries represented on this delegation.

Honourable senators, I do not intend to read the whole of this statement into the record since it is some two and a half pages. I hesitate to do this, because I know the Senate is reluctant, but I ask that we add the statement as an appendix to today's proceedings.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of statement, see appendix, p. 2316*)

Senator Molgat: The delegation arrived in Haiti on the Friday night. We proceeded, first of all, with a security briefing, and I suppose that should have warned us of impending troubles. We were given a briefing on how to recognize pistol fire from machine-gun fire, and how to tell how close the bullets were to you, and what action to take in those events. We were also told never to travel singly, but always in pairs, and never to travel at night. People do not travel at night in Haiti.

During the course of the night there was intermittent gun fire in the vicinity of our hotel. The following morning we had our main briefing and divided ourselves into six teams. Two of those teams were to go by chartered aircraft to distant locations in Haiti; two were to go by car to areas somewhat closer and accessible, and two of the teams were to stay in Port-au-Prince, the capital city. The two teams that were to go by air went out to the airport. The aircraft had been hired previously, but did not receive authorization from the government to take off. Either the Haitian government or some colonel decided that the aircraft could not leave. So our teams were held there.

Honourable senators, I want to point out to you that the NDI was not there by accident. It was not in Haiti simply by its own choice. It had been invited by the Government of Haiti. On October 23 former Prime Minister Price of Belize and former U.S. President Jimmy Carter were in Haiti. They met with the President of the CNG and he welcomed the presence of observers for the election. This was confirmed in writing to the NDI at a later date by the Haitian Ambassador to the U.S.

Moreover, the NDI was not the only observer group there. As you know, the Canadian government had a three-person team in Haiti; some churches had teams there, and there were a number of observer groups who had been invited to Haiti. Nevertheless, on the Saturday afternoon we were prevented from sending out two of our teams.

• (1530)

Later that day we visited polls. We wanted to see what preparations were going on for the election—were things in place, was there security, what was happening? We were not prevented from moving about. We went to a number of different polls and observed what they were doing. The process was carrying on.

Later we went to a regional bureau—Bureau électoral de département. At that time we received a communique from the CEP. I will read the section that is pertinent:

[*Translation*]

> A number of vehicles carrying voting material were set on fire, ballot boxes were stolen, a number of highways were cut off. People representing the BEC and such polls as those of Petite Rivière de l'Artibonite, Verretes, Chapelle, Anse à Foleur, Gressier, had to take cover because they were attacked and chased by armed individuals.

[*English*]

That was on Saturday afternoon at approximately 3 o'clock.

We carried on with our visit to the polls. Saturday night was worse than the previous night. There was more firing, explosion of grenades, and so on. To my knowledge, they were not aimed at us, but the purpose was to intimidate the population in order to keep a high state of tension in the country to make everyone afraid.

As we went around to the polls, I made a point to speak to as many Haitians as possible. They were very easy to speak to and very willing to discuss the election. In every case they said that they intended to vote. They were very enthusiastic, enthusiastic about the opportunity to express an opinion after so many years of repression.

The following morning our cars were to pick us up shortly before 6:00 a.m. to take us to polls. The cars did not arrive. Obviously, the drivers were not prepared to travel in the pre-dawn period; they would only travel in daylight. We made arrangements, and we were at the polls shortly after 6:00 a.m. The polls were to be open between the hours of 6:00 a.m. and 6:00 p.m.

The first polling station I went to with my team was Eglise St. Pierre. There were hundreds of people in line waiting to enter the poll. From there I went to another poll just across the street—Lycée St. Pierre—where there were four polling stations to accommodate 500 people each. At that time there were clearly more than 500 people lined up on the street. The line went around three sides of the block. The people were peaceful, quiet, no riots, no difficulties, no yelling. They were peacefully waiting to vote.

The process was slow. The first poll opened at 7:00 a.m., or thereabouts. The next three polls opened between 7:00 a.m. and 7:30 a.m., but it was proceeding. As I have said, people were very quiet and relaxed. There was no problem at all.

We left the poll shortly after 8:00 a.m. Shortly after arriving back at the hotel, firing began. It was very intense firing at that point. It seemed to be approaching our hotel. The reason for that is there was another poll closer to our hotel. The firing stopped after approximately five or ten minutes.

Then the reports started to come in that there had been atrocities in other parts of the city. By 9:00 a.m. it was reported that the election was cancelled and that we were to stay where we were. The problem was that we had no idea what the situation was—was there security, or was there no

security? I can tell you that in all this I did not see a soldier or a policeman protecting anyone.

When reports filtered back from the church where we had been, the Haitians told us what had happened. The people were standing in line, and armed groups came along in a car, firing over their heads—apparently not at the people in this particular case—to scatter them. The people scattered. The car went away, and the people regrouped; they came back to stand in line so that they could vote, in spite of what they had been subjected to. There is a police station no more than half a block away. No police came out to protect the people. The car came back a second time, and at that time the people left.

At another school, which was only ten minutes away from our hotel in the other direction, one of the main atrocities occurred. Because I wanted to see for myself whether or not the reports were accurate, I went there early on the Tuesday morning.

We were hoping to leave that day. It was very difficult to ascertain whether or not one could leave. Information was, to say the least, scant. Our aircraft had been cancelled. We were fortunate enough to have an American government charter, which took us out of the country.

Before we left, I asked to go to this particular school—Ecole Nationale Argentine-Bellegarde. There were three of us who went. The taxi driver did not want to go. We finally convinced him that he should take us. When we got within approximately 100 yards of the school, he said, "J'ai peur," and he would not go any closer. He dropped us off and said that he would pick us up later.

We went into the school and it was an abattoir. There were high stone walls around this school with one entrance. Inside this school, a two-storey building, there were four classrooms surrounded by three full concrete walls and one low concrete wall. The armed bands had arrived with machine-guns and machetes. People had run and hidden in these classrooms, and had been murdered there on the spot. The blood was all over the place. Obviously not only rifles or machine-guns were used; machetes, as well, had been used. An absolute scandal. In no case was there any protection for these people. All they were trying to do was vote.

What do we do now? I do not think that the civilized world can stand by and do and say nothing. We must show the Haitian government that all of the civilized world completely rejects this sort of action. We must, as human beings, take every step we can to prevent that regime from continuing in this way. If it means economic action, we must take economic action.

Canada, in this regard, has a particular role to play. I am not suggesting that the United States should be the one to do this. I do not think that would be well received for many reasons. Canada can play a role. Organizations such as the Organization of American States—although we do not belong to it—have a role to play. I think we can take the lead in this regard.

[Senator Molgat.]

We have a particular link with Haiti. For many years there have been a fair number of Canadians living there as missionaries and workers. There are many Haitians here in Canada. We have an association with them through La Francophonie. We must take action. However, I do not believe such action should take the form of armed force.

I do believe that we should offer to send a peace-keeping mission to Haiti in order to allow the Haitian people to proceed with their election and to achieve democracy. Immediately after this event on Sunday, the military government announced that the election would carry on in time for the new president to take his office, as provided in the constitution, by February 7. But, at the same time, the CEP—the electoral commission—was abolished. They said they would ask the groups mentioned in the constitution to name new people. I do not think that is going to happen. I do not think that those groups, seeing what has happened to this electoral commission, will be prepared to set up another one to be a puppet of that government. Quite obviously that government wants to set up a puppet president, and they will continue the same repressive regime the Duvaliers had for 30 years. I do not think that that should be allowed, because if that were to happen, I predict that the bloodshed in Haiti will be far worse. The Haitian people will simply not submit to that. They have seen an opportunity now to have a democratic country, and that is what they are going to get. However, the process will be extremely difficult and extremely painful. Many people will die in the process if there is no outside help. I think we are one of the countries which can do something about it.

The Hon. the Speaker *pro tempore:* As no other honourable senator wishes to participate in the debate, this inquiry is considered debated.

NATIONAL DEFENCE

DEADLINE FOR PRESENTATION OF SPECIAL COMMITTEE REPORT EXTENDED

Hon. Henry D. Hicks moved, pursuant to notice of December 3, 1987:

> That notwithstanding the Order of the Senate adopted on Tuesday, 7th of April 1987, the Special Committee of the Senate on National Defence be empowered to present its final report no later than Thursday, 15th December 1988.

He said: Honourable senators, perhaps I might make a few remarks in explanation of this motion and to underline the necessity for its speedy passage.

When this committee was constituted in April of this year, it was hoped that the work of the committee might be finished by December 15, in other words, one week from today. Honourable senators will know that the summer was a disturbed one insofar as the Parliament of Canada was concerned. The committee did not get organized as quickly as it might have done and, because of pressing Senate business, we had to forgo our visits to military installations in the western part of Canada and, latterly, our proposed visit to Camp Gagetown.

The result is that while the committee has taken a good deal of evidence, its evidence is not yet complete. We think it may take another three working months, or thereabouts, to complete hearing the witnesses who have signified that they want to appear before the committee and to make the necessary visits to installations of Mobile Command both in eastern Canada and in the west.

If we could complete all this before we rise for the summer recess, we hope the committee will have resolved its main positions with respect to Canada's land forces, and that the staff of the committee can commence the writing of the report so that when we return in the autumn of 1988 we can put the final seal of approval on the report, have it translated, and I am very confident—indeed, I think it is essential that we must do so—that the report can be completed and tabled in the Senate not later than December 15, 1988.

Some other things have also caused us difficulties. The chairman of the committee, Senator Paul Lafond, due to health reasons, has resigned. The committee has not yet been reorganized, and, indeed, it was felt that before the committee reorganized and selected a new chairman we ought, at least, to extend the life of the committee beyond Tuesday of next week.

If Senator Marshall had been here—and he is absent from today's sitting for reasons personal to him. In fact, he is attending the funeral of a very good friend of mine, as well, in Nova Scotia—I would have included his name as the seconder of this motion. He is fully aware of it, and I do not think I am trespassing on his good faith to say that he supports it entirely. For that reason I named Senator McElman as the seconder of the motion.

Some honourable senators may recall that I was the mover of the motion that originally established the Special Committee of the Senate on National Defence to undertake a study of Canada's land forces. If this motion passes, I think we can complete our work in the time stipulated in the motion.

In further support of the motion, I should add that we have enough money left in our budget to complete the work of the committee in this fiscal year, that is, to carry all our expenses to March 31, 1988. As a matter of fact, the initial budget of the committee was about $133,000. We have spent about $73,000 and we have about $60,000 remaining. This will carry us through for the balance of this fiscal year so that no further budget provision will be required.

I hope that the committee, which has a meeting scheduled for this evening at 6 o'clock, will be able to have a meeting to reorganize itself on Thursday morning, before we leave, so that before the Christmas recess we can instruct the staff of the committee about the work which needs to be done in the first three months, or thereabouts, of 1988.

Honourable senators, I think that the record of the Special Committee of the Senate on National Defence—whose predecessor started off as a sub-committee of the Standing Senate Committee on Foreign Affairs—in its various forms, speaks for itself. I think that our reports on manpower in Canada's Armed Forces, on the maritime defence of Canada, and, latterly, two reports on North American air defence and the other on air transport command have been extremely well received. I think they have been a factor contributing to the reputation of the Senate and its work, and they certainly have been a factor affecting the morale of the men and women in Canada's Armed Forces, where the work of your Senate committee has, I think, been greatly appreciated.

In order to wind up the work of the committee and to conclude our study, we need to complete our analysis of Canada's land forces. We will then have dealt with manpower—sea, air and land. I hope that this may all be wrapped up and placed before you in one year and one week from today.

I urge you to support this motion, honourable senators.

Motion agreed to.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—DOCUMENTS TABLED

Leave having been given to revert to Presentation of Petitions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, earlier today I indicated that I was expecting documents describing the studies undertaken for the proposed crossing of the Northumberland Strait. With your permission, I will revert to Presentation of Petitions so that I may table these documents.

Documents tabled.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 2313*)

STATEMENT OF THE NDI INTERNATIONAL OBSERVER DELEGATION ON THE ABORTED HAITIAN ELECTION

The 30-person international delegation organized by the National Democratic Institute for International Affairs observed an unprecedented event on November 29, 1987 in Haiti—the cancellation of an election in progress because of rampant violence unleashed against peaceful, defenseless, determined and patriotic voters and election officials. The provisional Haitian government, the CNG, which took office promising to maintain order until a new government could be elected, failed in its self-proclaimed task.

The delegation, led by former Belize Prime Minister George Price and NDI president J. Brian Atwood, including party leaders from twelve countries, was invited to observe the November 29 Haitian elections by the Provisional Electoral Council (CEP) and by the CNG.

The President of the CNG, in a meeting on October 23, 1987, with former Prime Minister Price and former U.S. President Jimmy Carter, welcomed the presence of observers for the elections. This welcoming of international observers by the Haitian Government was confirmed in writing by the Haitian Ambassador to the U.S. in a letter to NDI.

While Haitians assumed the primary responsibility for administering and monitoring the November 29 elections, the invitation to international election observers was consistent with established practice. Such election observer missions are common among the nations of the international community which are governed democratically.

The conclusions contained in this statement are based on the delegation's observations in Port-au-Prince, Gonaives, Jacmel and Les Cayes. Our attempts to observe the process in other regions were prevented when the Armed Forces refused to clear chartered aircraft to fly to remote areas.

On election day, the delegation observed numerous incidents of shooting at defenseless and innocent people on the streets of Port-au-Prince. Two groups of NDI observers were fired upon, with three shots hitting the vehicle of one of the groups. The delegation also heard reports of the many people who died as a result of the violence which prevailed in much of the country and which was clearly orchestrated to frustrate the voting process.

The delegation also observed for several hours an election process which was operating despite intimidation and adverse conditions. It observed large numbers of voters waiting in lines to cast their ballots with democratic fervor in the first free Haitian election in more than three decades. We observed exultant election officials arriving at polling places with election materials, having survived a night of gunfire, fire bombings and grenade attacks. We saw Haitians from across the political spectrum volunteering in order to make the election successful. Indeed, in one region, we observed the election officials and the armed forces working together, with the latter providing the security essential for the conduct of a peaceful election.

From its observations both before and on election day, the delegation is convinced that the Provisional Electoral Council did its utmost to meet its constitutional mandate. As the delegation expected, on election day we did observe some deficiencies in the process: there were some administrative difficulties but most problems resulted from the lack of cooperation provided by the CNG on security and other matters. In particular, the CNG failed to secure the roads and denied the CEP permission to use helicopters chartered by the CEP with the full knowledge and consent of the CNG. This prevented the distribution of election materials in several regions of Haiti. It is our view that the armed forces and the police tolerated and in some cases abetted the violence which disrupted the elections.

Despite all the adversities sustained in the period leading up to the elections, the Haitian people wanted to vote. They were deprived of this opportunity only when the CEP found it necessary at 9:00 a.m. on election day, but hours after polls had opened, to postpone the election to prevent the likelihood of further massacres. Based on our observations, we reject unequivocally the CNG's attempt to cast blame on the CEP for the failure of the elections; this was clearly caused by the violence which only the CNG was in a position to prevent.

As an international delegation, we commit ourselves to follow closely the situation in Haiti and to urge our governments to do all in their power to prevent the further loss of life and to ensure Haitians their right to freely choose their own Government. Haiti's neighbors and the Organization of American States, of which Haiti is a member state, have a major responsibility in this regard.

We will also urge our governments and our parties to consider the crisis facing Haiti as a matter of the utmost urgency.

Finally, we are confident that the people of Haiti will ultimately prevail in conducting a free, fair and peaceful election in the future. We commit ourselves to return to observe that event and to continued solidarity with the people of Haiti as they pursue their democratic aspirations.

MEMBERS OF THE NDI DELEGATION
George Price, Co-Leader, Belize
J. Brian Atwood, Co-Leader, U.S.
Herman Alvino, Venezuela
Graeme Bannerman, U.S.
Enrique Carreras, Costa Rica
Vivian Lowery Derryck, U.S.
Neville Gallimore, Jamaica
Larry Garber, U.S.
Juan Manuel Garcia-Passalacqua, Puerto Rico
Steve Horblitt, U.S.
Julian Hunte, St. Lucia
Ellen Johnson-Sirleaf, Liberia
Anthony Maingot, Trinidad & Tobago
Billie Miller, Barbados
Gildas Molgat, Canada
M. Ousmane Ngom, Senegal
Mariano S. Quesada, The Philippines
Nancy Soderberg, U.S.
Antonio Blavia, Venezuela
Roberto Tovar, Costa Rica
Casimir Yost, U.S.

NDI Staff

Sean Carroll
Ron Davidson
Leticia Martinez
Michael Stoddard
Ingrid Thomas
Geraldine Thompson

THE SENATE

Wednesday, December 9, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-64, to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

FISHERIES

FIFTH REPORT OF COMMITTEE TABLED

Hon. Jack Marshall: Honourable senators, I have the honour to table an interim report on the west coast fisheries, which is the second phase of the study on the marketing of fish in Canada undertaken by the Standing Senate Committee on Fisheries.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

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

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

PROPOSED STANDING COMMITTEE—NOTICE OF MOTION

Hon. Stanley Haidasz: Honourable senators, I have the honour to give notice that tomorrow, Thursday, December 10, 1987, Universal Human Rights Day, I will move:

> That Rule 67.(1) of the Rules of the Senate be amended by inserting immediately after paragraph (*o*) the following new paragraph (*p*):
>
> (*p*) The Standing Senate Committee on Human Rights and Fundamental Freedoms, composed of twelve members, four of whom shall constitute a quorum, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to the protection of human rights and fundamental freedoms.

QUESTION PERIOD

[*English*]

AGRICULTURE

DEFICIENCY PAYMENTS TO WESTERN GRAIN FARMERS FOR 1987 CROP YEAR

Hon. H.A. Olson: Honourable senators, I have been away for a few days, and I hope you noticed.

An Hon. Senator: We missed you!

Senator Olson: While I was gone, there was an announcement about a stabilization payment, or the final payment under the Western Grain Stabilization Act, a program that was established by the previous government, for which the farmers are very grateful. We have not yet had any response from the minister respecting a deficiency payment for the 1987 crop year—and, of course, I have asked about this several times during the year. Can the minister now tell us whether or not a payment will be made, and, if so, when the grain producers, who are having a very difficult time because of very low international prices, can expect a payment? Whether or not it is to be made immediately, they could at least take it into their financing plans for the coming months.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I believe the Prime Minister indicated during the First Ministers' Conference in Toronto a week or two ago that an announcement on that matter would be made before Christmas.

Senator Olson: Thank you very much. I hope it will be.

OFFICIAL LANGUAGES

EXISTENCE OF JOINT COMMITTEE—STATEMENT BY SECRETARY OF STATE

Hon. Dalia Wood: Honourable senators, I would like to ask the Leader of the Government if he would inform his colleague, the Honourable David Crombie, Secretary of State of Canada, that a Special Joint Committee on Official Languages was created in 1980 and a Standing Joint Committee on Official Languages in 1984.

On December 3, when appearing on Peter Gzowski's program on CBC, Mr. Crombie informed all Canadians that no

such committee existed. Coming from a minister who is responsible for minority groups and education protocols that are now being signed, I find that incredible.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sure there must be a misunderstanding somewhere, because Mr. Crombie is very well aware of the existence of the standing joint committee of this place and of the other house on official languages. I have not heard anything about the interview between Mr. Crombie and Mr. Gzowski. I suspect, without knowing anything about it, that Mr. Crombie was referring to references in the proposed amendments to the Official Languages Act dealing with the joint committee.

Senator Wood: He clearly said that there was no such committee. I have the tape in my office, which I could send to the Leader of the Government, in which he clearly said that there was no such committee.

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government concerning the Air Canada strike. I am wondering whether he has anything further to report and whether he has answers to my questions of yesterday. I would like to know how the negotiations are going.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sorry, but I have nothing to report further to what I told the house yesterday.

Senator Argue: I hope that the government will soon be prepared to accept the principle that indexing of pensions is good in its own right, and that there should be movement by Air Canada toward that end.

Senator Murray: Honourable senators, I hope that the honourable senator accepts the principle that the resolution of this dispute is between Air Canada and its employees. The government is not a party to the dispute.

Senator Argue: I would like to believe that, but I don't. I think the government takes sides and that the government is on the side of Air Canada in trying to weaken the union. But that is a matter of opinion—

Senator Olson: If they are, then it separates fact from fiction.

Senator Argue: —but I believe that to be the case. I think this government is always with management. I think that this government basically is anti-labour.

Some Hon. Senators: Oh, oh!

An Hon. Senator: Shame!

An Hon. Senator: Order!

AGRICULTURE

PRINCE RUPERT GRAIN HANDLERS' STRIKE—CURRENT SITUATION—GOVERNMENT ACTION

Hon. Hazen Argue: Honourable senators, I have a question concerning a strike that I believe went into effect today at the Prince Rupert Terminal in British Columbia. Before asking a general question on the current situation and what action, if any, the government is proposing to take, I hope I may be pardoned by my colleagues if I give a little of the background to this strike and the parties involved.

The president of the Grain Workers Union is a man by the name of Henry Kancs. I have been associated and have had dealings with Henry Kancs for many years. I think he is one of the most responsible labour leaders in this country. He not only has the welfare of the membership of his union very much at heart, but he also understands the economic position of the farmers, and he wants to be fair. That is how I have found this individual to be for many years, and I had occasion to meet with him from time to time when I was a minister a few years ago.

• (1410)

Senator Simard: The good old days.

Senator Argue: I have talked to Mr. Kancs on the telephone. He informs me that the same companies involved in the present strike at Prince Rupert settled a three-year agreement on October 10 with the terminal operators at Vancouver. The settlement was for a total increase of 5 per cent in wages over a period of three years. I do not see how anybody could be more responsible than to say, "We will take a total increase of 5 per cent over three years," knowing that that increase will likely be a good deal less than the rate of inflation over that period.

The nub of the problem here is whether or not management will be able to designate as foremen persons who are actively engaged in the operation of the terminal. In the old terminal there were 115 unionized employees and four foremen.

Senator Doody: Question!

Senator Argue: In this new union situation there are 69 employees and 45 supervisory personnel. Mr. Kancs is very much aware that in Prince Rupert the unemployment rate is 33 per cent. In Ontario the unemployment rate is 4 per cent. However, recently management went to Thunder Bay and hired, I believe, four people who have the qualifications to be foremen, brought them out to Prince Rupert, put them in positions where they will be actively engaged in the work there, and this is the action that has brought on the strike. Henry Kancs' union has either not had a strike in 31 years, or it has been 31 years since they had the last strike. I would say that this union is one of the most responsible unions in Canada, and it is led by a leader who has the farmers' interests at heart as well as those of the workers. I ask the minister to respond.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is a dispute that goes back to the end of 1983—

Senator Argue: Three and a half years, yes.

Senator Murray: —when the collective agreement expired. Since that time the matter has been to conciliation, to mediation, to the Canada Labour Relations Board, to the Federal Court twice, and, as of this morning, the union commenced a legal strike. I am informed that no meetings between the parties are currently scheduled. I am not sure what response the honourable senator would like me to make, except to confirm the chronology of events which I just gave. I point out that there was a conciliation commissioner's report as long ago as January 1986, which was accepted by the company but rejected by the union. I do not know where that leaves us, but at the moment it leaves us with a legal strike commenced this morning by the union.

Senator Argue: Honourable senators, I am not sure of the accuracy of the facts the minister gave in his last statement. I am not questioning his veracity; I am simply not aware that what he has said is fact. I understand that the union accepted the conciliation report with regard to the Vancouver situation.

In any event, I think that the minister in this chamber might have a word with the Minister of Labour, who I am sure is on top of this situation, to see if there is any development that he might wish to report to this chamber.

Senator Murray: Honourable senators, I can tell the honourable senator that the parties met as long ago as April and May of 1985 with the Minister of Labour and with the Associate Deputy Minister of Labour. However, all of these meetings and other processes that I have referred to—the Canada Labour Relations Board, the Federal Court, and the mediation and conciliation efforts that have been made—have not succeeded in resolving this dispute. The employees are without a collective agreement at this moment and the union is on strike, legally.

THE ENVIRONMENT

POLLUTION OF GREAT LAKES—GOVERNMENT ACTION

Hon. Stanley Haidasz: Honourable senators, I have a question for the Leader of the Government in the Senate. In view of the increasing number of scientific reports that Canadians living around the Great Lakes and using the water from those lakes—the greatest body of fresh water in the world—are being contaminated not only by the water but also by some paper items and others that go into the manufacturing of consumer products, I would like to ask the Leader of the Government what the government has done to date to deal with this problem. Can the Leader of the Government in the Senate tell us what government ministries, departments or agencies are involved in any studies of this problem, and when can Canadians expect some action to diminish it?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there are a number of questions rolled into that one presentation. It is a rather comprehensive report that the honourable senator is seeking. I will see whether it is possible to obtain one in a form that is suitable for Question Period.

ARCTIC SOVEREIGNTY

RELATIONSHIP WITH CANADA-UNITED STATES FREE TRADE AGREEMENT

Hon. Willie Adams: Honourable senators, I have a question for the Leader of the Government in the Senate which is similar to the question that Senator Lucier asked yesterday. I hope that Arctic sovereignty is not part of the Free Trade Agreement with the United States. I think it was approximately two weeks ago that the Leader of the Government in the Senate was invited to attend the First Ministers' Conference in Toronto. Following that conference, I am wondering whether, in the same way that the Yukon and the Northwest Territories suffered in the wake of the Meech Lake Accord, Arctic sovereignty will be affected by this Free Trade Agreement.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sorry, but I do not quite understand the question.

Senator Adams: Then I will try again. Yesterday Senator Lucier asked a question as to whether the question of Arctic sovereignty formed part of the Free Trade Agreement. At that time you told him to wait until the agreement was concluded before we could see what had happened.

My question is: Will Arctic sovereignty be part of the Free Trade Agreement in the future? Since the maritime fish industry is not included in that agreement, as are neither transportation nor shipping, I was wondering whether Arctic sovereignty had also been excluded, or whether that was something we would have to face in the future.

Senator Murray: Honourable senators, the only reply I can give to that question is that there is no relation between the Free Trade Agreement signed between Canada and the United States, on the one hand, and the desire of both our countries for Arctic cooperation and for an agreement covering Arctic cooperation.

Senator Adams: What is Arctic cooperation? Is that a new concept? I do not know what is meant by "Arctic cooperation."

Senator Murray: There are a variety of subjects that are to be covered under the general title of Arctic cooperation, including, as has been indicated, the passage of ice-breakers through those waters over which Canada claims sovereignty.

● (1420)

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—AVAILABILITY OF STUDIES—GENERAL DESIGN OR CONCEPT—SUBMISSION OF PROPOSALS

Hon. John B. Stewart: Honourable senators, yesterday the Deputy Leader of the Government in the Senate tabled studies undertaken in relation to the proposed fixed crossing of the

Northumberland Strait to connect the mainland of Canada to Prince Edward Island. Some time ago I suggested to the Leader of the Government in the Senate that given the interest of fishermen in New Brunswick and Nova Scotia, it might be desirable that these studies be made available in libraries in those two provinces as well as in Prince Edward Island. I would like to know if anything has been done to carry out that suggestion.

I would remind the Leader of the Government in the Senate of a question I asked earlier. My earlier question was: Who has been invited to submit proposals for this permanent fixed crossing, and when will their proposals or tenders be receivable? Perhaps the Leader of the Government can answer that question now, or perhaps the Deputy Leader of the Government intends to deal with it later this day.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with regard to the first part of the question, I do not know whether these studies have been made available to public librairies other than those in Prince Edward Island. However, I shall convey the honourable senator's suggestion to my colleague, the Minister of Public Works, recognizing as I do, and as he will, that interest in this matter is not confined to Prince Edward Island.

With regard to the second part of the question, the seven consortia invited to submit proposals are: Abegweit Crossing Limited, Halifax; Banister Continential Ltd.-Trimac Limited, Toronto; Dillingham Construction Limited, Vancouver; Monenco Maritimes Limited, Halifax; Northumberland Bridge Builders, Toronto; PEI Crossing Venturers, Montreal; W.A. Stephenson (Western) Limited, Calgary.

I do not have in front of me the deadline for the submission of proposals, but I will attempt to obtain that information and inform my friend.

Senator Stewart: Perhaps when the Leader of the Government is completing the answer to that aspect of the question he will obtain the names of the persons or companies that participate in the various consortia. For example, the Abegweit consortium consists of several persons. Some of that information has already been made available through the media.

It would be most helpful if we could also be told what these consortia were asked to deal with. Is it a bridge? Is it a canal? Is it a tunnel? Is it a mixed causeway-tunnel-canal project such as was proposed some 20 years ago? It would be good to know the kind of request that was submitted to the various consortia.

I must say that I am sure the Leader of the Government is frustrated with the Department of Public Works, because he asked for this information from that department at least three weeks ago.

Senator Murray: Honourable senators, I do have a response to the honourable senator's question concerning the general design or concept. The statement says:

> The government's approach to this project is for the private sector to design, build, finance and operate a bridge or tunnel under a long-term subsidy agreement.
>
> At this stage, the Department of Public Works is finalizing through public meetings and review by the regulatory agencies the environmental, technical and economic development guideline and criteria which the developers must adhere to in developing their design concepts. These design concepts which can be for either bridges or tunnels will be then submitted to Public Works for review. There could be up to seven different concepts [one for each consortium] and each must conform in every way to the criteria established. If a concept does not conform, the developer will be asked to revise his proposal. If he does not make the required revisions, the proposal will be excluded from further consideration. Once Public Works is satisfied that the various concepts meet the technical, environmental and economic development criteria, the developers will be asked to price their solutions. A contract would be awarded to the developer requiring the lowest level of government subsidy.
>
> The successful concept be it bridge or tunnel would then proceed to the detailed design stage. Public Works would review the detailed design to ensure its integrity and would monitor construction to ensure quality and safety are not compromised.
>
> The government's general design at this juncture is for a bridge or a drive-through tunnel from shore to shore.

Senator Stewart: I think that is very useful, because we now know that the permanent fixed crossing, as envisioned by the government, is to be either a bridge or a tunnel from shore to shore.

Just for greater certainty, may I ask the minister if this means that the permanent fixed crossing will not involve a segment of causeway on both or either of the ends.

The reason I ask this question, honourable senators, is that it is causeway segment or segments which will have a major effect on tidal flows and ice movements, and therefore the fisheries.

Am I correct in concluding what seems obvious from the minister's answer, that no causeway segment whatsoever will be involved in the project?

Senator Murray: The honourable senator is correct in observing that the word "causeway" does not occur once in the statement I have just read. It would therefore seem to me that a causeway is excluded, as he suggested, but I will want to confirm that with my colleague and report back.

ARCTIC SOVEREIGNTY

RELATIONSHIP WITH CANADA-UNITED STATES FREE TRADE AGREEMENT—PARTICIPATION OF TERRITORIES

Hon. Paul Lucier: Honourable senators, I have a question for the Leader of the Government in the Senate concerning the

impending agreement between Canada and the United States with respect to the Canadian Arctic.

When I asked a question yesterday, the minister said:

> Honourable senators, with the greatest respect, the subject matter of these discussions with the United States is not the responsibility of the territorial governments. The subject matter is squarely the responsibilty of the Government of Canada.

He then went on to say:

> —we have had very close cooperation with the governments of the territories on any number of matters in the past several years.

During my recent trip to the Yukon as a member of the task force, honourable senators, Mr. Nick Sibbeston, who at that time was the elected Government Leader of the Northwest Territories—for the record, I should like to say that the person holding that office is equal to the premier of a province as far as we in the Northwest Territories or the Yukon Territory are concerned—was asked the following questions by the chairman and gave the following answers:

> **The Chairman:** In the process leading up to the Meech Lake accord, it is my understanding that Senator Lowell Murray, the Minister responsible for Federal-Provincial Relations, was negotiating. Were there any negotiations with you; did he come to Yellowknife to discuss with you, or did he invite you to Ottawa to discuss with him?
>
> **Mr. Sibbeston:** Not at all whatsoever, sir. Our letters were simply not answered by the Prime Minister and the Premiers.

The chairman then asked:

> Have you ever met Senator Lowell Murray, the Minister of Federal-Provincial Relations?

And Mr. Sibbeston replied:

> No, sir. And I have never met the Prime Minister.

The chairman then asked:

> You have never met the Prime Minister either?

And Mr. Sibbeston replied:

> I have never met the Prime Minister to discuss matters of mutual concern. I attempted to arrange a meeting with the Prime Minister last winter and when he became aware of the agenda items, which included constitutional development, the meeting was . . . It seemed as if we were going to get a meeting with him, but the meeting was suddenly not available. He insulted us by agreeing to have a meeting, just to have a picture taken of him and me. That is the closest . . . I, as Government Leader, have ever got to the Prime Minister. He offered to have his picture taken with me.

Senator Perrault: What an honour!

● (1430)

Senator Lucier: Honourable senators, that is the cooperation that takes place between this government and the leaders of the two northern territories.

[Senator Lucier.]

In reply to a question from Senator Adams just now—which I thought was no reply at all—the Leader of the Government in the Senate said that there was no relationship between this agreement being signed on the Canadian Arctic and free trade. It seems to me that we were told the same thing concerning Bill C-22, the drug bill, and the Auto Pact.

Is the minister seriously suggesting that we should believe that there is no relationship between this agreement and free trade, and that it is just a coincidence that this thing is now being negotiated at the same time as the Free Trade Agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the issues involved in Arctic cooperation between Canada and the United States pre-date any consideration or announcement by the government concerning free trade negotiations with the United States. I repeat, the two are unrelated.

With regard to the first part of the honourable senator's question, first of all, I stand by my statement yesterday that there has been considerable devolution from the federal government, from Ottawa, of provincial-type programs to the territorial governments. I believe that this is a positive development which is welcomed by the territorial governments and is working well. We intend to continue in that direction. I think it would be helpful to the honourable senator if I brought in a report in more detail on that matter, and I must remind myself to do that for his edification and for the information of other honourable senators.

With regard to the involvement of the territorial governments and the process leading up to Meech Lake, I have stated here before and repeat that my duty as Minister of State for Federal-Provincial Relations was to consult with those governments that are part of the amending process, which are the governments of the provinces. It was the responsibility of the Prime Minister of Canada, in order to end the isolation of Quebec—a major partner in our Confederation—from the Constitution, to convene the provinces at Meech Lake and again at the Langevin Block, which he did.

As far as Mr. Sibbeston is concerned, I seem to believe that we have met at some point either during the ministerial or First Ministers' meetings on aboriginal constitutional reform. Obviously, for him it must have been a forgettable meeting.

Senator Lucier: Honourable senators, first of all, I would like to say that I want to commend this government and the previous government for the ongoing devolution of powers to both territories, which has taken place in the last 10 or 15 years. Both the present and the previous governments did a good job and have continued to do a good job of devolution of powers to the territories. The territories have both proven that the powers that have gone to them have been handled well. There have been some problems, but few in devolution of powers. I want to make it clear that I would appreciate receiving a report from the minister for the clarification of all senators. I would also like to see it. I have no problem with

that, but I still have a problem with a government minister being able to stand in this place, or in any place, and say, "Because we are giving you some devolution of powers, you cannot have any discussions on something as germane to those areas as an Arctic agreement." This concerns Senator Adams', Senator Watt's and my own constituents. It concerns them directly. How can you discuss something like that without discussing it with the people of those areas? They are the ones who are going to be directly affected by it. How can you discuss the Meech Lake Accord with the premiers when you are dealing strictly with our areas?

I know that there were other matters contained in the Meech Lake Accord, and we are not arguing about those. How could you discuss with the premiers matters which are going to have a significant impact on the North without having the North represented? Surely the Leader of the Government is not suggesting to this chamber that because the government does some things for us we should accept everything else it does. Surely that is not your position.

Senator Murray: That is not our position, honourable senators.

Yesterday my friend was suggesting that there had been some considerable neglect of the North by the present government and I wanted to point to devolution of authorities as a very positive area that had been pursued successfully by the federal government in cooperation with the territorial governments.

The short answer to the question about the Meech Lake Accord, again, is that it was our responsibility to convene those parties to the amending process to try to end the isolation of Quebec, and the change in the amending formula as it would affect the creation of new provinces is a matter that we have debated here before and we will debate again. I repeat that the entry of a new province into Confederation is a matter which is and must be of interest to each and all of the other parties to Confederation. It seems to me perfectly consistent with the principle of equality of the provinces that each and every one of the partners to Confederation have a say in the process.

The creation of a new province in our Confederation would affect the workings of the amending formula, and since the amending formula itself cannot be changed without unanimous consent, it seems to me to be logical and consistent that the creation of a new province in Confederation should be subject to unanimous consent. This is not a matter on which my friend and I agree, I recognize that, but I do not think it is a matter that can be usefully pursued in the course of the Question Period.

On the question of the problem of Arctic cooperation between Canada and the United States, I can only say that the honourable senator should wait and see what is in any such agreement before he begins to speculate about it or criticize it.

Senator Lucier: Honourable senators, it seems to me that the last couple of times we waited to see what was in an agreement we got hammered pretty well. We waited to see what was in the Meech Lake Accord, and we got taken to the cleaners on it. We were told that it just could not be touched or it would come apart.

I certainly agree with the minister when he says that whether the Yukon or the Northwest Territories become provinces certainly would have some effect on the other provinces and they would have an interest in that, the same interest that they had when Newfoundland became a province, and the same interest that they had when Alberta and B.C. became provinces. The other provinces were interested at that time, but the decision was made by the central government. The decision was made by the Government of Canada and no one else had to agree to it. To suggest that there is any similarity between these cases I just do not think is accurate.

Again, for anyone to keep bringing up the fact that somehow, to get Quebec into the family—which all of us wanted—the give-away of the territories had to take place is just not being honest. It just is not so. This cannot be tied to Quebec. Quebec was not asking that all provinces have a say in whether or not the Northwest Territories or the Yukon could become provinces.

When the minister replied, he said that there has been a devolution of powers to the territories. I agree with that statement, and along with that devolution of powers comes responsibility. I think that both elected leaders of the Yukon and the Northwest Territories have done a good job of assuming their responsibilities in dealing with the federal government on all types of issues. I have a difficult time believing that this or any government could enter into agreements of this nature without going to those elected leaders to whom they have been giving powers and at least saying, "We are in the process of doing this and we would like to talk to you about it." Surely that is not asking too much. I realize that the leaders of the Yukon and the Northwest Territories do not have to agree to it, but surely they deserve to have the matter discussed with them.

• (1440)

Senator Perrault: Hear, hear!

Senator Murray: Honourable senators, first, the honourable senator seems to prefer the situation that existed prior to the patriation of our Constitution. Under that arrangement, as he correctly observed, the federal Parliament unilaterally decided on the creation of new provinces. That changed in 1981 when the Constitution was patriated, and the creation of new provinces was made subject to an amending formula; that is, the consent of Parliament and seven provinces with 50 per cent of the population. That was a substantive change. I do not recall whether my friend voted against that matter when it was before the Senate. However, I will have an opportunity to look that up.

Second, with regard to this Arctic cooperation agreement—which, as I told the house yesterday, remains to be concluded—I am aware of the speculation he mentioned. While I cannot comment on it, I note that it suggests that under such an agreement Canada's permission would be required before ice-breakers were permitted to enter those waters over which

we now claim sovereignty. Surely the honourable senator does not object to that.

Senator Lucier: Honourable senators, just to deal with the 1981 amending formula, I would like to point out that I was a member of the joint Senate-House of Commons committee that studied the Constitution in 1981 and 1982. I further point out that I spoke—and he is welcome to refer to the record—very strenuously against the seven-three formula with the 50 per cent. At that time I said—and I can remember this—that the seven-three formula with 50 per cent virtually removed the hopes of the Yukon and Northwest Territories to become provinces. I spoke against the amending formula when it was seven and three with 50 per cent.

Senator Murray: How did you vote when it came to the Senate?

Senator Lucier: I voted in favour of the entire agreement, yes, I did.

Senator Murray: That is what I am asking you to do on the Meech Lake agreement.

Senator Lucier: Thanks very much, but I will not be doing that on the Meech Lake agreement.

Senator Frith: But thanks for asking.

Senator Lucier: Honourable senators, I want to point out that the amending formula of seven and three with 50 per cent was not in the original agreement presented by the government of the day. That formula was included at the insistence of the premiers when the agreement went to them for their input. I repeat that the amending formula was inserted at the insistence of the premiers, and was not included by the government of the day.

Senator Murray: The premiers minus one important premier.

Senator Lucier: Absolutely. It is ludicrous for anyone to suggest that we were in favour of the absence of one premier. That is just not so. We were very much in favour of Premier Lévesque's signing the accord, but I think the government leader will recognize as well as anyone else that there was no accord Premier Lévesque would ever have signed at that time.

Hon. John B. Stewart: Honourable senators, if I may, I shall ask a supplementary question. The Leader of the Government in the Senate has insisted that Canada has sovereignty over the Canadian Arctic. He now states that there is forthcoming an agreement with regard to cooperation in the Arctic. Would he tell us why, since Canada is the sovereign power there, a special agreement with the United States is necessary? Would he tell us whether this potential agreement implies that there is a kind of bidominium of Canada and the United States over the Arctic, or is this a concession to the United States view that these waters are outside the ownership and legislative jurisdiction of Canada?

Senator Murray: I think the honourable senator knows the answer to the first part of the question as well as I do. We claim sovereignty over those waters, and that claim to sovereignty is disputed. The rest of the question, as it affects the agreement that is yet to be concluded between Canada and the United States, is, for the moment at least, hypothetical.

Senator Stewart: Then, honourable senators, the negotiation of the agreement recognizes that our claim to sovereignty is at least questionable.

Senator Murray: No, it is disputed.

CANADA-UNITED STATES FREE TRADE AGREEMENT

FINAL TEXT OF ENERGY PROVISIONS—DELAY IN RELEASE OF FINAL TEXT

Hon. H.A. Olson: Honourable senators, I have one more question of the Leader of the Government with respect to the text of the proposed Free Trade Agreement with the United States. I do not intend to ask when the text will be available, unless he is willing to volunteer that information, because apparently even the House of Commons committee is unable to obtain it for yet another few days, and I can understand that.

My question is this: When the final text was drawn, were any changes made to the section dealing with energy? I think that is a fair question, because people like the U.S. ambassador to Canada, Mr. Niles, has said that under the heading of the dispute settlement mechanism there were some changes. He went on to describe them, claiming that Canada won some great victory, or words to that effect. Have any significant changes been made to the energy section of the final draft of the agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think it would be quite hazardous for me to try to answer the last part of that question. Indeed, I cannot offer much satisfaction on the first part of the question. My information is not as current as it should be. We had hoped to release that text before the end of this week. I may say that that will be followed shortly by a meeting of the committee on trade negotiations, a group of federal and provincial officials who have been meeting throughout the free trade negotiations, and then by a First Ministers' meeting.

Senator Olson: Is the delay in the release of the text simply due to the proof-reading of it by legal experts, or are there other negotiations that will take place, depending upon the interpretations of what is now in the text? I ask that question because the reason for the delay could make quite a lot of difference in the amount of time prior to January 2 we will have to examine the text.

Senator Murray: Honourable senators, the delay is due to legal phrasing and, as a matter of fact, the translation into both of our official languages that is now taking place. The document that was initialled or signed the other night was initialled *ad referendum*. The government has taken note of it and has approved the written text as it was and as it is now being refined. There appear to be no more substantive ques-

tions to be resolved, which I believe is the question my friend has raised.

ARCTIC SOVEREIGNTY

PARTICIPATION OF ABORIGINAL PEOPLES IN CONSULTATIONS

Hon. Charlie Watt: Honourable senators, I want to ask the Leader of the Government in the Senate a question on the matter of Arctic sovereignty. I understand that he is trying to differentiate between what falls under the Constitution and what falls under the question of Arctic sovereignty.

The question I would like to put to the Leader of the Government is: How could the government deal with the question of Arctic sovereignty when the aboriginal peoples are not even part of the Constitution of this country? This question is a very important one and I would like to have it answered. If the Leader of the Government cannot give me an answer today, I would like an answer in the very near future, because I have to take a reply to my people in the North.

● (1450)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I know what my honourable friend means when he says that the aboriginal peoples are not part of the Constitution of Canada. Nevertheless, I would remind him that in 1982 aboriginal rights were reaffirmed in the Constitution of Canada, and I also remind him that a number of First Ministers' conferences, constitutionally mandated, were held to try to define those rights in our Constitution. Those conferences did not succeed. We are now seeking actively through discussions with representatives of aboriginal peoples a new process, one that would have some prospect of success.

Meanwhile, the honourable senator surely does not suggest that the Government of Canada should not exercise its responsibilities concerning our sovereignty in that area and our responsibility for that area as a government.

Senator Watt: Honourable senators, I have a supplementary question. I am fully aware of what is in the Constitution and what falls under section 35. I was one of the key players in the constitutional process practically from day one. On top of that, we, as aboriginal people, have spent a large amount of our money on research in relation to the Constitution, so I am fully aware of what is contained in the Constitution. Before the Constitution was patriated, I was fully aware of what was contained in it and of the liabilities and obligations of the Government of Canada as a trustee for the aboriginal peoples. However, the Prime Minister, the leader of this country, has relinquished his responsibility in that trusteeship of the rights of the aboriginal peoples, as far as I am concerned. Under the amending formula the Prime Minister must seek the consent of the provinces to determine what can be put on the agenda of a First Ministers' conference. To me, this indicates that the Prime Minister has relinquished his responsibility. Quebec was left out of the Constitution, and it was felt important to Canada that that province sign the Constitution. In a sense, we, the aboriginal peoples, are in the same situation, because we, too, have been left out in the dark.

With regard to the question of Arctic sovereignty, I do not think the Government of Canada has any business whatever to negotiate with the United States rights to that part of the world without the participation of aboriginal peoples. I feel strongly that these negotiations are a constitutional matter.

Senator Murray: Honourable senators, I can only tell the honourable senator that he is wrong on the question of the agenda for future constitutional conferences. The Prime Minister of Canada does not need the consent of the provinces to convene a constitutional conference at any time on any subject. As a matter of fact, the honourable senator will be aware that the question of aboriginal rights is not on the agenda for the conference that would be convened in 1988—if the Meech Lake Accord is ratified.

Senator Watt: If one province says, "No, there will not be a conference!" it is as simple as that!

Senator Murray: I am telling the honourable senator that we have had discussions with representatives of aboriginal peoples to see whether we can agree on a new process to deal with aboriginal constitutional rights.

Senator Lucier: If the provinces do not agree, you can do nothing!

Senator Murray: My honourable friend is totally wrong on that point. I think that that is the answer he would get from most people who have some responsibility for the matter.

Senator Lucier: I know the honourable senator helped write the accord, but he had better go back and read it!

Senator Murray: I know what is in the accord. I am saying that with regard to aboriginal constitutional rights, we have begun discussions with a view to finding a new process, the previous process having failed. If we can agree on such a process, we shall enter into it with a view to crowning it with a First Ministers' conference that would agree—not fail—but agree on a definition of aboriginal constitutional rights and, in particular, on the question of self-government—which item has been on the agenda.

Senator Lucier: If the premiers agree!

Senator Murray: That process can be, and obviously will be, separate from the 1988 conference and from the conferences that are spoken of in the Meech Lake Accord, where Senate reform and the roles and responsibilities of fisheries are specifically mentioned.

So, I am correcting my friend and others who say that the Prime Minister of Canada cannot call a conference at any time on aboriginal rights or any other subject.

Senator Lucier: He can call one, but no one has to come!

Senator Murray: It is his prerogative to do so.

The Hon. the Speaker: Honourable senators, there is before the house an order that on Wednesdays the Senate resolve itself into Committee of the Whole at 3 o'clock.

Hon. C. William Doody (Deputy Leader of the Government): Your Honour, may I speak to that subject? Honourable senators are aware, as Mr. Speaker has just pointed out, that we have an order to resolve into Committee of the Whole at 3 o'clock. Honourable senators may also be aware that we have reached agreement with regard to Bill C-64, which is a piece of legislation that, for a number of reasons, requires that it be dealt with today. I wonder if it would be possible, at least in the parliamentary sense, to consider the clock stopped at 3 o'clock so that we may deal with Bill C-64 for the 15 or 20 minutes that it will take, and then go into Committee of the Whole. It would, I think, be very helpful for the senators who intend to deal with Bill C-64 to deal with the matter now and refer it to the committee that will deal with it.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I am sure that that would not affect—

Senator Stewart: Order! Senator Watt has the floor!

Senator Watt: Honourable senators—

Senator Marchand: Senator Watt wants to finish his questioning.

Senator Frith: I understand that, but there is a house order that requires this interruption.

Senator Marchand: But he will be allowed to finish his questioning?

Senator Frith: Of course, he will be allowed to finish his questioning.

Senator Nurgitz: Do you fellows get along?

Senator Frith: I merely want to raise the question about Senator Doody's comments as to whether or not such a change would inconvenience any of us. I do not think that it would. Perhaps Senator Molgat could tell us whether the change would inconvenience witnesses. If not, perhaps we could come to such an arrangement.

Hon. Gildas L. Molgat: Honourable senators, two very distinguished witnesses will appear before us today. They are here now waiting to be heard. One of them has come from outside Ottawa purposely to meet with us. The witnesses were advised that we would begin at 3 p.m. That is the situation we are in.

Senator Doody: Honourable senators, I can appreciate the situation, and I am familiar with the position. However, we agreed informally to try, wherever possible, to accommodate the passage of government business where it would not conflict with the operations of this Committee of the Whole. I suppose it would be unfair to suggest that the affairs being dealt with by the Committee of the Whole could perhaps be better dealt with in a standing committee, as that is beside the point at this stage of the game. Obviously, I am at the disposal of the Senate. If it wishes to go ahead with Committee of the Whole at this point, the house order would certainly facilitate it.

Senator Frith: I hope there is no misunderstanding here. If we proceed now with Committee of the Whole, we will stay on afterwards to deal with government business. It is just a question of why we cannot deal with the legislation after the Committee of the Whole.

[The Hon. the Speaker.]

• (1500)

Hon. Duff Roblin: Perhaps, as an interested party, I might inquire as to what our timetable is, because it is my heavy responsiblity to introduce this bill. I was expecting to do it quite soon, and I would like to know when the house would be disposed to hear me. I hope it would at least be today.

Senator Frith: Oh, yes.

Senator Roblin: If so, what time today?

Senator Frith: That would depend on how long it takes for Committee of the Whole.

Senator Roblin: How long will that be?

Senator Frith: I cannot predict that any better than anyone else can. However, our experience has been that each witness takes from half an hour to an hour.

Hon. Ian Sinclair: Honourable senators, I certainly appreciate the inconvenience caused to people who are appearing before the Committee of the Whole. However, I would suggest to honourable senators that if Bill C-64 is to be referred to the Standing Senate Committee on Banking, Trade and Commerce, we intend to have a meeting tomorrow morning of that committee and must arrange to summon officials and others to that meeting to deal with this very important legislation. I might further suggest that it is getting fairly late in the day for us to set those kinds of things in motion. Therefore, I hope that there will be some accommodation to allow Senator Roblin to deal with this bill, and, on behalf of the people on this side of the house, I will undertake to speak only two sentences.

The Hon. the Speaker: Honourable senators, Senator Doody has suggested that we stop the clock. What is your wish? Are we to proceed with Question Period? It is your decision.

Senator Molgat: Honourable senators—

Senator Watt: I have a question I would like to finish, if I may.

The Hon. the Speaker: Senator Molgat?

Senator Molgat: Honourable senators, in fairness to the witnesses whom we have invited to appear, I remind the Senate that we agreed that we would have a set time. Otherwise, I think it is unreasonable to ask distinguished Canadians to prepare themselves to appear before us, to give them a time, and then to change that time. We have done it previously for a matter of half an hour, but to postpone the hearing of these witnesses indefinitely is not reasonable on the part of the Senate, in my opinion.

[*Translation*]

Hon. Jean Le Moyne: Honourable senators, I suggest that we should sit tonight.

I do not think it is going to exhaust us and I feel it is necessary under the circumstances. Therefore, I move, seconded by Senator Corbin, that we should sit tonight.

[*English*]

Senator Frith: Honourable senators, the question of having to sit this evening has not yet arisen. There still seems to be some misunderstanding. Senator Roblin wanted to know if we intended to deal with the bill today, and perhaps he had not been told about the understanding that we had. It is exactly that: that we will deal with the bill today at second reading and refer it to the committee. Therefore, that is not an issue. The issue is purely one of time, and the question of whether or not we sit this evening might very well arise. However, it seems to me that at the moment it has not yet arisen. I agree with Senator Le Moyne that if it is necessary to sit this evening, that is what we should do. However, we do not know yet whether it is necessary.

Senator Le Moyne: I merely wanted to open the door to the possibility, that is all. I will take back my motion, if necessary.

Senator Sinclair: Honourable senators, in view of what has just been stated, namely, that Bill C-64 will be referred to the Standing Senate Committee on Banking, Trade and Commerce today, then, as chairman of that committee, I will arrange to have witnesses available for our meeting tomorrow.

Senator Frith: In that event, I think we had better proceed with the Committee of the Whole after Senator Watt finishes his question.

Senator Watt: Thank you, honourable senators, for allowing me to finish my question.

In regard to the Meech Lake Accord, I do read, and I understand what I read. If I do not understand what I read, I seek advice, not only from one person but from several sources. The wording in the Meech Lake Accord to me is quite clear, honourable senators. With respect to a matter that is supposed to be placed on the agenda to be agreed upon, to me, it requires the rest of the provinces to agree before that item goes on the agenda.

I do not agree with the response I received from the Leader of the Government in the Senate, saying that the Prime Minister of Canada, by himself, has the right to place an item on that agenda. I do not agree with that; that is not the way the Meech Lake Accord reads, and I wish to point that out to the Leader of the Government in the Senate.

Senator Flynn: Perhaps he does not agree with you.

Senator Murray: Honourable senators, I think I should again insist that while the Meech Lake Accord covers an annual meeting on the Constitution and provides for an agenda, there is still nothing in the Meech Lake Accord to prevent the Prime Minister of Canada from convening a constitutional conference on any other matter at any time.

As I have said before in this place, it would be undesirable to convene a conference on aboriginal constitutional rights until we know that we have some real prospect of success. We have already had at least three or four failures. This is why I speak of a separate process that we are trying to invent between the Government of Canada and the aboriginal peoples and, in time, the provinces that will take us ultimately to a First Ministers' conference that would have a realistic prospect of succeeding in defining aboriginal constitutional rights and, in particular, that of self-government.

Senator Watt: Honourable senators—

Senator Molgat: I remind honourable senators of our commitment to proceed with the Committee of the Whole. Perhaps further questions can be dealt with tomorrow.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, we await the arrival of our first witness.

Pursuant to order adopted on June 18, 1987, Dr. Marguerite E. Ritchie, Q.C., and Professor Theodore Geraets were escorted to seats in the Senate Chamber.

The Chairman: Dr. Ritchie, may I welcome you to the Senate and tell you how pleased we are to have you with us.

Honourable senators, I might tell you briefly that Dr. Marguerite Ritchie is a distinguished member of the legal profession in Canada, with long experience here in Ottawa both in and out of government. She is the founding president of the association which she represents here this afternoon, the Human Rights Institute of Canada.

• (1510)

Dr. Ritchie, before you begin, would you identify the person who is with you?

Dr. Marguerite Ritchie, Q.C., President, Human Rights Institute of Canada: I would like to present to the honourable members of the Senate Professor Theodore Geraets, who is a professor of philosophy. He will later introduce himself in more detail. May I just say that he is also a member of the Human Rights Institute of Canada. His presentation will complete what we, on behalf of the institute, are presenting.

The Chairman: Thank you, Dr. Ritchie. I presume you have an opening statement. Will your colleague be speaking immediately following your presentation, or do you wish to proceed to questions following your presentation?

Dr. Ritchie: Subject to the procedure of honourable senators, I suggest that I make my presentation, then Professor Geraets will deal with his presentation, and then we will both be available to the members of the Senate for questions to be

directed in whatever way they wish. Would that be acceptable?

The Chairman: That is quite proper. Dr. Ritchie, would you like to proceed?

Dr. Ritchie: Thank you.

[*Translation*]

First of all, I wish to thank the senators for inviting us to come and discuss a matter that is of such vital importance to all Canadian citizens.

As you may have noticed in your copy of our presentation, for us the fundamental issue is simply what is going to happen to Canadian citizens. We have indicated our concerns in our formal presentation. Later on, Professor Geraets will elaborate on how Canadians are to express their views.

[*English*]

I would like to ask that our brief be taken into the record. However, I would like to comment upon it. As you may note, it is entitled: "We, the Governments." Originally it was entitled, "We, the People," because that is what people tend to look for when they look at the Meech Lake Accord. One of our members said, "But what you really mean is 'We, the Government,'" because the Meech Lake Accord does not deal with the rights of the people. The Meech Lake Accord is a division of powers among governments. The Meech Lake Accord is concerned with the rights of governments and not with the rights of people. For that reason I decided that the title that he had proposed was actually more appropriate. Instead of the title, "We, the People," we have the title, "We, The Governments" because of what the Meech Lake Accord deals with.

In the introduction to our brief I express the gratitude of the institute to this honourable house for holding its own hearings to look into this tremendously important document and the importance we attach to that fact. I set out there, not because senators are not fully aware of it, but plainly and simply for the record, the fact that this, I believe, will be the first open hearing by the Parliament of Canada. This house, as many people in Canada do not know and are therefore unable to appreciate the work that you do, is a very important part of the houses of Parliament. We believe that the position of the Senate in opening these hearings is one that must be brought to the attention of more people across Canada.

On page 2 I set out in general terms the position of the institute. I note two of the eminent members of our honorary board of governors: the Honourable Eugene Forsey and the Honourable Muriel McQueen Fergusson. Senator Fergusson was the first woman Speaker of the Senate and was a most distinguished person in the Senate. Senator Forsey's briefs and his work on the Meech Lake Accord are so well done that instead of redoing them, I have relied upon them. You will understand that I adopt them absolutely.

I have also noted the protests that have been made against the Meech Lake Accord by many different groups concerned with the problems they foresee for themselves: women, over 50 per cent of the population; native peoples, the first peoples of this country; Francophones outside of Quebec, who have made protests very much against the accord in many circumstances; Anglophones inside Quebec, who are fighting a long and difficult battle; multicultural groups, who are not particularly reassured by the provisions of the Meech Lake Accord. These people say, "What does that mean? Does that mean that we will be allowed to have our dances and sing our songs? But what does that mean from the point of view of real rights?" I have also heard that protests have been made by representatives of the Yukon and the Northwest Territories. We are shocked that any proposal should actually involve the destruction and the taking away of rights from any other part of the Canadian peoples.

Long ago in the United States there was a man who said that anyone who asks for himself rights that he will not recognize for others is—and he was speaking over 100 years ago—a savage. That term, which is no longer acceptable, still expresses the meaning that anyone who demands for himself or herself rights that that person is not prepared to recognize for others really has no claim to the support of anyone who is concerned with justice or equality. Justice and equality are one and the same for all.

We also note the origin of the Human Rights Institute. We do not represent any individual group. The institute is intended to do research that it will be able to make available to the citizens of Canada on a non-partisan basis. Therefore, when we come in support of a particular situation, that is not because we started from that position but, rather, because we have ended with that position on the basis of research.

On page 3 I deal with the seamless web. In speaking to organizations I have distributed countless copies of the official blue document, "Strengthening the Canadian Federation," subtitled "The Constitution Amendment, 1987," to the public. They have opened it expecting to see something that is dramatic, something that they could put up on the wall, something like the Charter of Rights and Freedoms, something like the Diefenbaker Bill of Rights that people framed and are still on the office walls. What they find is a document that starts off by leaving off the flags of the Yukon and the Northwest Territories. It proceeds through public relations statements and it ends up with a motion and a schedule of amendments, whose meaning no one can agree upon.

Far from being a seamless web, it is a hodgepodge of provisions and references to other documents. It is a patchwork. It contains no vision of Canada and no call to Canadians to be proud of their country. It leaves them with the question of whether, in fact, they will have a country at all if this confused document comes into effect. It is concerned with governments, not with people.

I then deal with the background of the Meech Lake Accord. I deal particularly with the fact that although there is a repeated statement about Quebec's having ceased in one way or another to be part of the Canadian family, or having ceased to be part of the Constitution, in actual fact that is not true. I quite understand that for psychological purposes and historic reasons Quebec has not cooperated in areas in which others

expected that it would, but it did not cease to be part of the Constitution.

● (1520)

It seems to me that in a document that is going to be part of the historic records of Canada—if it goes through—it is important that there be clear and precise and accurate statements.

I have targeted in this brief the fact that there are repeated misstatements in that document. Those misstatements will be read by future generations of students, and they will find it very, very difficult to understand what was done at this time.

I also question whether what is intended to be remedied by the Meech Lake Accord can justify what was actually done to take away the rights of others, and I also question whether or not the statements that have been made with respect to the leaving out of Quebec in 1981 are correct.

I point out that, in our view, the answer is no. Our research reminds us that the situation in 1982 was so dynamic that many provincial leaders may have felt left out or insulted. Tempers ran high, and different provinces were jockeying for position with massive media campaigns. We have attached a summary from the *Canadian Encyclopedia* (1st ed., vol. 1, pp. 406-408) indicating the atmosphere. It is sometimes very refreshing to look back and see what actually did happen, because one often tends to forget in the flow of events.

I question also whether Mr. Lévesque, who was committed to separatism— as he was right up until the time of his death, regardless of what he may have said—would have accepted anything except sovereignty-association or some form of separatism. I quote Mr. Trudeau's statements to the joint committee in Ottawa on August 27, 1987, as compelling evidence in support of the fact that Mr. Lévesque would have accepted nothing. Responding to a question whether the then Government of Quebec would have accepted anything, even the Meech Lake Accord, Mr. Trudeau replied:

> Of course it would not have accepted. It would not have accepted anything, let alone a new Constitution, a patriation, a charter that would bind everybody. From what we see, even this Quebec government is hoping the Charter will not bind them, so we can safely assume that the then government would have accepted no accord whatever.

I point out that that same point was made by Mr. Gordon Robertson when he testified before the same joint committee on August 5, 1987. Mr. Robertson then stated:

> —the problem in 1980 and 1981 . . . was that one really never knew whether there really was a bottom line with Mr. Lévesque. He had objections to a variety of things. He did subscribe to an amending formula . . .

And then Mr. Robertson went on to say:

> But I do not think at any point one could be certain that one had a position on which Mr. Lévesque would say yes.

I raise on that basis, and on the basis of other remarks made there, the question of what is it that the Meech Lake Accord is supposed to be making up for, what is it that other Canadians are paying for, when it appears that there was really nothing that could have been done at that time, so far as we are aware, that would possibly have brought Mr. Lévesque on side other than, essentially, sovereignty-association.

As you will note later on, I raise the question of whether or not they have, in fact, received sovereignty-association via the Meech Lake Accord. It is, to my mind, a question that one must consider.

Then I deal with the question of whether Quebec lost by the constitutional changes in 1982, and I go through the situation legally and point out the gains that were actually made for French-speaking persons living in Quebec who had been opposed to ties with the United Kingdom. The French-speaking persons gained, and this was enormously important, and a very high price was paid by persons living in British Columbia, Alberta, Saskatchewan, and in the other provinces. English and French were incorporated into the Constitution as official languages of Canada, with absolutely equal status, now guaranteed and protected. I suggest it is impossible to disregard these changes in considering what Quebec gained by the 1982 Constitution Act.

Then I deal with aboriginal and treaty rights. I point out that aboriginal and treaty rights were, of course, matters historically within the federal jurisdiction, but the provinces gained a new voice in deciding the future of the first citizens of Canada. That, of course, is a matter that the native peoples of this country find difficult, and you can understand, very difficult to accept.

I deal also with the fact that women were excluded and had to fight to get back in so that there would be an equality provision enacted, and, still, that all of the provinces, of course, have their right to use the "notwithstanding" clause overriding the rights in sections 2 and 7 to 15, and Quebec has used that power.

Then I deal with the right of Quebec, like other provinces, to opt out of constitutional amendments transferring powers, rights or privileges. If the amendments relate to education or culture, they are entitled to reasonable compensation.

This is basically a legal paper, but it is only proper to record that these events probably were not seen within Quebec by everybody in the same way, because there were promises that were made by Mr. Trudeau and other federal politicians at the time of the Quebec Referendum, but those promises were vague. They were essentially, I think, a promise of heaven on earth. One can understand that that, of course, leaves up to the persons who are concerned with the question of whether they have received what they expected and what was never spelled out.

Then I go on to point out, though, that this is really our bottom line. It is the institute's position that no agreement is entitled to dispose of the rights of others in order to reach some accommodation. Some form of agreement must be found that does not sacrifice other groups or break up Canada, and in our view the accord does both.

Some recognition must be worked out that will recognize, officially, if necessary, what all Canadians understand as a fact; that is, that Quebec certainly has a distinct identity and it is historic and continuing, but the question is the price that is to be paid. I point out that the institute does not consider that the Meech Lake Accord is the answer. Although Quebec's refusal to participate in specific matters does create problems, the Meech Lake Accord will increase those problems far more.

I also point out that it is our position that Canadians must have full information about how the accord will affect them as individuals and as citizens in Canada.

Basically, we see the accord as a kind of lobster trap that is easy to get into and impossible to get out of. I think that the ratification of the legal text will put us into that position.

The following pages deal with what the accord will do, and point out that the unqualified statement in the preamble that the amendment recognizes the principle of the equality of all the provinces is absolutely opposite to the truth. This is the kind of thing that should never appear in a constitutional document. A constitutional document should state facts and should be correct.

I then deal with a number of areas of inequalities, specifically the linguistic duality and the distinct society and distinct identity provisions.

I assume, then, that this document having been taken into the record, it is not necessary for me, honourable senators, to remind you of all the points or to set them out in detail, because you are well aware of them.

● (1530)

On page 7 I question the morality as well as the historic error in denying recognition to the native peoples in any rewriting of the Constitution of Canada. I also query whether it is necessary to ignore the existence of peoples who have come from all corners of the world to become Canadians. If this is to be a document that appeals to Canada, let it appeal to Canada; let it appeal to all Canadians, not just a few. These changes are the seeds of trouble.

I then refer to the superb analysis that was made by the Honourable Eugene Forsey of the situation that will result if these provisions are accepted. I point out that although the linguistic duality, for example, appears equal at first glance insofar as the different provinces are concerned, the provision for the legislature and Government of Quebec preserving and promoting the "distinct identity of Quebec" is not equal.

As Dr. Forsey has pointed out, French-speaking people in other provinces may be able to assert rights under the linguistic duality provision, but the legislature and Government of Quebec may be able to deny similar rights to English-speaking people in Quebec under the "distinct identity" powers that have been given to Quebec alone. Regardless of the solemn official statements, there is no equality.

Further on that page I point out that it is not anti-Quebec to suggest that it is totally wrong in a democracy to hand over absolute power to any government whatsoever. There are no guarantees that a government will not abuse power. I refer to the fact that historically Quebec actually did exist as a province in which the rights of people were abused.

As you know, at the present time within the province of Quebec, which is generally so liberal and now has probably some of the most advanced legislation in Canada in general terms, the English-speaking people are having a difficult time. That will not get easier.

On page 8 I quote from Mr. Trudeau, who warned that:

> Anyone who thinks that the "distinct society" provision does not include special powers is in for some nasty surprises later on. Because you just have to read what the representatives of the Quebec Government have said to their constituents publicly, in the National Assembly and in the newspapers. They see things differently;—

That, of course, is part of the problem. It is a matter of record in the newspapers as well.

The Premier of Quebec announced that the Meech Lake Accord was the greatest political victory for Quebec in 120 years. This is not the language of cooperation; it is not the language of an agreement that ends problems; it is a language that recognizes that there is a problem, and that that problem will be increased.

I also raise another point. When I appeared before the Joint Committee of the Senate and the House of Commons, I had thought that it was possible that Quebec would wind up as a province in which there were fewer rights for others, but on further thought I realized that that will not happen, and that there cannot be a wall erected around any part of Canada. Essentially, it will be the signal to other provinces that they also do not have to live up to the Charter of Rights and Freedoms, and that they should use the "notwithstanding" clause. In my view, the Meech Lake Accord puts at risk the rights of all Canadians, every place. Of course, we are seeing that starting now, as you can see from reading the newspapers.

We also ask for an opinion from the Supreme Court of Canada as to whether those undefined words will give Quebec governments the power to override the Charter with respect to women and other groups and whether the rights of the native peoples will be affected by the same broad words, because there will be conflict there.

We also ask for an opinion of the Supreme Court of Canada as to whether those same undefined words will give the Quebec government the power to override those powers that have belonged to the federal government since Canada was formed in 1867. We urge that the time to find that out is before the accord is ratified, and not afterwards.

The next pages deal with the Supreme Court of Canada. This is a matter that has not been dealt with by others. The defenders of the accord have said, "Leave those questions for the court." But as we have pointed out, the court itself has only nine members; it is now overloaded with legal questions; and there is no way in which it could possibly deal with a further overload without delays that would last for years, and governments would not wait for years for legal decisions. If

those decisions are not obtained ahead of time and the accord is not clarified, Canada will be in enormous trouble.

I also deal there with the proposals for the appointments to the Supreme Court of Canada and the way in which that would destroy the independence of the Supreme Court. At the present time the court consists of a chief justice and eight judges, three of whom must come from the civil law in Quebec so that they understand the law of Quebec, because they have been trained there. But they do not represent the Government of Quebec.

Now, if the three members appointed are chosen from lists submitted by the Government of Quebec, there is no earthly doubt that they will represent the views of Quebec in all possible disputes. It is a warning of what will happen, and there is no doubt about it. After the Meech Lake Accord is ratified, only Quebec will have three members in the Supreme Court to represent its views.

On page 10 I draw attention to another point that no one else has noted, and that is that there is no provision for increasing the number of judges beyond the present nine. So what will happen there? I deal with the fact that it is essential that a change be made before the accord is adopted. If the accord is adopted, then at least the Supreme Court of Canada should be expanded so that it can deal with the issues that will be brought before it. I point out the problems which will certainly exist—which exist already—in the expansion of the Supreme Court, because there will have to be discussions about the judges to which Quebec is entitled. It is not a problem that can be put off.

I then deal with the "people problems," in other words, such things as provisions for immigration and aliens, and for the shared-cost programs. We point out the tremendous heartache and the problems that people in Canada are now beginning to face as a result of their realization that they will be losing and will be at risk. They do not know what they will be giving up. In Dr. Forsey's analysis, it is also a touching matter that, as was stated by Professor A.W. Johnson, who has a superb knowledge of shared-cost programs, the Meech Lake Accord will not only raise the problem about whether those shared-cost programs will survive but also that it will, in reality, destroy the unifying factor of common services across Canada which has helped bridge this enormous country.

● (1540)

I remember a time when where I was living, and then, later, in Ottawa, there were reports of ill people who died on the doorsteps of hospitals. That time could come again. I also remember the feeling that Canada was a country that was so vast that in Ottawa they did not care about what happened to people in the west and in the east. That time could come again. I urge you to look at this accord.

In my brief I then deal with a subject which is quite relevant, of course, to this honourable house, and that is appointments to the Senate of Canada. For your convenience, I have set out four important provisions regarding the Senate.

The first provision is that appointments to the Senate shall be chosen from persons whose names have been submitted by the government of the province to which the vacancy relates, and must—apparently that grammar slipped through somehow—be acceptable to the Queen's Privy Council for Canada.

The second provision is found in section 9 of the schedule. It deals with the powers of the Senate and the method of selecting senators. These are matters that can only be amended by resolutions of the legislative assemblies of each province as well as resolutions of the Senate and House of Commons.

The third provision is that, henceforth, there shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988, a constitutional conference composed of the Prime Minister of Canada and the First Ministers of the provinces. It states that such conferences shall have included on their agenda Senate reform.

Last, the fourth provision is that even before the proposed amendment relating to appointments to the Senate comes into force, any person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada.

I have run through those because I think they are crucial to the understanding of another aspect of what is going to happen to Canada and to this house, which has such an honourable history.

The appointments to the Senate, I think, would be chosen, eventually, from lists submitted by the government of the province to which they relate. As others have pointed out, that will, of course, mean that those honourable senators will owe their loyalties to the province to which they owe gratitude for the appointment. In many respects, it is either a misunderstanding of the functions of this house or else it is an insult to those who sit here, as though those who sit here do not now take into account the concerns of the areas from which they come. In my experience, that is simply not true. Honourable senators have always been concerned with the areas from which they are appointed. That seems to me certainly insulting to the Senate as it exists. It is also a provision which will introduce into this house the discordant voices of the different provinces, unmitigated by any national perspective of what this country is about.

The powers of the Senate and the method of selecting senators, and so on, can only be amended by unanimous resolutions. However, strangely, the Prime Minister is going ahead and discussing Senate reform as though, regardless of those other considerations, it can happen tomorrow.

Oddly enough, yesterday there arrived in the office of the Human Rights Institute the document that was prepared in 1985 in Alberta dealing with Senate reform. It seems to me that the 11 men who met in that room were not briefed about what actually was going to happen. If the Province of Alberta honestly and genuinely believes that after the Meech Lake

Accord is ratified it can ever get the Triple-E Senate, then, in that event, there is certainly a gap in the explanation.

I understand why this misunderstanding arose, because you have the third item which requires conferences of the First Ministers, starting in 1988 and continuing forever. Those will do nothing, of course, because, as the Honourable Eugene Forsey has pointed out in very precise terms, it only takes one province to say that it does not agree and, in that event, nothing will happen.

I have taken the liberty of having photocopied and attached an extract from a speech that Senator Forsey gave to a section of the Canadian Bar Association on August 19, 1985, that is, after the 1982 amendments, when he told lawyers that they were essentially blowing bubbles, and that it was smoke dreams when they were talking about reform of the Senate, even then. I would recommend that you read that. It is not very often that one gets a chance to see someone talk down to lawyers. Senator Forsey would deny it, I am sure, but, in actual fact, I think it is absolutely delightful, and I speak as a lawyer, and I know that they would have loved what he had to say. I hope they also listened to it and understood it.

The last provision is that even before the proposed amendment relating to appointments to the Senate comes into force, appointments will be made on that basis. Then they dare to tell this honourable house that this house is not democratic! They propose to put through something so that the Prime Minister can act before something becomes law. In my view that is something that anybody who is concerned with the law and with Canada as a law-abiding country should rise up and protest against. Before it becomes law it will be treated as though it is law, in terms of the appointments that will be made to this house. This is something that shocks me.

I deal with the fact that the Yukon and the Northwest Territories were excluded, something that has caused them enormous not only heartbreak but disillusionment as well.

I point out the fact that the situation for the west will be much worse than it is now. I deal there with what will happen when provincial appointees, who owe their seats to the provinces, are sitting here.

I would request, honourable senators, that you read this very carefully at your leisure. The Human Rights Institute of Canada has been seeking since long before the Meech Lake Accord a reference to the Supreme Court of Canada as to whether the Government of Canada is in breach of international agreements under which the women of Canada are entitled to appointment to the Senate of Canada on an equal basis with men.

That claim arises from two bases. One of them is international agreements that Canada has signed and ratified, and the other one is the Charter of Rights and Freedoms. Both of those are important and are very different from anything else, because we are dealing with appointments that not only do not require a law to be passed by Parliament but that cannot be dealt with by a law passed by Parliament. We are dealing with the executive, the same executive that ratifies the international agreements and says, "We guarantee the rights of women to equality," and then goes ahead and ignores women in the appointments to the Senate except for token numbers.

[Dr. Ritchie.]

We asked for a reference. As I said, this was some considerable time before the Meech Lake Accord. I have here set out a summary of the replies that we received. Those replies did not deny that we have a legal basis. The original reply that we received from the Deputy Minister of Justice, which was confirmed by the Minister of Justice, Mr. Hnatyshyn, and then reconfirmed by the Prime Minister, himself—and this senators will find on page 16—informed us that the Supreme Court was too busy, and that references should be reserved for important legal issues where government policies are not involved. In other words, we were informed that the government would be above the law.

● (1550)

I should think that in a democracy it is important that references involving government policies should be made to the Supreme Court of Canada, and before those policies become law.

We were also informed that the role of women in the Senate is "evolving"— evolving, as though it were a third arm, as though women were creatures at the bottom of the sea—and that women should rely on government promises of equality.

Just after that was sent to us by the Deputy Minister of Justice, the Prime Minister, who had not received a copy of it, proceeded to appoint four men to the Senate, without appointing any women. Obviously he did not read the correspondence. What also shocks me is the fact that the Yukon Territory has tested in the court what the government will do about its promises. That, I think, is very important. When the Yukon Territory pointed out the many ways in which successive governments had indicated that the Yukon and Northwest Territories would progress towards provincehood, the argument made by my old *alma mater*, the Department of Justice, speaking for the Government of Canada, was that governments are not bound by political promises. That is a terrible thing to say. That, I think, is the reason why not one of the premiers is prepared to rely on promises from one another—they all want everything down in writing. Well, the citizens of Canada would also rather like to have everything down clearly in writing.

We were also informed in the original reply received from the Deputy Minister of Justice that changes to the Senate in its present form were "under consideration"—that was a little indication that they had plans to dispose of women's rights—and that women should not seek their rights in the present Senate. In other words, women should wait until after the Senate has been changed, but, meanwhile, women would be denied the rights that they have—a very strong legal case, also a moral one, to present.

Honourable senators, we are asking for your support for women's claims to appointment to the Senate on an equal basis with men. It is obvious that that will have to take place in the future; this does not refer to the present in any possible way.

I should like to pay tribute here to the fact that, as I have indicated in the brief, this house has a very honourable role in many respects. I have set out one instance in particular, where this house provided support to the Honourable Muriel McQueen Fergusson when she used a Convention on the Political Rights of Women many years ago to ensure that women would obtain the right to sit on juries in criminal cases on an equal basis with men. I am asking senators to use that same convention, and others that have been formulated since then, to ensure that the government now—not next year, but now; not five years from now, but now; not after the Meech Lake Accord, but now—should start living up to its international agreements and to the Charter of Rights and Freedoms in terms of those appointments made by the executive alone. It seems to me to be hypocritical for the Prime Minister to tell South Africa what it should do under international law when this government itself is not living up to international law.

Last—

The Chairman: Dr. Ritchie, I hesitate greatly to interrupt you, but, as you know, we have another witness who will appear after you. We had allocated one hour, and I believe that Professor Geraets is with you. There may be no time for Professor Geraets or for questioning.

Dr. Ritchie: May I just finish up with one sentence? I would simply like to ask that senators look very carefully at the suggestions we have made. I would like to thank honourable senators very much, indeed, for their invitation and for their attention.

Could Professor Geraets have five minutes?

The Chairman: Yes, of course.

Professor Theodore Geraets, Professor of Philosophy, University of Ottawa: I am grateful to the Senate of Canada for this opportunity to present my views. As a citizen of this country, my point of view is not so much a legal one, but I am profoundly concerned with the legitimacy of the process of constitution making. Instead of trying to summarize what I would like to say within the few minutes I have, let me just whet senators' appetites by saying that the basic question I would like to deal with is the following: Does the Constitution truly belong to the people of Canada where executive federalism takes over?

I would not like to take any more of senators' time, but, rather, would like to give them an opportunity to ask questions. I would not want Professor Bliss to wait in the wings too long. I would beg for leave to appear at another opportunity to present briefly those views. They would be difficult to summarize in just two minutes, and I believe that Professor Bliss has come here from Toronto. I will make a request to the committee chairman to appear on another occasion. I would not want to abuse senators' patience.

The Chairman: Thank you, Professor Geraets. I note your request and I understand it. I have to warn you, however, that I cannot at this time promise that we will be able to hear you at a later date. The steering committee had agreed to hear all persons who had initially requested to appear. I believe the cut-off date was October. Since that time we have received many more requests, which we will try to fit in, but I cannot make any promises. If it is possible, however, I will assure you that we will do so.

At the moment, I have only two questioners. If that is the case, you could proceed to make your presentation for ten minutes.

Senator Hicks: I think we should hear him.

The Chairman: Yes, please proceed, Professor Geraets.

Professor Geraets: The most fundamental aspect in the debate about the Meech Lake Accord is the following: Canada's Constitution does not belong to our First Ministers, not to Mr. Mulroney, not to Mr. Trudeau, not to our provincial legislatures, but to the people of Canada.

Honourable senators, I will try to shorten my presentation. Certainly all premiers, or at least most of them, are happy with the Meech Lake Accord, with the weakening of the federal powers and the strengthening of the provincial ones. I cite Premier Getty. Even a Triple-E Senate is hardly needed any more where there is already a Triple-E First Ministers' conference, to be enshrined in the Constitution. Fundamental structural change is now in the hands of 11 men, provided they have comfortable majorities in their legislatures.

I quote from the report of the joint committee:

> So-called "executive federalism"—developed because of the fact that the Prime Minister and the premiers can usually make binding commitments on behalf of their respective governments. Executive federalism of course relies on political party discipline "back home."

The basic question, as I said, is: Does the Constitution truly belong to the people of Canada where "executive federalism" takes over? To come back to the particular accord: Could it not be that a majority of Canadians do not agree with Canada's extending so much of its "lead" over all others as the world's most decentralized federal state? It is indeed possible that the premier or even the provincial legislatures do not represent on these matters the people of their respective provinces.

Naturally, our politicians are elected, and most of them want to be re-elected. But everyone knows that an election is based on many local and provincial considerations that have little or nothing to do with the Constitution. In any case, how many "average" Canadians are really interested in this seemingly most abstruse of all laws?

This is exactly what has to change. Constitutional matters are too important to be left to politicians alone. A Constitution is the self-image of a country and an expression of its ideals, and it is only meaningful if it is recognized as such and accepted by the majority of the people. Without a clear and unequivocal acceptance by the people, a Constitution is weak and fragile. This is all the more the case when it is a "deal," the result of a series of trade-offs between the country's politicians.

All Canadians should realize—and many have not yet done so—that the 1982 Constitution was accepted only implicitly, and that in virtue of it, amendment by popular vote has become illegal. In signing the November 1981 Accord, the federal government abandoned the right to give the people of Canada a final say over future constitutional change. This was part of that "deal." The Constitution and changes to it can now only become "our" Constitution by implicit acceptance—that is to say, by the absence of forceful and widespread opposition. Is this good enough?

The report of the joint committee says that "most of the witnesses agreed . . . that the legitimacy of a constitution rests on the willing assent of the governed." Is the absence of widespread and forceful opposition a sufficient ground for such legitimacy?

Any collective agreement needs to be ratified by the members of the trade union. Ought this not to apply much more to the Constitution? The people of Canada ought to be able to accept or send back to the drawing board any of its major parts, in particular the amending formula, that conditions all future change.

Nobody can deny that we are faced right now with two competing conceptions or "visions" of Canada. It is true that proponents of each of these tend to present the other in extreme terms: Ottawa is seen as either dominant and oppressive, or as totally impotent. But in spite of these exaggerations, there are two conceptions of Canada. Who will choose among these? Our First Ministers have already chosen one. But do they express the choice of the majority of Canadians? It is true, as the report says, that "the question of which view represents the better philosophic understanding of Canada . . . is a matter of political judgment." But whose judgment ought to be final? That of the First Ministers, or that of the people of Canada?

We have to realize that nobody, and I stress but nobody, knows what Canadians want. The question always was: What does Quebec want? We now have to start asking about our Constitution the question: What do Canadians want? Nobody has the answer if the question is one of choosing between those two visions of Canada, and nobody can know until Canadians are asked to ratify or not each of the major parts of the Constitution, especially the amending formula. Does the majority of Canadians want all provinces to have the power to use their veto to extract further concessions from the federal government? The principle of equality of all provinces seems appropriate among partners in Confederation. But is not its application in the principle of unanimity an invitation to blackmail? And what about the other partners, our native peoples and people of the territories? Of course, public hearings have been held, or will be held, but where is the prominent politician with the guts to propose and fight for a restitution to the Canadian people of the right to ratify or not the fundamental law of the land?

It is said, of course, that a referendum is divisive, but whatever divisions would appear—those that are already there, but go more or less unnoticed—is this not better than running the risk of imposing on a majority of Canadians a Constitution, major parts of which they would reject if they were asked for their opinion? Of course, their rejection of any major parts—for instance, the amending formula itself—would send our politicians back to the negotiating table. But would that not be a very healthy exercise in democracy for those who now seem to "own" the Constitution? It is not theirs. It is ours, and they ought to recognize this formally and explicitly. Only then will the Constitution (and the First Ministers), as the report says, "be the servant of the people, not their masters."

Basic choices should be submitted to the people. They are able to understand these choices, and not only, as some politicians seem to think, to choose the people by whom they want to be governed. Former Premier Hatfield wrote to me on January 28, 1982, the following:

> I am opposed to a referendum at any time for any purpose. Any referendum is an attack on our superior system and should never be encouraged. I believe our Constitution should *prohibit* referenda ever being used in our country. The Canadian Parliamentary system is the best organization in the world of politics.

What a fall from grace for Great Britain to confirm by referendum its decision to join the Common Market! Of course, only a country just trying to return to a democratic system, like the Philippines or South Korea, could think of submitting the Constitution to a ratification by popular vote! I ask you, shall we continue to let the very nature of our country be decided by politicians that think in this paternalistic way?

The report of the joint committee recommends the establishment of a Standing Joint Committee on Constitutional Reform. The reason is interesting, and it is:

> —such a committee would orchestrate a level of public involvement in the constitutional process that is vitally necessary to confer legitimacy on constitutional change.

In conclusion, I maintain that the only way to obtain the necessary legitimacy is by providing all Canadian citizens with the opportunity to exercise fully their democratic rights by approving or rejecting in a non-equivocal way each of the major parts of the Constitution. The finest legacy of our appointed Senate to the people of Canada would be the introduction of a bill providing for a reasonable ratification procedure, giving the Canadian people a final say over the Constitution of their country. Only in this way will it truly be the people's Constitution.

The Chairman: Dr. Geraets, you have stayed within your ten minutes. In view of the timing, I shall have to cut off the list of questioners now. I have two senators on my list, and I ask them to keep their questions brief. First is Senator Stollery, followed by Senator Marsden.

• (1610)

Senator Stollery: Thank you, Mr. Chairman and to our witnesses today. It is difficult to be brief on such an important topic. I read Dr. Ritchie's brief to the joint committee on Meech Lake in the proceedings of that committee and I was surprised at the reaction it seemed to have caused at the end of

the hearing. It seemed that either the people who were listening to you did not get your message or they did not want to understand your message. I must say that I thought your brief to the joint committee and this one, which you have presented today, were both terrific. I agree with much of what you say.

I notice in the report of the joint committee that one of the witnesses made a comment which received some prominence. On page 22 of that report Professor Ronald Watts is quoted, and I read from the text:

> In most federations, he said, the different levels of government see their relationship as one where everybody wins through intelligent co-operation.

When I read that comment, I made a list that came to mind of countries that were federations. On my list I have China, the United States, Mexico, Argentina and Colombia. In each one of those countries, of course, they have had a terrible civil war in which a huge percentage of the population lost their lives because of their inability, in fact, to establish a relationship between the parts of the federation and the central government. In fact, in many of those countries it is an offence even to promote any kind of regionalism because of the tradition. Even France, if I am not mistaken, comes into that category. I remember when I lived in Algeria during the civil war we had a couple of important referenda on whether or not to end the war and, at the same time—

The Chairman: Senator Stollery, your question, please.

Senator Stollery: Very well, Mr. Chairman, but it is a fairly difficult issue, and something that has so many implications cannot be easily dealt with.

In France they even have a list of official names. On that list there are 1,000 names, and if you do not give your child an approved name, then, of course, your child can lose his civil rights and be put out of school, and this sort of thing, because of the problems of separatism in France.

Dr. Ritchie, how can someone who is a professor possibly make the statement that in most federations the different levels of government see their relationship as one where everyone wins through intelligent cooperation, given the history of federations in the last 100 years?

Dr. Ritchie: I think that essentially you have answered your own question. The only other thing I might add is that, of course, Alberta has shown what it is doing when it ratifies the Meech Lake Accord, but, at the same time, proceeds to deprive French Canadians of their rights both in the legislature and in the courts.

At the same time, of course, Quebec, on the other hand, has presented before the Supreme Court of Canada its opposition to English-speaking Canadians having their rights within Quebec.

I see the same kind of thing as you have described occurring, and I do not know how anyone can close his eyes to it. I think you have added to our knowledge.

Senator Stollery: That is my question, and in particular I refer to the response you received when you gave your evidence before the joint committee. At that time eyes were closed and, in fact, you were certainly not treated very well. How can that be? Do these people not know what happens in federations? Do they, in fact, understand the implications of what they are doing?

Dr. Ritchie: I have asked myself the same question, and I really have no answer. However, in my view, it emphasizes the importance of persons such as the members of the Senate educating the population about what is involved here. Now that the spirit of the accord is disappearing, one finds that the "disaccord" is arising. Perhaps that is the kind of question you might very well put to Professor Bliss, who I understand is the next witness, because I think he might have some very interesting responses to it. I can only say that I am puzzled and astounded; I have no answer.

Senator Stollery: Mr. Chairman, may I ask a question of the other witness?

The Chairman: Yes, very quickly.

Senator Stollery: I ask because the other witness has touched upon a very important issue, the issue of referendum and the legitimacy of a system where 11 individuals can fundamentally change the direction of the country without in any way consulting the people who live there. I would like to hear him expand on that topic, and whether or not there is something realistic that we in the Senate can do to possibly bring that state of affairs to an end.

Professor Geraets: I would like to make two remarks. First of all, when someone is elected first minister or premier of a province, this person changes. He may have considered himself Canadian first and then Albertan, Ontarian or a citizen of whatever province he becomes the premier of. However, once he has been elected premier, I think his first allegiance necessarily is to his province. Therefore, I think it is extremely dangerous for our country to have ten players out of eleven who have this attitude of: "First, my province, then the whole of the country." It may not be their attitude in all cases, but it probably is in many cases.

The second part of my remark is that I am not a constitutional expert. I have written on the Constitution in *Le Devoir* and in the *Globe and Mail* and in other newspapers. In April I wrote an article on the reform of the Senate. I think this is a question that senators themselves are better equipped to answer as to what kind of reasonable procedure there would be. I think it would make an enormous impact upon the country if the Senate, itself, took this initiative, in a sense of giving back the Constitution to the Canadian people.

How to do that is a complicated matter and would require an answer that would take much more than a few minutes. I could make my contribution, but I do not think I could make any sensible suggestion within the very limited time that is allowed here. If you wish me to be part of the consultation process, I am quite willing to be part of that process.

Senator Stollery: Thank you, Mr. Chairman.

The Chairman: Thank you. Senator Marsden is next.

Senator Marsden: Thank you, Mr. Chairman. I would like to thank both of the witnesses for appearing before us today,

for the points you have made this afternoon, and also for the work that the Human Rights Institute is doing by holding public hearings. I think those are very important.

Senator Watt had to leave the chamber and asked me if I would, on his behalf, ask you two brief questions. Dr. Ritchie, we heard in your presentation this afternoon that it is your view that getting an item on the constitutional agenda for consideration requires the agreement of all of the premiers and the Prime Minister. Is that correct?

• (1620)

Dr. Ritchie: That is correct, except for those that are specifically listed there. The point that I was making with respect to the Senate is not that it cannot be included forever, but, rather, having been included, nothing will be done about it.

With respect to the fisheries, the same thing occurs, except that we understand that there is likely to be pressure to divide up those resources.

With respect to new items that are anticipated by the wording of that provision, Senator Forsey's view, which I share absolutely, is that since those must be agreed upon, it takes only one premier or prime minister to say, "I do not agree that it should be discussed," and those will not be discussed. Does that answer the question?

Senator Marsden: Thank you. You will appreciate that Senator Watt is concerned in particular with the discussion of aboriginal rights.

Dr. Ritchie: Absolutely, and the aboriginal peoples have a right to be deeply concerned.

Senator Marsden: Senator Watt's second question is: If a constitutional conference should be called with respect to aboriginal rights, would it require unanimity in order for whatever provisions were made to be taken further in the constitutional process?

Dr. Ritchie: I have not had time to look into that in detail. If I recall correctly, I believe it would. The problem was that in 1981-82 it took two-thirds of the provinces, plus a majority of the population, plus the resolutions of the Senate and the House of Commons. That has now been tightened up to unanimity. I believe that is true. I would really have to look at that again—because I have looked at a great many things—but they will be in trouble.

Senator Marsden: Thank you very much. Mr. Chairman, if we had the time, it would be a pleasure to ask the witnesses further questions about the role of women in the Senate. However, I hope to have that discussion on a later occassion.

The Chairman: Thank you, Senator Marsden. I am sure there could be many more questions asked. Dr. Ritchie and professor Geraets, I would like to thank you very much for the work you have done in preparation for your appearance before us. I am sorry that I had to act as timekeeper, but I believe you know the constraints under which we must function.

[Senator Marsden.]

Dr. Ritchie: I appreciate that, and may I add our very deepest appreciation. Thank you very much, indeed, Mr. Chairman and senators.

The Chairman: Our next witness is Dr. Michael Bliss. He is a professor of history at the University of Toronto. He is a noted author—both books and articles—on historical matters in Canada.

Pursuant to Order adopted on June 18, 1987, Dr. Michael Bliss was escorted to a seat in the Senate Chamber.

The Chairman: Professor Bliss, we are delighted that you can be with us this afternoon. I apologize for the delay that has occurred. I believe you were listening to the events so you know how these things happen.

I presume that you will, first, proceed with your brief, and then senators will have an opportunity to ask questions.

Dr. Michael Bliss, Department of History, University of Toronto: Mr. Chairman, honourable members of the Senate, I have prepared a submission which I believe has been distributed. However, I will summarize it in less than ten minutes, and then I will be happy to respond to questions.

Let me say that I am not speaking as an expert on the law. I am not a lawyer; I am not an expert on constitutions. I am one of the modern breed of Canadian historians who are more interested in the behaviour of people in history than in the evolution of our political structures. I do not enjoy this study of constitutional history, and I am not at all sure that I understand all of the fine points of constitutional documents. In fact, it was because of the difficulty that I had understanding the text of the original Meech Lake Accord that I became interested in it, and then alarmed about it. It seemed to me to be full of ambiguities; it seemed to have some quite drastic implications in some sections; and, above all, it seemed as though it was going to be rammed through without significant public debate.

For these reasons I joined the chorus of the accord's critics. Perhaps it was partly because of these criticisms that the government agreed to slow things down and hold the public hearings conducted by the special joint committee. I was interested in those hearings, of course, because I wanted to see what the real constitutional experts thought about the accord, and I looked forward to the committee's judgments.

We now have the committee's report and we can now talk about Meech Lake after six months of debate. Unfortunately, nothing in the joint committee's hearings or its report changes my view that the accord has the potential for drastically disrupting the balance of our federal system.

I base my comments on an historian's perspective, a perspective that has been utterly lacking, incredibly lacking in the joint committee's considerations. Its report has only one historical reference. It cites Eric Kierans, suggesting that Meech Lake fulfills the original spirit of Confederation. This is a foolish, ignorant remark, which has been properly characterized by Senator Forsey as sheer rubbish.

An Hon. Senator: Hear, hear!

Dr. Bliss: Although everyone seems to talk about Meech Lake as an historic accord, no one seems to have a sense of Canada having a history before about 1980. The essence of the balance of the federation we created in 1867 was a recognition that we had a nation, on the one hand, and that we had distinct societies or communities that composed the nation, on the other hand.

The whole point of the creation of two levels of government and of the division of powers was to recognize that Quebec and each of the other provinces were and are distinct societies. This recognition has been in our Constitution for over 120 years. It seems to me incredible that we have forgotten this, apparently because these days we have such a dim understanding of the meaning of federalism.

First, the Meech Lake Accord will upset the balance of our federalism in several ways. Perhaps the "distinct society" provision will, perhaps it will not. Clearly everything depends on judicial interpretation of those words. This, itself, is likely to upset the balance inasmuch as it means an elevated role for the Supreme Court of Canada, a role that will almost certainly lead to unintended consequences. This has happened in the past. It happened in the 19th century when the rulings of the Judicial Committee of the Privy Council, then the final court of appeal, promulgated a decentralist interpretation of the Constitution, which greatly surprised all the living Fathers of Confederation. If anyone doubts the capacity of the Supreme Court to give us surprises, they should simply read the first page of today's *Globe and Mail* where it is clear that the court is busy redefining the concept of murder in Canada. If it can do that, surely the court has the potential to upset any of the easy assumptions of experts who testified before the joint committee.

Second, the accord upsets the balance of our federation by putting a premium on cooperation and harmony in federal-provincial relations. It constitutionalizes various arrangements such as joint appointment of senators and Supreme Court justices, which will break down without such cooperation. Well, the joint committee tells us that we are to make love, not war, in our federation. The trouble is that there is no evidence in Canadian history that such cooperation is attainable. The kind of conflict that is inevitable, normal and natural when provincial politicians represent the interests of their distinct societies has characterized Dominion-provincial relations throughout Canadian history, is characterizing it right now, and certainly will characterize it in the future. That means, however, that the potential for deadlock and breakdown under the accord's provisions is very high.

● (1630)

Third, through the expansion of the amending formula, the accord creates new blockages regarding issues which have been traditionally sticky enough for us to handle. Senate reform will be much more difficult under Meech Lake, and yet those of us concerned about the anachronism of an appointed body having the broad legislative powers that the Senate possesses are greatly worried that the Senate is now virtually beyond or above change.

We all know the problem Meech Lake creates about the admission of new provinces. Let me speak as an historian, though, because I have been struck by the virtual certainty that the Canada we have today could not have been created had the Meech Lake provisions been in effect after 1867. Manitoba, for example, would not have been admitted to the Dominion of Canada in 1870, because Ontario would have objected because of its concerns over Riel's actions. Alberta and Saskatchewan would not have been admitted in 1905, because Quebec was objecting to the compromise reached on language and schools. Quebec would surely have vetoed Newfoundland's entry into Confederation in 1949 because of its concern with Labrador. Prince Edward Island and British Columbia probably would not have made it in either, because the other provinces would have objected to the financial settlements. For that matter, I doubt that we would have had any significant national programs if we had to operate according to the Meech Lake Accord in the past. Cooperation could not have been achieved.

Similarly, I believe that nationalist governments of Quebec, the Mercier government in the 1880s and the Lévesque government in the 1970s, would have used the "distinct society" provision as well as their role in Senate and Supreme Court appointments to create a condition close to national paralysis.

It ought to give us pause, I think, to wonder how this nation could have functioned under the proposals we now plan to implement. There is a very alarming Pollyannna-ish note running through all the assumptions of those supporting the accord, a Pollyanna-ism which is explicable, I think, only because of their total, pathetic, irresponsible ignorance of the history of the country they are trying to govern.

I could say much more if time permitted. As historians, we worry about getting our facts right. Many of us have been outraged by the use of dishonest tactics to suggest that Quebec was somehow outside of the Canadian Constitution before the Meech Lake Accord, or even to suggest that separatist sentiments have been given great impetus by the Quebec government's failure to sign the 1982 Constitution. The empirical evidence, of course, is that they had not. There is no evidence that two Canada's were created as a result of 1982, but it may well be that we are creating two Canadas with the Meech Lake Accord. Certainly we are no longer going to have one Canada.

My strongest feeling about this whole process, the one that I find difficult to express as clearly as I should, is that these exercises in overnight constitution-making represent a betrayal of the Canadian people by their politicians. It is a betrayal in this sense: Canadians, especially the young Canadians I teach, who believe fervently in our democratic process, have a right to expect that their legislators will carry on all functions of government with care, statesmanship and a grave sense of responsibility to the living, the dead, and Canadians yet unborn.

I do not think Canadians deserve the constitution-making we are seeing in 1987. First Ministers treat the Constitution like a collective bargaining agreement, with parliamentary

committees that pull alleged constitutional experts on and off the shelf like so many ventriloquists' dummies, with MPs and party leaders who put party discipline and short-term electoral calculations before the interests of the Canadian people.

As someone else has said, we are trivializing constitution-making in Canada, and that is very wrong.

We already have high enough levels of cynicism and contempt in Canada for our political process and for the good people involved in it.

I fear that because of Meech Lake and the way it is being implemented this public cynicism and contempt is going to fester and increase, and I believe that in the long run this is the worst menace to the health of our body politic than any of the clauses of the accord.

Canadians have a right to expect more from their politicians: Can we expect more from the Senate of Canada?

I would be happy to answer any questions.

The Chairman: Thank you, Professor Bliss.

Some Hon. Senators: Hear, hear!

The Chairman: I have several names on my list. We will begin with Senator Hicks, followed by Senator Flynn.

Senator Hicks: Professor Bliss, generally speaking, I am not in disagreement. Indeed, I am in agreement with what you have said, but I cannot resist the temptation, since you come before us as an historian, and were careful to point that out in the remarks you made, and in your paper at the bottom of page 7, that the Fathers of Confederation were immediately dismayed or surprised at the effect of judicial interpretation on their document, which used to be called the British North America Act.

I suggest to you, as an historian, that you ought to acknowledge that the Judicial Committee of the Privy Council during most of the 19th century found in favour of increasing the power of the central government, and it was only when Viscount Haldane came to exercise such a great influence on the Judicial Committee of the Privy Council that the interpretation in favour of the property rights devolving upon the provinces began the process of decentralization.

This is not important to the thrust of your paper, but since you come before us as an historian, I think you ought to acknowledge that for the first few decades after Confederation the judicial interpretations all tended to reinforce the central government, and it has largely been only in the 20th century that the process to which you refer has become so effective.

Dr. Bliss: My own mentor in constitutional interpretation, Professor Donald Creighton, I think, would perhaps disagree with you, but I will not. My point simply is the capacity of these final courts to surprise us. As you suggested, it seems to depend on the membership of the court.

I point out in my formal paper that we may well find ourselves moving towards the position the Americans are almost in now, that the elected politicians' most important decisions will have to do with the judges they appoint.

[Dr. Bliss.]

The Chairman: Thank you, Senator Hicks. I now call upon Senator Flynn, followed by Senator MacEachen.

Senator Flynn: Mr. Chairman, I have no intention of putting questions to the witness. I did not put any questions to the previous witnesses, because I think we have never before heard exaggerations of the kind that we have heard today. I am referring to the previous witnesses as well as to the present witness. It shows that they have only contempt for those who support the accord. Therefore, I just want to put on the record that I would find it absolutely useless to argue or put any kind of disagreement in specific terms with what we have heard today. It would only put me in the position of having to reply in kind, and I don't think I want to do that.

The Chairman: Professor Bliss, do you wish to make a comment? I have listened carefully to what Senator Flynn has said. There was nothing unparliamentary in what he said; therefore, I did not interrupt him.

The previous witnesses obviously cannot respond now, although they are in the public gallery.

If you wish, Professor Bliss, you may make a statement.

Dr. Bliss: Honourable senators, I think all of us who are engaged in public debate of any kind distinguish between contempt for persons and contempt for contemptible arguments.

• (1640)

Senator Flynn: You should tell Mr. Kierans the way that you treated his arguments.

Senator Hicks: He only treated them the way they should have been treated.

Senator Flynn: I would like to ask Senator Hicks if he heard what the witness said about people who become premiers changing their perspective. I would be interested to have him reply on that point.

Senator Hicks: I do not know, Mr. Chairman, whether that is relevant to this discussion.

Senator Flynn: That was not relevant either.

Senator Hicks: But, as a former provincial premier, I do not think that I adopted that attitude. Indeed, I came close to quarrelling with my predecessor about this very thing.

Generally speaking, I think a lot of heads of provincial governments behave exactly the way Professor Bliss said they did.

Some Hon. Senators: Hear, hear!

Senator Flynn: But you accused the others of not being as good as you are!

The Chairman: Order!

Dr. Bliss: I emphasize my point, Mr. Chairman, that it is perfectly natural and legitimate for provinces to disagree and to fight with Ottawa. I believe that part of the responsibility of elected provincial politicians is to represent the distinctive interests of their constituents. That is why, in our kind of

federation, that conflict between Dominion and provinces is as natural as conflict between members of different political parties.

Senator Frith: And healthy.

Dr. Bliss: And healthy.

The Chairman: You see, Professor Bliss, conflict arises in this chamber as well.

The next questioner will be Senator MacEachen, followed by Senator Stewart.

Senator MacEachen: I tried to take down one sentence which Professor Bliss used, but failed to do so, because he was moving rather quickly. It was a sentence in which he used the expression "dishonest tactics." I think it is in his text. Perhaps he might refer to it and illuminate on that point a bit more.

The second point I want to raise appears on page 11 of his submission and deals with his discussion on the Senate. I found it quite interesting when he stated that:

> The government's acceptance of the Accord means the appointed Senate is now functioning with less check on its anachronistic legislative power than has existed at any time in our country's history—

If that is the case, which I dispute, I would regard it as a welcome development, from my point of view, and one which should be accelerated; and if that benefit floated from the Meech Lake Accord, then I think it is one unexpected dividend that we have received in that we have seen a Senate that may be exercising legislative powers. I wondered what you meant, because you said that "the appointed Senate is now functioning with less check." What was the "check" in the past?

Dr. Bliss: The issue of whether or not responsible government could operate in the context of a functioning bicameral system was aired during the Confederation debates, with many of the critics of the Quebec resolution suggesting that the Senate would pose a problem.

Throughout Canadian history we have been able to make our responsible government function, because, while the Senate has many times quite properly exercised its function of forcing second thought on the House of Commons, there have always been implied sanctions which, in the event of conflict, can bring the Senate into line and guarantee that the Senate will carry out the government's will. Those sanctions include elections and the possibility of constitutional reform of the Senate to limit its powers. In that respect, the Canadian Senate is in the same position as the House of Lords.

It seems to me that recent events, senator—and I believe that you understand this very well—make it more difficult for the majority in the House of Commons to feel that they have a check on the Upper House. The events of the last few months—indeed, the events in our papers almost daily suggest that the government, which commands a majority in the House of Commons, is not sure how easily its legislative program will be accepted. I believe that this raises serious issues involving our responsible government and democracy. Of course, I have no answers, but I believe that the Meech Lake Accord has done this. It has frozen the powers of the Senate, barring an eventuality which few of us believe can happen, in which all of the provinces agree to Senate reform.

Senator MacEachen: Well, Professor Bliss, I do not disagree with the difficulties that may be created by the adoption of the Meech Lake Accord in bringing about Senate reform—personally, I would regret that, because I am a strong advocate of Senate reform—but may I ask you another question? As an historian, you seem to imply that somehow the exercise of legislative powers by the Senate is a violation of responsible democratic government. How did the Fathers of Confederation make such an error in the original constitution-making?

Dr. Bliss: Partly because the Fathers of Confederation themselves had a tendency to work quickly, to stick to their resolutions as though they were binding treaties, and to not slow down and accept reconsideration. The Fathers of Confederation were caught in an historic moment of time when an appointed chamber still seemed to be politically legitimate. Sir John A. Macdonald and Cartier, as you know, were not believers in the kind of democracy that we have now. They accepted the appointive principle in an upper house. Within 20 years of Confederation the world had changed and the appointive principle seemed to be more and more anachronistic. I believe that in the 20th century it is very anachronistic.

You, sir, are a better expert than I on the behaviour of the Senate in the 20th century. It does seem to me that at most times the Senate has been extremely responsible in realizing that constitutionally there are questions about an appointive chamber with such great power.

I do believe that there have been times—and, in any case, there should be a residual possibility—when, in the event of conflict between the houses, there should be a way of forcing the Upper House to give way. That should be seen to be part of a functioning democracy in the 20th century.

Senator MacEachen: Well, I would not disagree with that at this point, at any rate, but I take it that in response to my question, the "check" that in your mind has historically existed on the legislative powers of the Senate is the fear instilled in the hearts of senators that if they do not behave they will be reformed.

Dr. Bliss: Yes.

Senator MacEachen: It has no modern application, I assure you.

Senator Hicks: There is no historical evidence in relation to it either!

Dr. Bliss: Of course, the ultimate sanction would seem to be an election. But let me point out to you that if we had an election on the abuse by the Senate of its power, under the Meech Lake Accord we still would not be anywhere, because the Senate could still continue to block legislation until its power was taken away.

With the Meech Lake Accord, we are creating a situation in which, in the worst case, the people of Prince Edward Island can come to the defence of the Senate no matter what the rest

of Canada thinks. That is, of course, an absurd worst-case scenario, but those of you who are lawyers surely understand the importance of thinking about worst-case scenarios.

● (1650)

May I go back to your earlier question, senator?

Senator MacEachen: Yes. I think we are at an interesting point in our discussion on the Senate. You have said that the Fathers of Confederation really did err in giving the Senate these legislative powers, and that subsequent opinion was correct. I appreciate that historical insight, and if I had more time I would press that point. Perhaps you could go back to my first point about the dishonest tactics and how they were exhibited.

Dr. Bliss: When the history of these events is written, as it will be—and there has been much talk of how this will look in the history books—I think there will be a good deal of concern about what the real situation was in Canada after the 1982 constitutional changes were made. Did the refusal of the Government of Quebec to sign these changes create some kind of crisis in the country, as some of the accord supporters have said it did? Historians will ask themselves: How can we measure this empirically? Where is the evidence of a crisis? Did the implementation of the 1982 changes cause a great upsurge in separatist sentiment in Quebec? Of course, they defeated the separatists. Separatism continued its decline. The PQ government collapsed. Constitutional change was not effectively an issue in either Quebec or in national elections.

Historians who remember the 1930s know, and know well, the impact that people can have, especially if they are first off the mark, in spreading lies. Those of us who look at the rhetoric that was initially used to defend the Meech Lake Accord, by people who are all recorded on video tape, I think, will comment on the distortions of fact that were present, at least in the early days. I believe these have now faded as Canadians begin to understand this process, and it was important that time go by.

The Chairman: Thank you, Senator MacEachen. Before I call on the next questioner, I note that the two previous witnesses are in the gallery, and I point out to them that there is audio equipment available if they are having difficulty hearing our proceedings.

The next questioner will be Senator Stewart, followed by Senator Marsden.

Senator Stewart (Antigonish-Guysborough): I happen to be one of those who do not feel that the Fathers of Confederation committed an error, egregious or otherwise, in 1867 when they included the Senate in the Parliament of Canada.

Professor Bliss has made several remarks bearing on responsible government. Sometimes we are told that responsible government means that the House of Commons is responsible to the electorate. That, of course, we can dismiss, because it often happens that ministers of the day do not intend to run in the next election. That was the case before the election of 1984. It would be very difficult to argue that Mr. Trudeau or his ministers were responsible to the electorate in the sense that they could be defeated at the polls. What we are really talking about when we talk about responsible government is the relationship between the executive government and the House of Commons.

I was brought up on an historical interpretation which said that responsible government, particularly in the Canadian context, meant that the executive government was responsible for its executive activities to the body elected by the people in the province or the Dominion. That interpretation was not one which said, as I think Professor Bliss implied, that the ministry of the day can protest that the principle of responsible government has been offended if one or more of its bills has been defeated. I wonder if he will tell us if there was a change in the meaning of the expression "responsible government," and, if so, when that change took place. Or is this one of these myths or misconceptions to which he was just now referring?

Dr. Bliss: No, senator, I agree with your interpretation. I understand by "responsible government" the notion that the executive is responsible to the legislature.

Senator Hicks: The House of Commons, the elected legislature—not responsible to the Senate at all?

Dr. Bliss: May I finish, senator, because I do agree with you. I am just going to take a bit to get there.

I think that, strictly speaking, we simply mean the responsibility of the executive to the legislature, but if we try to apply that doctrine in the context of the kind of bicameral legislature that we have, we find that we create insoluble problems. Do we really want to say that responsible government means that the executive will have to command the support of a majority in both houses before it can get its legislative program through?

If we say that, what is the implication, particularly when one of the houses is appointed, and we can have a situation in Canada, which we have often had, in which the political persuasion of the majorities is different? I do not believe that that kind of, strictly speaking, responsible government could function. It would be a recipe for paralysis as was a similar kind of double majority situation in Canada before Confederation.

It seems to me that the only tenable notion of responsible government in practice has to be that the elected body of the legislature has the final say and that the executive is responsible to it. When we have a kind of a wild card in an appointed Senate that is responsible to nobody, we subvert our system of responsible government.

I would add that one of the appalling things about this whole process of constitutional reform is that, to my knowledge, we have rushed ahead with these things without any consideration of the whole question of how to reconcile responsible government with a functioning bicameral system. Everyone talks about Senate reform. No schemes of Senate reform that I know of have come to grips with that very real problem of responsibility.

If the Senate is going to exercise power under any scheme, even an elected Senate, what will we do about a situation in

which there is a deadlock between the House of Commons and the Senate? What will we do?

Senator Frith: That happens in Australia.

Dr. Bliss: I think we will have to go over to an American system and put a president above them both.

Senator Stewart (Antigonish-Guysborough): It is clear that the witness did not comprehend my question, because he has bulked legislative activity with executive activity. However, I will not pursue that, because probably my efforts at clarification would be vain.

I speak now to Professor Bliss as an historian, because Canadian history is the field in which he has great authority. He refers at pages 11 and 12 of his submission to the establishment of new provinces, and he proposes that certain provinces of Canada would not have been erected as provinces under the proposed Meech Lake requirements.

I draw to his attention the provision in the Meech Lake Accord about the extension of existing provinces into the territories, and I ask him if he would refresh our minds as to what would have happened to the demands of Quebec and Ontario for new boundaries if the Meech Lake requirements had been in effect after the 1911 election?

• (1700)

Dr. Bliss: Senator, I believe you know the answer better than I do. My recollection is that the other provinces would have blocked the expansion of Ontario and Quebec.

Senator Stewart (Antigonish-Guysborough): Could you tell us how valuable that expansion was to Quebec and Ontario? Could you give us a rough notion of how much extra territory Ontario and Quebec acquired out of the territories and what was the implication of that in making these two provinces, particularly Ontario, "have" provinces as distinct from poor provinces like Prince Edward Island and Nova Scotia, which, given their location, could not be enlarged and enriched by extension into the territories?

Dr. Bliss: Yes, senator, I believe that we would be talking of Ontario and Quebec growing on an order of magnitude of 100 to 200 per cent. Perhaps I am wrong, but that is the ballpark figure. The addition to the wealth of these provinces was enormous. People spoke of "empire Ontario". Of course, these territorial additions to the existing provinces were very instrumental in creating the imbalance that exists in terms of resource distribution in the Confederation of today.

The Chairman: If I might ask a supplementary question on that point, were the other provinces consulted on the extension?

Dr. Bliss: My belief, and I am subject to correction, is that they were not consulted. They may have expressed opinions, but their views were ignored.

Senator Frith: What was the date of the expansion?

Dr. Bliss: We are talking about the extension of boundaries in 1911.

The Chairman: It was a unilateral decision made by the federal government?

Dr. Bliss: Yes, I believe so.

Senator Hicks: And the two provinces concerned.

The Chairman: Yes. Senator Hicks has mentioned the two provinces concerned, but the two provinces concerned had a common boundary. Were they involved in the discussion as to that boundary?

Dr. Bliss: I do not believe that one province had a voice in the expansion of the other.

Senator Marsden: Professor Bliss, I wonder if you would comment as a historian on the issue of what is described as "executive federalism." I have not had a chance to read in detail the brief we received this afternoon, but we did receive earlier your comments, which were published, I believe, in the *Globe and Mail*. You referred to "constitutionalized conferencing" as a "ridiculous new institution", and by "constitutionalized conferencing" I assume you mean the same thing as executive federalism. I also assume that you did not like it at all, that quite apart from this accord, you think it is the wrong way to go about doing constitutional business in this country.

You may have heard the previous witness recommend referenda. Could we have your views on that device as an instrument with which to express the will of the people in constitutional change?

Dr. Bliss: We have had only two referenda in Canadian history, one on conscription and one on temperance in the 19th century. Even so, referenda are not foreign to our system. I am trying to express a position to the effect that we Canadians believe that these are serious matters, that our legislators have a grave responsibility, and that we will behave legislatively according to the magnitude of the issue at stake. It seems to me that executive federalism, as it has evolved, makes a great deal of sense on many matters which are of joint concern to the Dominion and the provinces, matters on which there is an ongoing need for consultation in working out details and in implementing measures.

I believe that constitution-making is a different order of business altogether. I believe that it is the most serious thing in which a community can engage and that constitutions are not changed lightly. You do not make constitutions lightly, nor do you hold a constitutional conference as a matter of course, simply because you are supposed to. It strikes me, and we have already seen this with some of our annual meetings, that the process is trivialized, because people are forced to meet whether or not they have legitimate business to do. At these meetings the media are concentrated, and they are bound to create issues whether or not any exist. This system increasingly draws the political process into disrepute, because ordinary Canadians see the cynicism of the reporters who come down to conferences where they know that nothing is going to happen, and this feeds their own cynicism. It is something that we ought to be greatly worried about.

Senator Marsden: You do not rule out referenda, then?

Dr. Bliss: No, ideally I think that a referendum on grave matters is appropriate, but we are at a stage now where we have so many procedures and are so caught up in time that it is hard to specify practical alternatives.

Senator Marsden: You suggested in both of the papers we have received that the people who formulated the Meech Lake Accord have confused politics with constitutional activity. You have also suggested there, and again this afternoon, that there has been distortion of historical fact, exaggeration of points of view, and propaganda in the worst sense of the word. I have two questions to ask you about that. First, is that any different from what has happened in the past? Second, would you characterize it as authoritarianism; that is, as asking people to accept the will of those in power without question?

Dr. Bliss: No, I do not think I would go so far as to characterize it as authoritarianism. We are following constitutional procedures. I believe that people are asking us to trust our governments, and it is the responsibility of citizens to ask themselves if they should trust legislators. I do not follow the extreme views of people who feel that something unconstitutional is going on, but I have used strong language because I believe that there is something more fundamental going on. I believe that our political procedures are letting us down as a people, that we are getting an approach to legislation on constitutions that trivializes them and belies the dignity of them.

It would take a lot of thought and consideration, however, for me to answer the first part of your question. I am not sure that the language used in 1987 is significantly different from that which was used between 1980 and 1982. One of my beliefs about this whole process we have gone through in recent history is that we are now, in 1987, paying the price for what the government did in 1981 and 1982, which I believe was almost equally a violation of the bonds of comity that ought to hold a community together to what we are seeing now. I believe that the government of the day used, or threatened to use, tactics which were difficult to justify, and they are now rebounding in terms of a successive government determined to undo what it believed the previous government did.

Senator Marsden: Could you expand upon that a little so as to put some boundaries around what you are thinking of?

Dr. Bliss: I am trying to draw very careful distinctions. I believe that if I were to write the history of these events, I would begin by saying that the comity of the Canadian community was upset by the government that was elected in 1980 when it violated the spirit of federalism in its treatment of western Canada, in the National Energy Program, and then again with its use of the tactics that it announced would be necessary to force constitutional change. I believe that the contempt shown by the government of those years for the spirit of federalism has created a rebound effect in the replacement government, which was the victim and represents the victims. The First Ministers represent the victims of that contempt, being determined to take the pendulum back, to undo what that government did.

[Senator Marsden.]

My fear is that these are fundamentally political battles. It is fine to have these political battles every five or ten years, but what we are doing is playing with the Constitution of Canada for all time to come, particularly in this case where we are putting in place an amending formula that will lock it up. As an historian, what has happened is that people have got carried away in the short-term events and short term perspective, and they are using those reactions to affect our future in the long term. I am trying not to use occupational arrogance and say that we should have a sense of history, but I think we desperately need a sense of the long-term history of the country, that we cannot think of the history of Canada as having started in 1980. It is because we have such a short-term perspective that, for example, it is believed that our pre-Meech Lake federal system meant Ottawa's aggrandizement at the expense of of the rest of the country. That was a brief moment in time which appalled many people, but to undo that moment in time by changing our Constitution for all time to come seems to me to be an over-reaction.

• (1710)

Senator Marsden: I have yet to meet an historian who is in favour of this accord. Do you know of any?

Dr. Bliss: There are some French-Canadian historians in Quebec who favour this accord. I know of no English-speaking historians who are in favour of it. I have never before seen historians agree as substantially as on this accord.

Senator Marsden: Especially those in your department.

Dr. Bliss: I am referring to every university in the country outside Quebec.

Senator Frith: Mr. Chairman, I want to pursue what seemed to me to be a bit of a ragtag ending during the discussion on responsible government. The answer of the witness was to the effect that the answer to the situation is to put a president over the two houses. The implication is that that is the best way for a federal state to work. I wanted to explore with Dr. Bliss the Australian situation. They have there a parliamentary system which they consider an example of responsible government. Both houses are elected. Since 1949 the Senate has been elected by proportional representation, and the government has very seldom controlled both houses, as proportional representation usually results in no majority.

However, in view of the time, the discussion would be a bit esoteric. I shall pursue the matter personally with Dr. Bliss, but I did want to get on record the point about two elected houses in a parliamentary system and still having responsible government, although the government does not control both houses.

The Chairman: Do you wish to comment, Dr. Bliss?

Dr. Bliss: No, but I appreciate the point.

Senator Adams: Aboriginal rights have been left out of the Meech Lake Accord. Do you see aboriginal peoples being able to bargain with the Prime Minister and the premiers in the future?

Dr. Bliss: It strikes me that the problem for the future is the problem that is being expressed now when people propose re-opening the Meech Lake Accord. We are told that the accord cannot be re-opened to deal with aboriginal rights or with the Charter, because there will not be unanimity if it is. Then we are told that we should re-open it after it is passed, because there will be unanimity. That strikes me as illogical. In my brief I indicate that people who are suggesting that we go ahead with the accord and then try to amend it are people who would say that we should let the patient die and then try to cure him. This, of course, is the terrible fear that so many of us have, that after the accord is passed there will not be any more talking, because it will be final.

Senator Adams: But what will happen to section 35? Is there any future for section 35, or will it be wiped out?

Dr. Bliss: I cannot predict what will happen. My view from the beginning has been that I am not sure that I will understand what finally happens, but that our courts will tell us.

Senator Adams: Of course, as the Meech Lake Accord now exists, any bargaining on aboriginal rights will require the consent of the ten premiers.

Dr. Bliss: In a way, the ten premiers have said that they will not re-open the accord unless they find egregious errors in drafting. On the other hand, only one premier has to refuse to put the accord through his legislature.

Senator MacEachen: Mr. Chairman, I want to enter a disclaimer at the beginning and say that I accept no responsibility for the assertions made by Professor Bliss about the former government, particularly with respect to the National Energy Program and constitutional change. I suggest that when an historical perspective is taken on these events, as will happen in the future, even Professor Bliss, who is now speaking more as a journalist, might take a different view, but that is just by way of editorializing.

I want to go back to the matter of the Senate. It is not that I am obsessed with the Senate, but I happen to be a member of the Senate. Earlier you lamented the absence of any present check on the legislative powers of the Senate. I accept your reasoning fully, but you ended your statement by saying:

> Canadians have a right to expect more from their politicians. Can the Senate of Canada give us wisdom, perspective, and guidance on this most vital of all issues, and help us avert a national tragedy?

Earlier in the summary there is the sentence:

> Will Canada's Senators contribute the perspective, wisdom, and statemanship to our deliberations that [we] have a right to expect from our upper house?

I take these words seriously, as the Senate did act seriously, in my view, when it decided to undertake this study of the Meech Lake Accord. It was a serious decision, particularly to conduct matters in Committee of the Whole.

I would appreciate it if you could tell us how you think in the course of our work we can exhibit all these qualities. Would you approve, for example, of our exercising the legislative power we have under the Constitution; namely, we could fail to pass the constitutional amendment? We could defeat it or amend it, which would require its being repassed by the House of Commons.

Dr. Bliss: Yes.

Senator MacEachen: Are there any ways you can think of that we could contribute this "wisdom, statesmanship and perspective"? It may be that all of these qualities are more important than the ability to exercise legislative powers. If we could have them without legislative powers, then perhaps, in your mind, that is a real gain.

• (1720)

Dr. Bliss: But, senator, I believe that is what you have on the constitutional issue, because you only have a delaying power, and in my view you have been appropriately limited on constitutional matters. However, now that we have a grave constitutional issue, you ought to use this limited power to its full. I am sure you know better than I the most effective tactics for giving this measure the kind of consideration that you are giving it. Believe me, I very much appreciate the kind of hearings that you are holding, and I hope that the debates that the Senate holds on this matter will reach a level of perspective that perhaps is not present in other legislative bodies. My answer is yes, you do have a right to hold it up, but that right is limited, as it should be.

Senator MacEachen: Would you favour our having a constitutional amendment repassed by the House of Commons?

Dr. Bliss: I believe, sir, that that might be consistent with the idea of forcing sober second thought on the House of Commons. You cannot eventually stop this process, nor do I think you should. I myself believe that it would be important for this matter to go before the people. You may decide to use your powers on other matters in order to make sure that they are put before the people, and I understand that.

Senator MacEachen: Perhaps I am misreading your comment, but are you saying that we should act at certain times in a way that would precipitate an election?

Dr. Bliss: Yes, sir, on vital national matters I believe that is proper within the Constitution. If you want me to make a concrete reference, I wish that you would spend your time debating the Constitution, telling Canadians about the Constitution and its implications, and not spend your time on matters of specific legislation such as drug patents.

Some Hon. Senators: Oh, oh!

Senator MacEachen: You would ask us to use strategic weapons rather than tactical weapons? In other words, we are too much statesmen to be tacticians.

Dr. Bliss: Yes, sir, but I do believe that—

Senator Frith: He wants us to eliminate our short and medium-range missiles.

Dr. Bliss: Sir, from the perspective of people who are outside of Ottawa and outside of the political process, I think

that Canadians believe that politicians indeed ought to gauge their weaponry to the seriousness of the issue. Sometimes our perception of Ottawa is that politicians are dropping bombs on one another over trivial matters. This is not a trivial matter.

Senator MacEachen: I agree with you that it is not trivial. However, I am somewhat uplifted at the end of your presentation by your willingness to endorse any action that we took that might precipitate an election on a grave national issue, even though you would not endorse us on Bill C-22. You have given us a higher role than I had hitherto wished to attain. For that I thank you.

The Chairman: Honourable senators, that concludes the list of questioners. Professor Bliss, I want to thank you very much for the time and trouble you have taken to come to us from another part of the country to share your views with us. As you see, they have elicited a fair amount of questioning.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake Accord and texts subsequently agreed to were referred, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the Committee of the Whole be given authority to sit again on Wednesday, December 16, 1987, at 3 p.m.

Motion agreed to.

INCOME TAX ACT

BILL TO AMEND—SECOND READING

Hon. Duff Roblin moved the second reading of Bill C-64, to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971.

He said: Honourable senators, my task today will not, I hope, detain you too long, but, at the same time, will do justice to the importance of the subject matter of this bill. It is an act to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971. I think I could encapsulate what is in this bill by saying that by and large it incorporates the tax policies and the tax changes which were proposed in the budget of February 1987, plus a variety of other measures of the same general nature.

I think I should also point out that, as members of the Senate have probably noticed, the copy of the bill that is before us is the copy that was presented to the Committee of the Whole in the other place, and not the ultimate document that will be coming from the printer in very short order. I hope that the Senate will accept this document.

Senator Argue: I think we have it here.

Senator Roblin: Do you have the final copy there?

Senator Argue: The date is December 4.

Senator Roblin: No, I think you will find that the December 4 copy was the copy that was presented by the Standing Committee on Finance and Economic Affairs to the Committee of the Whole in the other place.

Senator Frith: But including all of the amendments?

Senator Roblin: The only change between the two documents is one amendment, namely, on page 4 of the bill, line ten, a date is changed from 1990 to 1987. Other than that, the documents are the same, so I trust that the Senate will allow me to proceed on that basis.

Senator Frith: What page, senator?

Senator Roblin: Line ten on page 4. It is just a change of dates.

I must admit that this is a substantial document that we have before us. It consists of 140-odd pages containing numerous clauses, to say nothing of the convoluted and arcane detail that one always finds in a taxing statute. For the most part, it is a bill in which technicalities abound, and where it is difficult to discern a particular principle that one would normally be expected to discuss at second reading.

• (1730)

Without claiming a perfect knowledge of all the clauses of this piece of legislation—I think that would be asking too much—I would like to bring to the notice of the members of the house some highlights that point to a number of significant and interesting proposals in the bill, and which perhaps give some idea of the general tenor of the legislation and what we will find in it.

One of the interesting proposals in the legislation is a speed-up of the tax remittances which are made by employers through the payroll deduction system. This speed-up affects large employers which are defined as those who have a monthly payroll of over $15,000, and they concern the income tax deductions, the unemployment insurance deductions, and the Canada Pension Plan deductions. These deductions are now to be remitted to the Treasury on a two-week basis instead of a four-week basis. The aim of this measure is to improve the government's cash flow, but I would be less than candid if I did not say that, by the same token, it reduces the employer's

cash flow. All things considered, I believe that this is a tolerable measure for us to accept.

A second large portion of the bill has to do with changes dealing with tax avoidance and tax avoidance provisions. They are extensive. They deal, for example, with the measures to limit the powers of corporations in dealing with tax loss allocations and with allocations to the capital dividend account, which might have the effect of unduly reducing the tax they pay. The distribution of corporate surpluses to the shareholders, in certain cases, is also governed by the provisions of this act, all in the hope of eliminating undue tax concessions which apparently are available to companies as the act stands at the present time.

Hon. Royce Frith (Deputy Leader of the Opposition): These are tax avoidances, not evasions.

Senator Roblin: Did I say "evasion"?

Senator Frith: No, you did not; you said "avoidance."

Senator Roblin: I thought I said "avoidance." I am glad that my friend has mentioned that, because they are not evasions. They are tax avoidance measures. Nevertheless, they are to be looked at in this bill.

Another clause of this bill deals with the federal power of garnishment, which has to do with its priority in demanding payment with respect to its claims on income streams, et cetera, as opposed to other creditors in the case of commercial difficulties. This strengthens the position of the federal government in its status in asking for priority with respect to garnishment. I confess that to a good many people this particular measure will cause some heartburns. Some of us have always wondered about the priority accorded to the federal power of garnishment. It is probably legally and theoretically sound, but at the same time it does rub some of us the wrong way. That is in the bill, and I thought I would let you know about it.

Another portion of the bill, and this also occupies a good deal of the content of the bill, has to do with resources successor rules—the resource expense allowances and their transferability to successor companies and successor organizations. This bill broadens the possibility of carrying forward to resource successors resource expense allowances when there are company organizations, reorganizations, purchases, buy-outs, and whatnot, which are very often found in natural resource development situations. This clause will be of particular interest to people who are in that business, some of whom are in western Canada.

There are also some tax effects dealing with unregistered pension plans that individuals may have. Right now people have been in the habit of deferring some of their tax obligations through the use of an unregistered pension plan. This is thought to be untidy or, at least, undesirable. The tax deferral is now limited with respect to these unregistered plans in order to bring them into line with the facilities that are made available to registered pension plans.

There is another interesting clause in the bill. This has to do with people who are late in paying their tax installments. This was the subject of some interest in another context. Under this bill, if you are late paying your tax installments, and therefore incur interest costs, you could compensate for this by the prepayment or the overpayment of the tax owing by the taxpayer at a later time. This is a new concept to me, I must confess, but it is one of the interesting sidelights in this particular bill.

There is also a change made in the obligation on certain investors with respect to reporting interest that has accrued on their investments, that is, interest that has been earned but has not been received. The clause in this bill that has to do with that concept goes to the point of extending the time for reporting this deferred interest to 1988. This clause has been put in, I think, with particular thought to the Canada Savings Bond holders who are sliding them over for another year, which has apparently been considered to be a proper concession to be made to these people who have to deal with this question of deferred interest.

Perhaps the most titillating part of this legislation—certainly the aspect that has attracted the most public attention as far as I can tell—has to do with the concept of an international banking centre. This has been the subject of much debate in the other place and in public circles as well. It has provoked wide interest.

Senator MacEachen: Not for Winnipeg.

Senator Roblin: I guess I am just jealous. I will try not to overstate the significance of this measure, because there has been a tendency to accord more importance to it than it deserves. It seems to me to be a very modest measure to help Montreal and Vancouver in their development as financial centres.

I acknowledge that this idea was studied by a former governor of the Bank of Canada, Mr. Louis Rasminsky, and his colleague, Mr. Lawson. When they looked at it they were not exactly enthusiastic about the idea, because they thought perhaps there was the possibility of considerable revenue losses being incurred by the Treasury in this respect, with no very substantial benefits to the cities in question.

Senator Frith: The proposal was not considered modest in that sense.

Senator Roblin: Perhaps not, but perhaps it is a little more modest to say that the observations of these gentlemen have been taken into account to a very large extent in the actual proposal that is before us in this bill itself.

The aim of the policy of international banking centres is to attract new foreign business to Canada without disturbing activities already established in Canada and without serious prejudice to the revenue. The means by which this is to be done is through the use of tax concessions. The tax concession, however—and this is quite important to note—is limited to certain transactions. In fact, it is rather limited. Basically it deals only with arm's-length foreign banking and deposit services, which is certainly a very limited activity. Its aim and focus is to attract business from foreign tax havens which we hope will come to Canada. The limitation of the transaction that I have described to you goes a great deal of the way in

making it clear that the effect on the revenue will not be substantial, because it deals with business which at the present time does not come into Canada, is not taxed in Canada, and therefore the tax losses to the Treasury will be minimal.

The international banking centre is designed to attract new offshore business without jeopardizing the existing activities of bankers in Canada and without jeopardizing the tax flow to the Treasury. That is my view of the international banking centre's operation and significance. It seems to me that it might be of some assistance in developing new business for Canadian financial centres, business which does not come here at the present time and which would be advantageous to that industry in this country.

● (1740)

I am not sure how the banking industry will look at this. They may have views that do not coincide with my own. I am not in a position to report on that. But it seems to me that it is an idea that should be sympathetically examined by the committee which will be attending to this bill in due course.

Honourable senators, that is a brief overview of some of the measures that are contained in this bill. I make no effort to explain to you the rather involved technical nature of some of the clauses, which cover some 140 pages, because it takes a more expert tax mind than mine to bend itself around the complexities and the implications of these things. I think we would be well advised to ask the experts from the Department of Finance to enlighten us on any of these clauses which we find difficult or which we believe require further elaboration.

On that basis, I would like to move the second reading of this bill. If approval is given today, it could be referred to the Standing Senate Committe on Banking, Trade and Commerce to be examined expeditiously.

From the government's point of view, there is some merit in having the bill handled as fast as is practicable. I acknowledge that it was a long time in the House of Commons, and we would have been happier had the bill reached us sooner, but it did not.

Some of the clauses of the bill call for implementation on January 1, 1988, so the advantages of having it dealt with by this house as soon as can be conveniently and expeditiously arranged are manifest.

I commend the bill to honourable senators' attention.

Hon. Ian Sinclair: Honourable senators, first of all, I believe that all of us would want to compliment Senator Roblin on his analysis of Bill C-64. As he pointed out, it is a very technical bill in some of its aspects; in others, it is not technical, but causes one to wonder whether the language, for instance, in clause 66 of Bill C-64, the garnishment section to which Senator Roblin made reference, really is restricted to operational funds or whether it goes beyond that.

That is a matter that will bother all of us if it goes beyond operational funds and attaches, in a priority way, on behalf of the government, to property that was not involved in the situation at the time it was entered into, for instance, a mortgage.

[Senator Roblin.]

With regard to the other point Senator Roblin made, I could not help but wonder. We hear a great deal about how actions have been taken to simplify our income tax system. Senator Roblin referred to a clause of the bill that was of interest to people in the oil and gas business.

Just to show you how simple this is, honourable senators, let me refer you to clause 66.7. Under subparagraph (3) the following appears:

> Subject to subsections (6) and (7), where after May 6, 1974 a corporation (in this subsection referred to as the "successor") acquired a particular Canadian resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the aggregate of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of—

And then it goes on.

Senator Frith: Dispense!

Senator Sinclair: I am pleased that Senator Roblin brought that to our attention. It does not strike me as being very simple, but I guess I am not reading it right.

In regard to his suggestion that we would want to ask questions of officials, I think we should. On the garnishment issue I think we should ask questions, as well as on some of the language and on the international banking centres.

Honourable senators, I agree with Senator Roblin's remarks when he said that this may have been escalated beyond where it might ordinarily be, because it is a long way from the international banking centres that were first conceived and discussed. This is a limited operation in a particular field, and it is a balancing of deposits and loans "ex Canada." The problem is that it designates areas where they can be set up that are not within the most significant banking parts of Canada.

● (1750)

Let us be frank about it. Every country has a major banking centre—it does not have two. In the United States it is New York. You may like to think that San Francisco or Chicago are banking centres, but they are satellites to the single banking centre. In Germany it is Frankfurt; in Great Britain it is London, and so on. Canada has a banking centre; it is Toronto. That is recognized by the banking community and the financial community, but for some reason—and maybe this will be explained to us by Senator Roblin later—Toronto was not chosen. For some reason—and I cannot understand why—they chose Montreal and Vancouver. But we can look forward to that after it comes back from the committee, and I am sure that he will be able to tell us—I hope that he will—why these two cities were chosen whereas the obvious choice, Toronto, was left out.

Hon. H.A. Olson: Honourable senators, I rise only to make a complaint to Senator Roblin. I know that he said that he would not make any effort to explain a number of things—

some of which Senator Sinclair just referred to, such as the ones dealing with resource expense allowances regarding transfer successors, and that sort of thing—but I ask him now if he could at least tell us what is in the bill.

As has been pointed out, you can read the bill over—and I will not do it—as carefully and as slowly as you like, but you cannot even understand what it is saying. Could he at least tell us in some kind of layman's language—without all of the "whereases" and "buts" and "lesser of this and that," and so on—the intent of the bill so that we could at least understand what the change to the resource allowances would be after they have made some of these transfers?

I have a couple of other things that I would like to raise also, but I made a bet with one of my colleagues that I would be through in two minutes, so I should stop now.

Senator Roblin: I was just congratulating myself—if I may close the debate—on the fact that Senator Sinclair—

Senator Frith: We had better put the warning on the record.

Senator Roblin: —did not ask me to explain section 66, because with its hanging clauses, dangling participles, all of the "whereases" and references hither and yon, I confess that I have some trouble even explaining it to myself, let alone to anyone else.

I can tell Senator Olson, however, that—

Senator Frith: You are closing the debate?

The Hon. the Acting Speaker: I assume, honourable senators, that Senator Roblin is answering the question posed to him. Are you closing the debate?

Senator Olson: No, he is not closing the debate.

Senator Hicks: I wanted to ask a question, too, so he is answering the question.

Senator Roblin: Go ahead and ask the question and then I will finish it.

Senator Hicks: I want some reference to the sections which change—

Senator Sinclair: Do I take it that he cannot answer Senator Olson's question?

Senator Hicks: I want to have some explanation of and reference to the section that deals with the handling of the taxation of charitable donations, and so on. If I understand them correctly—and I have been frantically searching through the bill and I cannot find them—they will adversely affect all kinds of charitable institutions, particularly with respect to any substantial gifts which they might obtain. At present, if a person is roughly in the top income tax bracket, he can make a $5,000 donation and can save something like $2,500 in tax. Under this legislation, I understand that he will only be able to save 17 per cent of the $5,000. In my view, this may cause real hardship to many charitable institutions, universities, churches, hospitals and all sorts of institutions like that. At some time—either now, or later if Senator Roblin prefers—I would like to have some comment on the application of these sections.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, could we ask the Speaker not to see the clock, because it will probably take only a few minutes more?

Some Hon. Senators: Yes.

Senator Roblin: If there are no further questions, I will try to answer them and close the debate on this matter.

The Hon. the Acting Speaker: Honourable senators, I wish to inform the Senate that if Senator Roblin speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Some Hon. Senators: Agreed.

Senator Roblin: In reply to Senator Hicks, fortunately for me, this whole question of charitable donations is not in this bill.

Senator Frith: I did not think it was.

Senator Roblin: It is not here at all, so I do not have to tell you what clause it is in or comment on the point that you have made. But I will observe that this whole issue was discussed at some length before the Banking Committee when it made its report on the white paper on finance in the last little while.

Their conclusion was that, on the whole, they would do nothing about it, because they thought that it would probably adjust itself—if I may express my interpretation of their view—as time proceeds. Although the amount of benefit to the taxpayer is less, that is because his tax rates are less, too. There are two factors working in there. But I do not want to get into that debate. I will simply say that you will have to wait for another bill, which we may get some time in the spring, which will deal with this issue.

Dealing with Senator Olson's inquiry, I have a thumbnail answer for his inquiry about successor corporations, as follows. The successor rules pertaining to unused resource expense deductions are made more flexible with third and subsequent successor corporations treated in the same manner as first and second. The existing rules stand in the way of normal business reorganizations. I think that that is clear, and although it takes the report many pages to say it, that is the effect.

Dealing with the points raised by Senator Sinclair, yes, I have sadly to admit tax simplification is like the Holy Grail: It is always in front of us and we never reach it. I have a firm conviction that we never will, because the more complicated our economic and financial system gets and the more ingenious the operators of the tax advisory services and tax lawyers get, the more requirement there is for further legislation, which becomes so horribly complicated.

The Standing Senate Committee on Banking, Trade and Commerce offered a suggestion as to how we might deal, at least in part, with this question, which I will not deal with here, but it seemed to me to be a promising initiative, and I hope that it is taken up.

Now, coming back to the situation of Toronto, I think that we could say without the slightest exaggeration that Toronto is the financial centre of Canada. There is no way that that will

be changed. But equally, there is no way why Toronto needs any assistance to maintain its position; it is going great guns and will continue to do so. What is being done here is to offer a relatively small measure of inducement to financial people into other cities.

I regret that my town is not in there, because I think that I could make as good a case for Winnipeg, but it is not there. However, in order to reinforce my view of the position of Toronto as a natural financial centre in this country, I can tell honourable senators that over the past few years—over my lifetime, I guess, which is more than a few years—there has been a steady haemorrhege of financial operations from Winnipeg to Toronto, whether it is insurance, trust companies, financial organizations or, indeed, banks. We had some of those at that time. We find an ineluctable, an absolutely inevitable flow, I guess, of those financial operations to the centre in Toronto. I am not envious of Toronto—that would be an improper sentiment—but I regret that the natural course of events has apparently made this inevitable.

• (1800)

Senator Frith: It is unCanadian not to be envious of Toronto!

Senator Roblin: I would be sad if you called me "unCanadian." However, I am willing to risk it in this particular instance.

Senator Doody: It makes me feel like a real Canadian!

Senator Roblin: All I can say is shed no tears for Toronto as a financial centre. It can manage on its own very well. It does not need any help, but some of the rest of us do.

Senator Frith: There will be a small amendment in due course to change it.

Senator Roblin: I do not think we are giving much help to Vancouver and Montreal, but we are giving them some. I think that in this house, with our particular concern for regional affairs, we can be concerned about the regional interests of Toronto and say to ourselves that it is not being damaged in any perceptible way by this measure, and it is possible that it might do some small good in Montreal and Vancouver.

My conclusion is that I will support this particular aspect of the bill. I hope that if you agree with me you will give second reading to this bill, and I shall use my influence to have it referred to the Standing Senate Committee on Banking, Trade and Commerce for further consideration.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Duff Roblin: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce for its usual kind attention.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Frith: Except that the "kind attention" is not a condition.

Senator Roblin: I will not back away from that.

On motion of Senator Roblin, bill referred to Standing Senate Committee on Banking, Trade and Commerce.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, December 10, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, December 10, 1987

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TENTH REPORT

Your Committee, to which was referred the Bill C-90, An Act to amend the Unemployment Insurance Act, 1971, has, in obedience to the Order of Reference of Tuesday, December 8, 1987, examined the said Bill and now reports the same without amendment, but with the following recommendation:

Your Committee recommends that the Government refrain from asking Parliament every year to extend the provisions of the *Unemployment Insurance Act, 1971* governing the variable entrance requirement (VER) by introducing a bill to make the requirement a permanent feature of the act.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, December 10, 1987

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred the Bill C-254, An Act to amend the Citizenship Act, has, in obedience to the Order of Reference of Tuesday, December 8, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Bosa, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

STATUTE LAW AMENDMENT PROPOSALS

REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 10, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTEENTH REPORT

Your Committee, to which was referred the document intituled: "Proposals to correct certain anomalies, inconsistencies, archaisms and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada", has, in obedience to the order of reference of Wednesday, October 28, 1987, examined the said document and now reports it with the following amendments:

Proposed Clause 37:

Delete proposed clause 37.

Proposed Clauses 12 and 39:

Proposed clauses 12 and 39 should be deleted in accordance with the undertaking given by the Senior Legislative Counsel of the Department of Justice to the Committee on December 10, 1987.

Proposed Schedule I, item 8:

Proposed schedule 1, item 8 should be amended in accordance with the undertaking given by the Senior

Legislative Counsel of the Department of Justice to the Committee on December 10, 1987.

Proposed Schedule I:

Add new items 43 and 44 and renumber, in accordance with the undertaking given by the Senior Legislative Counsel of the Department of Justice to the Committee on December 10, 1987.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Neiman: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that this report be adopted now.

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

Hon. Senators: Agreed.

Senator Frith: May we have an explanation?

Senator Neiman: Honourable senators, this is a proposal for a bill which is presented periodically to both houses of Parliament. It is designed merely to correct errors, as it says, archaisms and matters of a non-substantive and non-controversial nature in existing legislation.

The usual procedure is to present this document to both houses for examination and any kind of correction. Those parts that are accepted must be adopted unanimously and then the bill will be presented. That is to happen next week. That is the reason I am asking for your permission to allow me to speak to it today.

The document really had very few errors that we were able to find. There were a couple of corrections such as changing the word "or" to "and." There was also some coordination required between the French and the English versions of the text, and you will notice that there was only one item that we proposed be deleted. We did that on the grounds that the amendment was of a substantive nature and should be considered by Parliament in a separate bill.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

WAR VETERANS ALLOWANCE

AMENDMENT OF ACT—NOTICE OF INQUIRY

Hon. Jack Marshall: Honourable senators, I give notice that on Wednesday next, December 16, 1987, I will call the attention of the Senate to the urgency of amending the War Veterans Allowance Act in order to remove the restriction that requires a Canadian veteran who served overseas in World War II and who chose to take up residence outside Canada to return to Canada for 365 days in order to become eligible to receive the allowances under the act and other benefits available thereunder.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Nathan Nurgitz: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at three o'clock in the afternoon today, even though the Senate may then be sitting and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, December 15, 1987, at two o'clock in the afternoon.

Motion agreed to.

QUESTION PERIOD

[*English*]

IMMIGRATION

REFUGEE STATUS—GOVERNMENT POLICY

Hon. Lorna Marsden: Honourable senators, the Leader of the Government in the Senate will recall that in October and previously a number of questions were asked of him about the situation in Fiji, the government's attitude to it, and so on. On October 15 he was asked what arrangements the Government of Canada was making for people who might wish to leave Fiji and come to Canada, either temporarily or on a long-term basis.

This week we received a press release from the Minister of Employment and Immigration informing us that over 2,500 people have come to Canada over the last three months and that a great many of them are planning not to be visitors but to stay in the country. We are informed in the newspapers that 200 of these people are seeking refugee status.

Could the minister tell us whether the government formulated those provisions in October, or whether the policy now is only to act in an *ex post facto* manner with respect to the movements of people in these situations?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not quite sure of the import of the honourable senator's question. She is relating it to some statement, which I do not recall, made in October. In any case, I do not see the connection between it and the present situation. As the honourable senator knows, Fiji has returned to civilian rule, following several coups. A new interim government is in place there, and I trust that she agrees that this is an important step towards the return to full democratic rule in that country.

Senator Marsden: Perhaps I should make myself more clear. I welcome, of course, the return to democratic rule in Fiji, but my question related entirely to Canada's immigration policy and the fact that this movement of people from Fiji—or any other part of the world where there is political upheaval of the kind that generates refugees and the movement of people—could have been anticipated. Not only could it have been anticipated, but the government was asked questions here—and, no doubt, in the other place as well—about the movement of people. Now we find that as of December 4, after at least 2,500 people have arrived in Canada, visitors' visas are going to be required, and now 200 people have claimed refugee status. It would have seemed to me, especially given the government's concern over immigration—we are dealing with legislation specifically on that matter—that some kind of arrangement could have been put in place much earlier in anticipation of this situation.

My question is: Were those arrangements put in place? Are we seeing the result of some sort of complexity which is not clear from the press release, or is this a failure to act until the situation has become complicated and difficult for at least 2,500 people?

Senator Murray: I take it that my honourable friend is suggesting that the visitor's visa requirement should have been imposed earlier. Let me tell her that the increase in the volume of visitors from Fiji became significant. It began in September. I can put the situation in context for her by advising her that while over 400 visitors from Fiji arrived in September, over 1,100 arrived in October and over 1,300 in November. Over 600 of these visitors have already indicated their intention to make refugee claims. Therefore, I think the action taken by the government on December 4 was timely under the circumstances.

Senator Marsden: Honourable senators, let me be absolutely clear. I welcome Fijians coming to Canada. I simply wonder why it is that the process has to be so complicated. It is very complicated to claim refugee status. Could the Government of Canada have anticipated that a great many people would have wanted to come to this country, and could it have put in place in Fiji the facilities to make it reasonably easy, in Canadian immigration terms, to come to Canada? The claim for refugee status is not a simple one.

• (1410)

Senator Murray: Honourable senators, it was extremely easy to come here. No visitor's visa was required until December 4.

Senator Marsden: Now it is extremely difficult. Visitors have to leave in order to gain entry into the country. It seems to me that what we have done is complicate the lives of people whose lives have already been complicated by the situation in their own country. Had we been unable to foresee this, it would have been understandable, but this situation was so apparent, and it involves such a small number of people, that I wonder if the Leader of the Government will be good enough to get a fuller explanation from the Department of External Affairs or from the Minister of State (Immigration) as to exactly what was done in the interim period.

Senator Murray: Honourable senators, I am informed that legitimate visitors from Fiji to Canada are normally granted up to three months to visit Canada. Following expiry of their initial visit, they can request an extension of their stay at a Canada Immigration centre. So I do not understand the point which the honourable senator is making to the effect that those who are here already would have to go back to Fiji to obtain a visitor's visa.

Senator Marsden: I am sure the Leader of the Government will understand that I am not suggesting that they have to go back to obtain a visitor's visa. Those who wish to stay permanently in Canada—and we read in the press that there are a great many who do wish to stay permanently in Canada—in order to immigrate will now have to leave the country.

We have been through this many times before in connection with Uganda, Chile and many other parts of the world where there have been political upheavals. It would seem to me that by this time an orderly process could be in place.

Senator Murray: Honourable senators, I am not sure that the situation in Fiji today is comparable to that in the other countries just mentioned, because, as I said in answer to the first question, in the last few days there has been a return to civilian rule. There is a new interim government in place to replace the Council of Ministers that had been installed by the military. So it may well be that her concerns—and those of many of the Fijians who might otherwise have wanted to stay in Canada—will have been allayed by the apparent restoration of political stability in that country.

DISARMAMENT

UNITED STATES-U.S.S.R. AGREEMENT ON NUCLEAR WEAPONS REDUCTIONS—STATEMENT BY CANADIAN AMBASSADOR TO UNITED NATIONS—GOVERNMENT POSITION

Hon. Heath Macquarrie: Honourable senators, believing as I do that senators, along with peace-loving Canadians and people of like mind all over the world, rejoice at what so far has taken place at the summit meetings in Washington—and having in mind the most excellent statement made on national television this morning by our Ambassador to the United

Nations, His Excellency Stephen Lewis—can the Leader of the Government indicate that the articulate gentleman, in his expression this morning of realistic hope and confidence at what had taken place so far, was not speaking only for himself but was expressing and reflecting the views of our own government on this most important issue and this most auspicious occasion?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am glad to inform the Senate that the Secretary of State for External Affairs, Mr. Clark, today expressed on behalf of the government his great pleasure at the signing of the agreement between the U.S.A. and the U.S.S.R. to eliminate all ground-based Soviet and American intermediate range nuclear missiles globally. Mr. Clark said in part:

> This agreement is an unprecedented breakthrough in efforts to reverse the nuclear arms spiral and engage in actual reductions in nuclear arms rather than just their limitation.
>
> The INF Accord will result in the complete elimination of an entire category of nuclear missiles and is therefore the first nuclear disarmanent agreement in modern history.

The minister went on to say:

> The outcome of the INF negotiations has reaffirmed the validity of NATO's December, 1979 "double-track" decision. It underlines the important role Alliance unity and solidarity have played throughout. The difficult decisions taken over the past 8 years on the issue of the INF have had a direct bearing on the successful outcome of these negotiations. Canada is satisfied with the results and looks forward with anticipation to similarly successful conclusions to other arms control negotiations currently underway.

MARITIME PROVINCES

TRANS-CANADA HIGHWAY UPGRADING—REQUEST FOR GOVERNMENT ASSISTANCE

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government. The premiers of the maritime provinces met in my home town of Grand Falls, New Brunswick, yesterday. As a result of that meeting they are unanimous in their determination to seek help from the federal government in rebuilding the Trans-Canada Highway from the Quebec border near Edmundston to Cape Tormentine and the Tantramar Marsh. A great deal is being said and done with respect to the linkage of Prince Edward Island and New Brunswick by way of a bridge, tunnel or whatever. However, at the rate the Trans-Canada Highway in New Brunswick is being torn apart, it will be difficult to get to the bridge or tunnel in good shape. Truck traffic has increased tremendously in New Brunswick, and I suspect that it has resulted in a decreased use of the excellent rail facilities in the maritimes.

[Senator Macquarrie.]

To sum up, the premiers of the three maritime provinces have decided to put their shoulders to the task—

Senator Murray: And ask us to write a cheque!

Senator Frith: That is pretty heavy-duty work.

Senator Corbin: —and ask for the assistance of the federal government. They are prepared to share in the costs of this enterprise, but for obvious reasons, well known to the Leader of the Government, New Brunswick, Prince Edward Island and Nova Scotia cannot go it alone. Furthermore, as one who travels that highway quite frequently, I am prepared to call it a "killer highway." Traffic on it is at the point where Sunday drivers cannot go out on a leisurely drive any more; the truck traffic has taken over totally. Premier McKenna has not yet come to Ottawa with a request, but it is obvious that this is a matter of great importance to all maritimers and, indeed, to all residents and road users of the Atlantic area. I simply want to know whether the minister and his colleagues from the maritime provinces would be well disposed to such a request and, indeed, see that the request receives speedy approval when it does come to them.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am well aware of the state of the Trans-Canada Highway in New Brunswick, having travelled it quite frequently. Premier McKenna and I met in Ottawa several weeks ago and, as a matter of fact, he mentioned the Trans-Canada Highway in New Brunswick as one of his priorities for future federal-provincial cooperation. Of course I made note of that in my capacity as the minister responsible for most of the ERDA subagreements in the Atlantic region. Having said that, I think I would be remiss if I did not mention that the federal government has committed about $1 billion to various ERDA subagreements, including highways agreements, in the Atlantic provinces. There is a highways agreement in force in New Brunswick. I do not recall at the moment the amount of money involved, but it is considerable. My honourable friend will know that the Government of New Brunswick has for some time attached great priority to the completion of Route 11 in that province.

• (1420)

We have recently signed a highways subagreement with the Province of Nova Scotia in the amount of $100 million, if my memory is correct. A few of these subagreements expire at the end of the present fiscal year. Many of them will expire at the end of 1988. I will be discussing with the provinces in the next little while what federal-provincial instrument might be put in place following the expiration of these subagreements, and we will take it from there.

However, for many years the federal government has been quite forthcoming with regard to sharing the cost of highways construction in the Atlantic provinces.

THE CONSTITUTION

ABORIGINAL RIGHTS—SETTING UP OF SEPARATE PROCESS FOR ENTRENCHMENT

Hon. Charlie Watt: Honourable senators, I have a question for the Leader of the Government in the Senate following upon my question of yesterday. From a reading of the Meech Lake Accord, which deals with the other matters that are to be agreed upon by the First Ministers when dealing with constitutional matters, and particularly from what is stated on page 7 of that accord, it is quite clear to me that unanimity is required in terms of placing the aboriginal rights concept on the agenda of matters relating to the Constitution to be discussed by the First Ministers.

Yesterday, Senator Murray, you began to enlighten me on this matter. However, when you talked about a separate process, I did not fully understand what that meant. Therefore, my question today is in that regard. When you talk about a separate process, are you talking about setting up a process to deal strictly with aboriginal rights and related matters that will be separate from the system that has already been agreed upon, namely, the Meech Lake Accord? If that is the case, which amending formula would apply? Would it be the new amending formula which requires the unanimous consent of all the provinces, or would it be the old amending formula which, under the present Constitution, requires the agreement of seven provinces plus 50 per cent of the population? Is this what you meant by establishing a separate process to deal with aboriginal rights and to work towards the entrenchment of the defined rights in the Constitution?

If that is the case, then I would like to have some clarification in that regard. If you are talking in terms of setting up a separate process, there are a number of things I would like to know. You made it clear to me yesterday that at the next First Ministers' Conference in 1988 there is no intention to place aboriginal rights on that agenda. However, it seemed to me that you were implying that you were prepared to establish another process, parallel or completely separate from the process of the First Ministers' conferences. Perhaps the Leader of the Government in the Senate can enlighten me on that matter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The answer to the first part of my honourable friend's question is yes. This is a separate or parallel process that we would like to set up in collaboration with the representatives of the aboriginal peoples and with the provinces. We have been discussing the matter with the representatives of the aboriginal peoples to see if the federal government and the aboriginal peoples can agree on a process. That process, of course, would end with a First Ministers' conference, which would be called when there was a realistic prospect of such a conference succeeding.

Aboriginal rights are not on the agenda for the 1988 conference, because we believe that at this point it would be futile to put that matter on the agenda. I see no evidence that a constitutional conference on aboriginal rights called today for whatever date would succeed.

Senator Watt: Honourable senators, I do have clear information now, which I appreciate. However, I do not think that you have answered my question regarding the unanimity aspect. Is a province required to agree in order to place the matter of aboriginal rights on the agenda, even though it is a separate process? Would the old amending formula—seven out of ten provinces plus 50 per cent of the population—apply to the native peoples?

Honourable senators, I am not at all clear on this. Let me phrase my question again. I know that you would like to establish a separate process, but what does it take to establish that? How is that going to be handled? Would the old amending formula apply?

Senator Murray: Honourable senators, it is not a matter of there being an old amending formula and a new amending formula. There are a number of amending formulas in the Constitution. It would depend on what amendment you are trying to make to the Constitution whether it required unanimity or whether it required the consent of Parliament and two-thirds of the provinces having 50 per cent of the population, or, indeed, only the federal Parliament or the federal Parliament with a given province. Those are all amending formulas that are contained in the Constitution.

If we were discussing the kind of amendment that was proposed by the federal government at the First Ministers' conference last March, then that would take the consent of Parliament and two-thirds of the provinces having 50 per cent of the population.

Senator Watt: I would like a further clarification. If I understood you correctly, the setting up of this process would be done prior to the proclamation of the Meech Lake Accord.

Senator Murray: What does the Meech Lake Accord have to do with it?

Senator Watt: The Meech Lake Accord has a lot to do with it.

Senator Murray: Honourable senators, as a practical matter, I would say, as I have said before in this place, that until the Meech Lake Accord is ratified we do not have ten provinces at the table. As a practical matter, the chances of achieving agreement, even agreement involving two-thirds of the provinces with 50 per cent of the population, is more difficult in the absence of one important major partner in Confederation—Quebec. That is the only relationship that I see to the Meech Lake Accord in my honourable friend's question.

We can begin a process of consultation and discussion now. We are seeking to establish that kind of process in very informal discussions that we have been having with representatives of the aboriginal peoples. Mr. McKnight, Mr. Hnatyshyn and I met with them last summer. They have also had discussions with some of our officials in the meantime. I, myself, have spoken very informally—as recently as a couple of weeks ago—with representatives of two of the aboriginal groups. I emphasize that that was a very informal meeting.

The object is to try to establish a new process that will have a better chance of success than the previous process realized.

• (1430)

Senator Watt: Honourable senators, if that is the case, I should like to ask another question.

As Minister of State for Federal-Provincial Relations, will the leader formally call upon the aboriginal peoples in the near future to begin to establish the process? When can we expect a public statement from the Government of Canada respecting its relations with the aboriginal peoples?

Senator Murray: My honourable friend is asking, as I understand it, when we will have an announcement regarding a new process. I do not have an answer to that question today. I can only repeat that within the past week representatives have met with my officials in the government, and we are continuing our discussions.

We attach a great deal of importance to this. We would like to succeed, but we have to have a process in place that has some realistic prospect of success.

I am not in a position to put a deadline on any announcement. Frankly, the deadlines that were established in the past for constitutionally-mandated conferences on this matter were counterproductive.

PRINCE EDWARD ISLAND

INCREASE IN MARINE ATLANTIC FERRY RATES

Hon. M. Lorne Bonnell: Honourable senators, following on Senator Corbin's question regarding roads, I understand that Marine Atlantic is going to increase the ferry rates to Prince Edward Island by 4 per cent on January 1. I suspect this is another way to penalize Islanders for joining the rest of Canada. I say that because I noticed that they are not going to increase the rates on the Newfoundland, Gulf and Argentia service with respect to cabin charges, and that there will be made available a return fare rate on the Saint John to Digby crossing which will probably be cheaper.

Would the leader speak to the Minister of Transport and, through him and through Marine Atlantic, see if this increase can be held off until we have the permanent link with the mainland?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall certainly see if I can complete the partial and selective record that the honourable senator has just conveyed to the Senate, because I am sure that there is other information available not only as to the Prince Edward Island-New Brunswick ferry but the other services the honourable senator has mentioned. I shall obtain a report from the minister who reports for Marine Atlantic.

PROPOSED FIXED CROSSING TO MAINLAND—UPGRADING OF HIGHWAYS

Hon. M. Lorne Bonnell: Honourable senators, while the leader is digging up that information for us, I wonder if he could find out—because, apparently, there will be no rails on this permanent link that we have been promised by the Minister of Public Works, but there will be many 18-wheelers and other big trucks on our highways—if the Government of Canada is anticipating doing something to assist Prince Edward Island in acquiring stronger and better highways to carry the loads of potatoes so the people of Canada can benefit from those good crops?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I refer my honourable friend to the answer I gave to Senator Corbin a few minutes ago concerning highway construction in the Atlantic provinces.

PROPOSED FIXED CROSSING TO MAINLAND—DISPOSAL OF ICEBREAKING FERRIES

Hon. M. Lorne Bonnell: One further question. When looking into that, would the leader look into one other matter? I understand that when we get this permanent link, which we are all looking forward to with great anticipation—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Then you are voting "yes" in the plebiscite!

Senator Bonnell: As soon as I get the information the leader is to table, I can answer that.

When we get this permanent link, what will happen to the icebreaking ferries that carry all of those Islanders abroad and all Canadians to Prince Edward Island? Will the Province of Prince Edward Island be given an opportunity to buy those at a mortgage sale?

Senator Murray: Honourable senators, I will take that question as notice.

HEALTH

TAINTED MUSSELS—SPECIAL INQUIRY

Hon. Stanley Haidasz: Honourable senators, in view of the unfolding tragedy relating to the P.E.I. mussel poisoning of 75 Canadians, 16 of whom are hospitalized—and one of whom died earlier today—would the Leader of the Government in the Senate determine if it is the intention of his government to set up a special inquiry into the whole affair in light of the accusations made by members in the other place that the Minister of National Health and Welfare was tardy in warning Canadians about this matter, and in light of the call by the Leader of the Opposition in the other place for the resignation of the Minister of National Health and Welfare?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this question is one that has certainly exercised members of the other place. There have been a great many questions put, and answered in the other place by the responsible minister.

My intention on a matter as serious as this is to take questions on the subject as notice and undertake to bring in replies from the responsible minister as quickly as possible.

Senator Haidasz: Does the Leader of the Government in the Senate not think that it is advisable, since so many Canadians have become sick and since one has already died, that he ask his government to set up a special inquiry to investigate the whole matter?

Senator Murray: Honourable senators, there has been an enormous amount of information already conveyed to Parliament and to the public by the minister and the Department of National Health and Welfare on this matter.

If the honourable senator believes that this information is inadequate, or seeks further information, I will be happy to try to obtain it for him and bring it to the attention of the Senate.

Senator Haidasz: I have a supplementary question. I think this is an urgent matter and, for the protection of the health of Canadians, and the protection of the Canadian mussel industry, I think the Leader of the Government in the Senate should undertake to ask his government to set up a special inquiry to investigate this whole matter.

Senator Murray: I cannot see how that would expedite information. I think the process that I have suggested would bring information to the attention of the house and the public much more quickly.

As I have said, if the honourable senator feels that the information already conveyed by the minister is inadequate, let him indicate what information he believes is lacking and I will try to obtain it.

TAINTED MUSSELS—DATE OF AVAILABILITY OF EVIDENCE AND DATE OF WARNING

Hon. John B. Stewart: I have a supplementary question. Could the Leader of the Government in the Senate find out when the Minister of National Health and Welfare or the department first decided that there was sufficient evidence to suspect that the sickness was attributable to Prince Edward Island mussels, and by that I mean sufficient evidence to ask one or more retailers to stop selling the mussels? Could he get that date? May we also have the date the minister or the department advised restaurateurs and consumers not to serve and not to eat mussels?

● (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, I will obtain that information.

CAPE BRETON DEVELOPMENT CORPORATION

STATUS OF INDUSTRIAL DEVELOPMENT DIVISION

Hon. Robert Muir: Honourable senators, I would like to direct my question, which refers to the Industrial Development Division of the Cape Breton Development Corporation, to the Leader of the Government in the Senate.

I realize that we have in place the Atlantic Canada Opportunities Agency, which, to my mind, is doing an excellent job, and that we have Enterprise Cape Breton, which is also doing an extremely good job. I commend the minister and the government for what they have done.

Recently the minister, Mr. de Cotret, was in Sydney and questions were posed to him by members of the media with reference to the Industrial Development Division of Devco, the Cape Breton Development Corporation, and he did not say whether it was going to be retained or disposed of.

No one knows Cape Breton better than the Leader of the Government, despite the fact that he is now an Upper Canadian.

Senator Frith: You can have him back!

Senator Muir: We are proud of him wherever he is.

Senator Frith: I should not say that.

Senator Muir: Honourable senators, this is my lead-in to asking him what he is going to do for us.

I would like him to find out if Mr. de Cotret will make a statement by the end of December whether IDD will be retained within the Cape Breton Development Corporation. It has done, and is doing, a great job, and we would hate to lose it because these other agencies are now in place. Time is of the essence, and, who knows, we may adjourn by December 23 or 24 and we will not have an opportunity to get the answer. I would appreciate it if the minister could use his considerable influence within the cabinet and with the Prime Minister and Mr. de Cotret to try to get an answer as soon as possible. Despite his brilliance, I do not expect him to carry all of this information around in his mind, and I would like to receive an answer as soon as possible.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I appreciate the comments of Senator Muir concerning the Industrial Development Division of Devco, which, as he knows, is the responsibility of my colleague, the Honourable Robert de Cotret.

The problem that arises is that, potentially at least, we would have two agencies, that is, the Atlantic Canada Opportunities Agency with Enterprise Cape Breton and the IDD, which would have virtually identical mandates. The question is how to rationalize this situation.

I have said to those responsible and to other interested people in Cape Breton that whatever is done, we will ensure that all the flexibility that is present in the IDD will be retained in whatever reorganization is arrived at.

The short answer to the question, however, is that we will be bringing in legislation—and I hope and expect that will be done before the Christmas break—to create the agency, and at that time my honourable friend will have a full answer to his question.

Senator Muir: Honourable senators, I also have a supplementary question. As everyone knows, the Lord giveth and the Lord taketh away. What is concerning me is the fact that we

may lose IDD, which has done quite a good job. Is the minister aware that the business community, the municipal authorities, the unions, and every segment of society on the Island are most interested that we should retain IDD within the Cape Breton Development Corporation, despite what he has said regarding the legislation which will be introduced?

Senator Murray: Honourable senators, as I have tried to indicate, I do not believe that the *status quo* can be preserved completely, because we would then have the Industrial Development Division of Devco and the Atlantic Canada Opportunities Agency, of which Enterprise Cape Breton is now a part, with virtually identical mandates.

What we are trying to do is to arrive at a reorganization that will protect all the excellent features that the Industrial Development Division now has and that will contribute to the further development of the economy of Cape Breton. We have made some pretty important progress in the past couple of years. The new incentives that were brought in in the first couple of budgets of Mr. Wilson are only now beginning to bear fruit. There is a very remarkable rate of take-up of these programs such as the Cape Breton Investment Tax Credit and the topping-up assistance, and so forth. I am most encouraged by what has been happening in Cape Breton, and I want to assure my honourable friend and all those who are interested in this subject that the steps we will be taking with the legislation will be such as to continue this progress and enhance it.

Senator Muir: I agree with the minister completely that quite a bit of progress has occurred on the Island. However, as a further supplementary question, does he not think that IDD, which has been operating for some years, with its expertise, vast experience and background, would be able to contribute that experience to ACOA and to Enterprise Cape Breton and that by all joining forces, and not limiting any of them, more progress would be made in Cape Breton?

Senator Murray: Honourable senators, I think it is very difficult to have this discussion in a vacuum.

I recognize the contribution that the Industrial Development Division has made. I recognize the flexibility that it has to operate on a great many fronts in Cape Breton. I also recognize the important contribution that Enterprise Cape Breton has made in the last couple of years. I think it would be much more helpful if we could discuss the matter in light of the legislation that I trust will be introduced before the Christmas recess.

COMMUNITY REPRESENTATIONS RE RETENTION OF INDUSTRIAL DEVELOPMENT DIVISION

Hon. B. Alasdair Graham: I have a question for the Leader of the Government supplementary to that asked by Senator Muir.

Has the Leader of the Government received written representations from the Joint Expenditure Board or from the mayors of municipalities in industrial Cape Breton with respect to the future of the Industrial Development Division?

[Senator Muir.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot say for certain that I have the correspondence, but I am aware of the position that the Joint Expenditure Board and others have taken on these matters, because I continue to be an avid reader of the Cape Breton and Nova Scotia media.

Senator Graham: I know that the government will take into consideration the very strong, positive representations that I understand have been made by various community representatives directed towards retaining the Industrial Development Division.

I must say, honourable senators, that I am one of those who would be very much in favour of retaining that division, as I am sure is Senator Muir and as I am sure are Senator MacEachen and others such as Senator John M. Macdonald. I may be anticipating Senator John M. Macdonald's support for the very important work and the great accomplishments that have been achieved by the Industrial Development Division. But we certainly will await with great anticipation the legislation that the minister has indicated will be forthcoming before Christmas. Presumably, that legislation may come forward early next week. But in anticipation of the ACOA legislation, is it also the intention of the government to amend the Cape Breton Development Corporation Act?

● (1450)

Senator Murray: I ask my honourable friend to be patient for a few days yet, but I expect that, yes, the legislation coming forward will also deal with the Cape Breton Development Corporation Act.

ATLANTIC CANADA OPPORTUNITIES AGENCY

INTRODUCTION OF LEGISLATION IN SENATE

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask, on the matter of the pending legislation on the Atlantic Canada Opportunities Agency, whether, in view of the responsibility of the Leader of the Government for the legislation, it will be introduced in the Senate? I encourage that.

Senator Frith: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I encouraged it as well, but I have been given the opinion that my friend might expect I would have been given, which is to the effect that the legislation requires a royal recommendation. It will therefore be brought into the House of Commons under the name of the Prime Minister.

Senator MacEachen: That is unfortunate, because we would prefer to have it amended here rather than in the other place.

Senator Murray: Honourable senators, I commend to the Leader of the Opposition the technique of pre-study.

CANADA-UNITED STATES FREE TRADE AGREEMENT

STATUS OF NEGOTIATIONS

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, on another subject, may I ask the Leader of the Government whether the trade negotiations with the United States are still continuing or whether they have been completed?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I indicated the other day, the drafting of a legal text is continuing. I think I informed the Senate the other day that it was a matter of days rather than weeks before this would be completed. I believe I can say with some confidence today that it is a matter of hours rather than days.

Senator MacEachen: I thank the government leader for that information, but my question was somewhat different. Are the negotiations still carrying on between Canada and the United States?

Senator Murray: Honourable senators, I have no reason to believe that these are negotiations. These are meetings to refine a legal text.

Senator MacEachen: Is the minister saying that the legal text between Canada and the United States has not yet been agreed to?

Senator Murray: Honourable senators, I can only say that as of noon today my information was that there was still a very little bit of work to be done, but that the release of this text is not many hours away.

Senator MacEachen: I suppose I will try the question another way. Is it a fact that when the announcement was made on Monday morning, or whenever it was made, by Mr. Reisman and Mr. Murphy that an agreement had been reached, that was not the case? Were there still outstanding items which were under negotiation and which are still under negotiation between the two countries?

Senator Murray: Honourable senators, I must say that I have no reason to believe that there are any matters under negotiation, as the honourable senator puts it, between the two countries. There may be some drafting still taking place, but I would have to verify the impression I had a couple of hours ago that, for whatever reason, the text could not be released immediately but that its release is a couple of hours away. I take that to mean that some drafting is still going on.

Hon. Royce Frith (Deputy Leader of the Opposition): The text of an agreement?

Senator Murray: The legal text.

Senator Frith: But of an agreement?

Senator Murray: What else is there?

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have some delayed answers to questions. Following the usual procedure, I will read any answer that an honourable senator asks me to read; otherwise, I ask that they be printed as part of today's proceedings.

TRANSPORT

PORT OF CHURCHILL, MANITOBA, AND PORT OF THUNDER BAY, ONTARIO—REQUEST FOR ADDITIONAL GRAIN CARS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on October 13, 1987, by the Honourable Joseph-Philippe Guay, regarding Transport—Port of Churchill, Manitoba, and Port of Thunder Bay, Ontario—Request for Additional Grain Cars.

(*The answer follows:*)

Port of Churchill

Total exports for the 1987/88 crop year equalled 568,-800 tonnes of barley, slightly greater than the 558,000 tonnes shipped in the 1986/87 crop year. Both years are higher than the ten year average exports of 530,000 tonnes. The entire Canadian Wheat Board (C.W.B.) commitment was shipped from the port.

In fact, a larger amount of grain than originally forecast was shipped through the port, and resulted in an estimated operating profit of $236,000 for this year. It should also be noted that the operating cash flow following this year's program is forecasted to be $1.01 million.

Due to pre-shipping the elevator was filled by the time the first vessel arrived. As at week 1, August 9, 1987, total stocks of grain at Churchill equalled 109,300 tonnes. Total stock at the end of the season, October 25, were estimated at 10,000 tonnes.

Grain supplies at the port were adequate throughout the season and it should be noted that no vessel had to wait due to shortage of grain even during and after the strike.

Given the problems encountered in this year's program such as the rail strike, the lack of grain stocks in the Churchill catchment area, and the delayed harvest, all parties involved in the Churchill program displayed a tremendous effort to reach a program of 568,000 tonnes.

Thunder Bay

Through the middle of September, sales projections for October/November at Thunder Bay stood at 2.2 million tonnes, and the railways had planned for sufficient locomotive power and rolling stock to meet the projected demand.

Major sales by both the C.W.B. and the non-Board trade during the latter part of September almost doubled requirements for that period to 3.9 million tonnes, up some 40%.

It is not insignificant that, system-wide, the grain handling and transportation participants are moving grain at a record breaking pace.

As of November 23, the increase in total Canadian exports over this same period last year is up by 18.4%. As well, farmer deliveries are up over last year by 56%, and, Thunder Bay shipments east are up 7% over last year.

It is estimated the CP has approximately 7,000 cars in service to Thunder Bay. The total fleet is 13,500.

CN has approximately 6,000 cars in service to the port as well. This includes the 3,000 from the Churchill route. (Total fleet 14,750).

It should be noted that the procurement of additional locomotives and rail cars and placing them into grain service takes time. In the past, the railways have indicated that under normal operating conditions it takes four to six weeks for leased equipment to be brought into full service.

A full review was undertaken by the minister and identifies several contributing factors:

- unusually sudden demand for grain arising from new sales by the C.W.B.;

- some of 1,000 cars full with specialty crops were unable to unload at Vancouver, as well, approximately 1,000 cars were dedicated to Churchill as the season was extended for two weeks; and

- difficulty of the railways to lease U.S. cars due to a very tight market.

The minister is continuing to monitor the situation carefully.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—RAILWAY LINK

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have a delayed answer in response to a question raised in the Senate on November 17, 1987, by the Honourable M. Lorne Bonnell, regarding Prince Edward Island—Proposed Fixed Crossing to Mainland—Railway Link.

(*The answer follows:*)

In 1979, there were 391,870 tonnes of freight moved in rail cars, while in 1985, this had declined to 213,140 tonnes, a 45.6% decline. All indicators are that rail traffic will continue to decline and is assumed to disappear by 1993 under all scenarios. For this reason, there is no plan for a railway on the fixed link.

OFFICIAL LANGUAGES

STATUS OF FRENCH IN ALBERTA—STATUS OF FRENCH IN PROVINCIAL LEGISLATURES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have a delayed answer in response to a question raised in the Senate on December 1, 1987, by the Honourable Norbert Thériault, regarding a court case on Official Languages in Alberta.

(*The answer follows:*)

[Senator Doody.]

The Alberta Court of Appeal has recently rendered two judgments in the *Paquette* case. In the first of its decisions, rendered on September 11, 1987, the Court upheld the position of the Attorney-General of Canada that the French language can be used in criminal proceedings in Alberta by virtue of section 110 of the former Northwest Territories Act.

In the second judgment, rendered on November 27, 1987, the Court of Appeal decided that the non-proclamation in Alberta of Part XIV.I of the Criminal Code does not violate the equality rights of the Canadian Charter of Rights and Freedoms. (Part XIV.I gives an accused person the specific right to be tried before a judge or a judge and jury who speak the official language of the accused). The Court confirmed the position of the Attorney-General of Canada that the language-of-trial provisions and the scheme for implementing those provisions are not discriminatory, because their object is to extend language rights and the Charter specifically authorizes this advancement of the status and use of the two official languages.

The Minister of Justice has actively pursued consultations with the provinces to ensure that Part XIV.I is brought into force throughout the country. These consultations resulted in the proclamation of part XIV.I in September of this year for Saskatchewan and—with respect to summary conviction offences—Nova Scotia and Prince Edward Island.

Furthermore, the Official Languages Bill, which was introduced in the House of Commons on June 25, 1987, will ensure that Part XIV.I of the Criminal Code will be in force no later than January 1, 1990, in all provinces across Canada, including Alberta. The government has thus taken all necessary measures to correct this problem and has done so in a spirit of federal-provincial cooperation and collaboration.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—ENVIRONMENTAL ASSESSMENT AND REVIEW

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on December 1, 1987, by the Honourable Roméo LeBlanc, regarding Prince Edward Island—Proposed Fixed Crossing to Mainland—Environmental Assessment and Review.

(*The answer follows:*)

Public Works Canada (P.W.C.) has completed a comprehensive Initial Environmental Evaluation (I.E.E.) as described in the Federal Environmental Assessment and Review Process.

The I.E.E. is a compilation of nine studies covering the fishery, winds, waves, currents, tides, ice climate, and other environmental factors. Each of the component studies commissioned by P.W.C. has been reviewed by an

interdepartmental/intergovernmental working group consisting of scientists from the various provincial and federal regulatory agencies. The draft I.E.E. which was prepared from the studies is currently being reviewed by the working group and the general public.

In addition to the ongoing reviews, P.W.C. has engaged the services of a consulting firm selected by the fishermen to review the Fisheries report and the Initial Evaluation. The consultant is to work directly with the fishermen on both sides of the Strait to ensure that the information contained in the reports is consistent with their experience and adequately addresses their concerns. The consultant will then report any discrepancies to Public Works. When finalized, the I.E.E. will form the environmental guidelines for developers and will assist in the screening of specific proposals.

Public Works Canada also announced to fishermen early this year that it will establish a committee consisting of representatives of Fisheries and Oceans, Public Works and the various fishery sectors to protect fishermen's interests and provide compensation where appropriate. The committee will be patterned after the one established for the Miramichi project and will be put in place early in 1988.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—AVAILABILITY OF INFORMATION—INVITATIONS TO TENDER FOR CONSTRUCTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have a delayed answer in response to a question raised in the Senate on December 2, 1987, by the Honourable John B. Stewart, regarding Prince Edward Island—Proposed Fixed Crossing to Mainland—Availability of Information—Invitations to Tender for Construction.

(*The answer follows:*)

Public information sessions have been or are being held in Bayfield, Shediac, Moncton and Sackville, New Brunswick, and in Tatamogouche and Pictou, Nova Scotia as well as on Prince Edward Island. The studies will be available in public libraries in Moncton, Port Elgin, Shediac, and Sackville, New Brunswick, and in Pictou, Nova Scotia.

On the question of proposals for construction, Public Works has indicated that proposals will not be called from the seven developers until early next year.

ANSWERS TO ORDER PAPER QUESTIONS

GOVERNMENT OF CANADA

CONTRACTS FOR CONSULTANCY WORK

Question No. 33 on the Order Paper—**By Hon. Lorna Marsden.**

14th September, 1987—Has any of the following—each of whom has been a witness before the Special Joint Committee on the 1987 Constitutional Accord—been a consultant to and/or received remuneration for contract or consultancy work with the Department of Justice, the Prime Minister's Office, the Privy Council Office or any other department of the Government of Canada between September 1, 1986, and September 1, 1987: (a) William R. Lederman, Professor Emeritus, Faculty of Law, Queen's University; (b) Richard Simeon, Director, School of Public Administration, Queen's University; (c) Peter Leslie, Director, Institute for Intergovernmental Relations, Queen's University; and (d) Gordon Robertson, former Secretary of the Cabinet, now of the University of Western Ontario?

Reply by the Deputy Prime Minister and President of the Queen's Privy Council for Canada:

I am informed by the Department of Communications as follows:

Peter Leslie, 1 contract, dated March 31, 1987.

To provide consulting services to the Minister and members of the Advisory Committee on Role of Communications and Culture.

All other departments have submitted a nil response to this question.

CANADA-UNITED STATES FREE TRADE AGREEMENT

APPLICATION OF TRADE-REMEDY LAWS—BINDING DISPUTE-SETTLEMENT MECHANISM

Question No. 34 on the Order Paper—**By Hon. Philippe Deane Gigantès.**

28th October, 1987—Concerning the Free Trade Agreement being sought with the United States, how does (i) the position of the Prime Minister (as given by him to the New York Times on April 2, 1987) that "the trade-remedy laws cannot apply to Canada, period"; and (ii) references by the Leader of the Government in the Senate, to the existence of a binding dispute settlement mechanism, concord with extracts from the Government document entitled: *Preliminary Transcript Canada-U.S. Free Trade Agreement: Elements of the Agreement,* found at page 19, lines 26-32; page 20, lines 13-15 and 22-32; page 21, lines 17-20; page 26, lines 6-11; and page 28, lines 1-9?

Reply by Minister for International Trade:

The extracts cited must be read in conjunction with the whole text of the Elements of the Agreement dealing with dispute settlement and institutional provisions (pp 19-31) in order to gain a full understanding of the nature of the dispute settlement provisions of the FTA. The text provides for supervision of the implementation of the agreement by a new body, the Canada-United States Trade Commission. The Commission shall refer all disputes

under the Safeguard Chapter and may refer any disputes under any other chapter to binding arbitration. Furthermore, if a dispute has been referred to the Commission and has not been resolved within a period of 30 days, or has not been referred to arbitration, the Commission, upon request of either party, shall establish a panel of experts to consider the matter. For countervail and antidumping cases, a binational panel with the power to issue binding decisions will review final antidumping and countervailing duty orders. There are also restrictions on the amendment of existing antidumping and countervail duty law as applied to the other party. The agreement clearly provides for mandatory binding dispute settlement by impartial panels in key areas of the agreement dealing with trade remedy law and for binding arbitration by mutual consent in other areas.

Owing to the limited time available for negotiations, the two parties were unable to reach agreement on a substitute system of laws governing subsidies, countervail and antidumping. Such laws, which would replace current trade remedy laws in both countries, are to be developed over the next five to seven years. The agreement provides for the establishment of a working group to develop a substitute regime and report back as soon as possible.

CONSTITUTION ACT, 1867

BILL TO AMEND (QUALIFICATIONS OF SENATORS)—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Marchand, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of the Bill S-12, An Act to amend the Constitution Act, 1867 (Qualifications of Senators).—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield to Senator Corbin.

Hon. Eymard G. Corbin: Honourable senators, on Tuesday, December 8, my good friend Senator Marchand explained the contents and the objectives of Bill S-12. He defended the course he has chosen to modify the Constitution Act, 1867 as it relates to the qualifications of senators, particularly the real property provision of $4,000 net value. Of greater interest to himself, and of particular concern to all fair-minded Canadians, he pointed out the discrimination against Indians who have land holdings only on reserves, inasmuch as those Indians might be candidates for the Senate.

I would accord the particular problem raised by Senator Marchand the highest priority, inasmuch as it sins against basic decency in this day and age. I am sure nothing further need be added in that respect. Therefore, I want to congratulate Senator Marchand on raising the issue and providing to Parliament an opportunity to correct the inequity. Indeed, I can see no reason why the bill could not be referred to a committee for thorough examination and further action, now that the possible objection which Senator Flynn had raised with respect to the amending procedure has, in my opinion, been clearly, if not definitely, dealt with by Senator Marchand, with the assistance of the Law Clerk of the Senate. Naturally Senator Flynn would have to be satisfied in that respect.

One aspect of the bill, or, if you wish, of the current qualifications and requirements, that Senator Marchand did not develop in his speech has to do with the status of those senators who are already here. Would they be allowed to dispossess themselves of their present qualificative requirements if the bill eventually became law? I am led to understand, if I read the bill correctly, that that would indeed be possible. In other words, the bill, if assented to, would have a retroactive proviso which would allow a senator to sell the $4,000 worth of swampland, for example, scrapland or abandoned sand pit—because you can't buy much more for $4,000 these days—which he now holds in the province of his designation. I do not think it would make much difference one way or another if a senator were required to maintain that qualification, or if, indeed, he were allowed to simply sell that holding. I would think, however, that it should definitely apply to new senators as of the day the bill was assented to. What small inconvenience we who sit here have already incurred under the $4,000 proviso is so insignificant that we can live with it until the date of retirement, or whatever else comes first. We who are here at present accepted that condition, and surely we can survive with it.

• (1500)

The other concern is, of course, how one remains linked to one's province of designation if one does not own real property there. The property qualifications on the surface, and for the sake of appearances, are, as already recognized, insufficient in terms of the amount of money involved. But how does one remain a senator for Prince Edward Island or Saskatchewan, for example? Must one have one's principal residence there when one is expected to be in Ottawa most of the time when Parliament is in session?

That may not be a problem for some senators—or, indeed, for a good number of senators, if not the majority of senators—but it is a problem for senators with young families. Not all senators are grey haired, bald or crippled, as the press would have the Canadian public believe.

Senator Argue: Or even fathers.

Senator Frith: Let's leave personalities out of this!

Senator Corbin: I am not naming anyone.

Senator Roblin: It's a pretty good description.

Senator Corbin: I could use other criteria, if honourable senators wished, but I want to remain decent.

Senator McElman: All those who qualify will please stand!

Senator Corbin: Anyhow, not all senators are in the position of having raised a family and of being rather free souls in terms of heavy family responsibilities.

The current constitutional provision creates some very real problems which have not been adequately debated or dealt with and which are just left on the back burner.

I understand Senator Marchand's concern, and I certainly do not wish to fault him for not addressing that specific question, because he has set his own priorities; but, again, I believe that I am raising a real problem, and one which has grown in importance as younger Canadians are appointed to the Senate. Some, indeed, were so young when they were appointed that they only married after they entered the Senate. We had a recent case of that.

Unless senators with young families are within commuting distance of Ottawa—by "commuting distance" I can extend that, I suppose, to Quebec City and Toronto with good air links—they will run into grave and difficult family problems and tensions not too far down the road.

I believe that the reform should go a step further and that it should follow very practical and pragmatic considerations. That is what Bill S-12 seeks to accomplish. It has my support. However—and I raise this realizing that it is against parliamentary tradition and practice to deal at second reading stage with clause-by-clause consideration of a bill—there is a general matter which I should like to bring to the attention of honourable senators, which is spelled out in clause 3 of the bill. Briefly it says:

(5) If he . . .

I suppose that should read "he or she"; but, of course, in the Interpretation Act "he" means "she." At any rate, the clause says:

> (5) If he ceases to be qualified in respect of residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the Government of Canada while holding an office . . .

I repeat, "while holding an office":

> . . . under that Government requiring his presence there.

So that is a very limiting consideration. Only senators who are ministers of the Crown are dispensed from the residency requirement in their province of designation, and other senators are expected to continue to maintain and reside in their respective provinces. That is the way I read it and that is the way it is written in the present Constitution.

That puts senators who are ministers a cut above all other senators, and I do not believe that is fair in any way, shape or form in this day and age. If it can be a consideration for one class of senator, then I think it should apply to all senators equally, because what we are talking about here is "senators," and not those senators who are cabinet members of the government.

With that comment, honourable senators, I express the hope that the bill will find its way to committee where it can be examined in detail and modified or amended in such a way that it would accommodate all points of view.

Senator Doody: Honourable senators, if no other honourable senator wishes to speak, I will take the adjournment.

On motion of Senator Doody, debate adjourned.

REVISED STATUTES OF CANADA, 1985 BILL

SECOND READING

Hon. Nathan Nurgitz moved the second reading of Bill C-94, to bring into force the Revised Statutes of Canada, 1985.

He said: Honourable senators, not a great deal needs to be said about Bill C-94, to bring into force the Revised Statutes of Canada, 1985. Should any honourable senator be wondering, this is a revision of all of the Statutes of Canada as they were at December 31, 1984—which is why the bill is called "Revised Statutes of Canada, 1985 Bill". This is the first time it has been done since 1970, and it is the sixth time that it has been done in the history of our country.

It is considered to be an important matter for several reasons. One is that this is an excellent opportunity, particularly with the current new technology, to upgrade statutes. There are two items of some significance which should be mentioned. Apparently in a great many statutes the translation between French and English is not of the highest quality. It is my understanding that in this revision some 200 statutes, in which there was considered to be inadequate French translation, have been upgraded. The other item concerns the removal of sexist language and constant reference in the older statutes to "he."

Those are but two of the items. There is a general cleaning up—if I might use that term—of statutes, but I want to assure honourable senators that the revision does not in any manner change the substance of any existing law. I have one small point. Beginning with these statutes, all statutes will be published in loose form for the practical purpose of facilitating their upgrading from time to time.

● (1510)

I am sure that all honourable senators read the *House of Commons Debates* with some regularity. They will, therefore, know that on December 7, just this past week, this bill received all-party approval, was read three times and passed in one day.

I would like to describe the process that will be followed. There exists the Statute Revision Commission which consists of senior members of the Department of Justice and other government departments with an interest in these areas. The commission meets on an ongoing basis and reports to the Justice Committee of the House of Commons and the Legal and Consitutional Affairs Committee of the Senate. Bill C-94 will come into existence only after it has been approved and recommended by these two committees, the Commons committee and our own Legal Affairs Committee. Indeed, I am pleased to say that our own committee, under the able chairmanship of Senator Neiman, has had a very close look at the material and has spent some considerable time with the Revision Commission on the subject of this legislation. In fact, it proposed several changes which are now included in Bill C-94

and which, I am sure, were the subject matter of a previous report of the committee.

I have had a brief discussion with the Deputy Leader of the Opposition about the passage of this bill, and he indicated that since the subject is of interest to members of the committee, they may want to have a last look at the legislation now that it is in bill form and hear from officials as to whether or not the various items raised by the committee were implemented. For that reason, at some point we would ask that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs. Otherwise, I would urge the passage of this bill as soon as possible.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as the sponsor of the bill has said, he and I discussed it. It seems clear to me that the Senate would want assurances by the committee that the previous concerns of the committee had been looked after, that, indeed, this is the end of the process and that the bill should receive approval. I think it should go to the Standing Senate Committee on Legal and Constitutional Affairs, and I see no reason why it should not go there right now.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Nurgitz, bill referred to the Standing Senate Commitee on Legal and Constitutional Affairs.

FISHERIES

CONSIDERATION OF FIFTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Fisheries entitled: The Marketing of Fish in Canada (Interim Report II), tabled in the Senate on December 9, 1987.

Hon. Jack Marshall: Honourable senators, I would like to comment on the interim report of the Standing Senate Committee on Fisheries, which I tabled yesterday and which addresses many of the key issues concerning the marketing of west coast fish. I wish to compliment the members of the committee for their tireless support in the examination of this subject during the second phase of the committee study on the marketing of fish and all the implications thereof. I might say, while Senator Perrault of B.C. is present in the chamber, that he was a very interested and faithful member of the committee and that he asked many questions on the subject while we were on the west coast. He travelled with the committee throughout. He got lost on occasion due to bad weather, but he tried very hard to catch up with us, which shows his interest and support. Senator Bell, who is from that part of Canada, also joined us for one meeting. Besides the members of the committee, I would also like to pay tribute to the research and clerical staff for their efforts.

[Senator Nurgitz.]

I am sure that I speak on behalf of all members when I say the committee is indebted to the individuals and organizations which appeared before us in Ottawa and in such places as Whitehorse, Prince Rupert, Nanaimo, Campbell River and Vancouver. It was most gratifying to note the appreciation expressed by the people in those communities for being given the opportunity to put forward their views before a parliamentary body. I must say that I found a dedication on the part of most fishermen on the west coast to their fishery, particularly on the part of a group of 7,000 volunteers who are helping to restore the salmon through the Salmonid Enhancement Program.

The report outlines the resource, the harvesting and processing sectors, current market conditions and trends which affect the marketing of west coast fish. It identifies a number of issues and makes some 32 recommendations. The proposals put forward are broad in scope, and they require profound deliberation by both industry and government.

Let me give honourable senators a brief background. The west coast fishery is relatively small as compared to that of the east coast. It contributed about 30 per cent of the wholesale value of total marine production in Canada in 1985. Commercial fishing and processing in B.C. is the fourth largest primary industry, employing approximately 20,000 people full-time and part-time, and contributing 1.4 per cent of the provincial gross domestic product in 1985. According to 1984 statistics, there were 4,500 vessels in the commercial fleet and they took up 92 per cent of the salmon. There are 144 processing plants in 92 communities, so the industry plays an important part in the economy, particularly in the smaller areas in the north. Some communities are very dependent on fishing, especially along the northern coast where demands are being made for more local processing to create more jobs.

Salmon is the backbone of the industry, accounting for over 66 per cent of the total landed value of some $370 million in 1985. The commercial fishery, made up of various gear types, harvests about 90 per cent of all salmon landings, with the balance being almost equally divided between recreational and native subsistence fisheries. Herring, which represented 17 per cent of the total catch value in 1985, is the species in second place in terms of importance. So it is not surprising to note that most of the testimony submitted to the committee concerned these two fisheries.

The subject of the Pacific Salmon Treaty arose on many occasions. Obviously, prosperity in the west coast fishing industry begins with a secure resource base. Salmon, however, have the annoying habit of swimming from the territorial waters of one country to those of another. In 1985 Canada and the United States signed a bilateral treaty on the management of all five Pacific stocks. The so-called "equity principle" which underlies the Pacific Salmon Treaty is that each country is to receive benefits in proportion to the amount of salmon originating in its own waters. Salmon interceptions favoured the United States last year, the first year of the treaty's implementation. Canadian officials should therefore vigorously pursue negotiations with the United States to reduce further

interceptions of salmon of Canadian origin by the Americans so as to ensure that Canada gets its rightful share of the harvest.

● (1520)

The subject of the Yukon River was raised on many occasions before the committee. Unfortunately, the Pacific Salmon Treaty failed to address the issue of equitably apportioning salmon stocks on a number of the so-called transboundary rivers—that is, rivers which originate in Canada and flow through U.S. territory. At this moment Canadian fishermen on the Yukon River obtain a much smaller share of salmon than do Alaska fishermen, even though it is generally accepted that the Canadian portion of that river produces 50 per cent of the fish. Tremendous interest was expressed in broadening the economic opportunities of the fisheries in the area, but fish stocks could suffer from an increase in Canada's catch without a corresponding decrease in the U.S. harvest. We heard evidence that even though Canada is producing 50 per cent of the fish, they are only retaining 10 per cent for their own use while the U.S. is getting approximately 90 per cent.

It is the committee's considered opinion that Canadian native, subsistence, sporting and commercial fisheries are entitled to more of the in-river catch of the Yukon River salmon. The committee believes the issue should be moved up on the political agenda. The fishermen of the Yukon expect the Canadian government to do this.

Canada has also encountered great difficulty in having the U.S. accept the equity principle on other waterways. On some rivers Canada receives no benefits under the treaty. While a relatively small number of fish are involved, these irritants must nevertheless be quickly resolved. In addition, the Department of Fisheries and Oceans should provide more funding to increase its data base on transboundary river salmon stocks.

Also, in the Yukon we heard evidence on the irritants pertaining to freshwater fisheries. The Yukon's freshwater fish stocks would appear to have undergone a decline. The committee believes that the transfer of management authority to the territory, as it exists at the provincial level elsewhere in Canada—and here I am referring to Manitoba, Saskatchewan and Alberta and also to the Northwest Territories—will result in a more responsive and effective management regime. The federal government should also include sufficient budgetary support in effecting such a transfer.

The A-B Line is an important irritant. The A-B Line controversy is equally important to the fishermen who ply the waters of the Pacific coast. The federal government should reaffirm Canada's long-standing position that the A-B Line between the southern limit of the Alaska panhandle and the province of British Columbia is the international boundary for both land and water inside the Dixon Entrance, and it would be most regrettable if Canada were to accede to U.S. demands to shift the boundary line southward. It would deny Canadian fishermen access to an area on which they have long depended for their livelihood.

Natural stocks of salmon in the region are estimated to have undergone an annual decline of 1.5 per cent over the years. Some point to overfishing, while others claim environmental damage brought on by logging, mining, urban and industrial development, et cetera. An emphasis on conservation is therefore vitally important. The report urges that in pursuing its new policy on fish habitat, the Department of Fisheries and Oceans disallow developments which impinge on fish habitats, unless it can be shown, after extensive public input, that such developments are clearly in the interests of Canada. Research programs on fish habitat should also be expanded.

The Salmonid Enhancement Program, now in its tenth year, has delivered outstanding results. Even more significant returns are expected by the early 1990s. Although the report highly commends the federal government's recent commitment to provide new funding of some $40 million a year over the next five years, some modifications to the program are suggested. Those suggestions are contained in the recommendations. To make fuller use of enhancement and to ensure that program costs will be recovered from the fishing interests which benefit most from enchancement other means of financing the SEP should also be investigated. According to what the committee has seen in Alaska, private non-profit hatcheries appear to be viable and worthy of further study.

I noted in an article from a west coast newspaper just a few days ago that someone had suggested that the government should charge one dollar per piece of fish towards the Salmonid Enhancement Program.

On the matter of consultation, Pacific salmon are among the most valuable of all Canada's aquatic resources in economic, social and aesthetic terms. Because those resources are limited, however, their management is complex. Witnesses in this investigation expressed a litany of grievances with respect to the consultative process.

Consultation between all key players in the fishing industry should be an ongoing and valued aspect of fisheries management. There should be increased dependence on their advice. Recreational, native and commercial fishermen want more consultation; they want the minister's ear, so to speak. The Department of Fisheries and Oceans should periodically review consultative bodies to ensure that all groups are equitably represented. I think the minister has shown over the past year or so that he is willing to use his restructuring committee and advisory committees to glean knowledge that will enhance the management of the stocks. However, it is worth while to keep reminding the government that this should continue.

Introduced this year was a new structure for Pacific fisheries consultation to replace the patchwork of advisory groups which had developed over time as *ad hoc* responses. This is a step in the right direction.

However, the committee was puzzled to find no long-term plans or strategies to guide government and the fishing industry in the region. For example, government and industry will need to wrestle with the issue of the present overcapitalization of the fishing fleet if the industry is to become more economi-

cal and the seasonal nature of its marketing patterns is to be evened out. "Too many boats chasing too few fish," is a cliché often heard to describe the fishing activity out there.

With respect to fish allocation, the Department of Fisheries and Oceans has the authority to allocate the resource among competing users. It controls harvests in the interest of resource conservation and of maintaining the economic and social benefits of the fisheries. Salmon allocation between commerical, sport and native fishermen is particularly contentious.

The report calls for a comprehensive study of the per capita economic returns generated by the various commercial gear types in order to aid policymakers in deciding who ought to get what, when, where, how and why. More information is also needed to determine the relative economic and social importance of the sport and commercial fisheries.

The importance of sport fishing was brought to our attention most strongly, and the matter of recreational or sport fishing, which focuses on chinook and coho salmon in the Pacific region, deserves special mention. Often emphasized during the committee's hearings was this sector's contribution to the region's economy and quality of life. The report agrees with the government's position that sport fishing is a qualified user of the resource. In an industry which is now contributing $4.7 billion on a national basis, $402 million is contributed by the west coast.

More important, fish marketing should not just entail a conventional commercial orientation to the resource; it should include recreational fishing which can be developed and marketed as a "product" much like tourism. Government should endeavour to improve promotion of this activity. Again, the minister is paying attention to that.

Honourable senators, the native fishery is very important. Fish is not only important to the deep social and cultural roots of the people, it also constitutes an important food source. In recent years natives have demanded more fish as a means of redressing historical wrongs and promoting economic self-sufficiency in their communities. The issue of native fishing rights has many different dimensions, for example, land claims, some of which are before the courts. The federal government should move to clarify the rights of native people to participate in and manage the fisheries in the region.

Aquaculture, as everyone must be aware, is shaking the fishing industry around the world. When we were on the west coast there was an explosion of applications, and things seemed to be running out of control. Many factors have spurred on the growth of aquaculture, such as the dwindling stocks of some ocean fisheries, the effects of pollution on natural habitats, technological advances in fish nutrition, disease control and genetics, as well as the steady rise in demand for fish products, along with corresponding price increases.

Aquaculture is also emerging as a potent factor in expanding the resource base on the west coast. Although it is based primarily on Pacific oyster and chinook and coho salmon, experimental operations are being undertaken on other species as well. The activity is bringing in new opportunities and challenges for entrepreneurs and government alike. In the future, honourable senators, government will have to consider the impacts of both aquaculture and recreational fishing.

[Senator Marshall.]

Backed by a considerable amount of capital funding, salmon farming in particular has entered a period of rapid and dramatic growth in B.C. Many see this as a means of creating new jobs and revitalizing local economies. But however great the good effect of fish farming could be on the west coast, a number of concerns are being raised about its possible adverse effects on such things as the current uses of the shoreline, tourism, recreational and commercial fishing, and on the health of wild stocks of salmon and other marine life.

The report proposes that the Department of Fisheries and Oceans undertake an assessment of the effects of aquaculture operations on the environment. Government must also develop a clear policy toward aquaculture based on careful planning, regulation, and public and industry consultation. Jurisdiction on regulatory frameworks should be clarified. As a matter of fact, when we were there, the explosion of applications to start farms was so great that they had to put a moratorium on the issuing of licences in order to make some sense out of regulating and managing the industry. One of the applicants brought us a map to show that explosion in real terms. He blotted out a whole section of B.C. which was directed towards aquaculture.

With respect to farmed salmon, competitively priced fish such as Norwegian farmed Atlantic salmon are already making impressive inroads into North American fresh fish markets. Government support in the form of cost-shared market studies should be provided in the initial stages of the Canadian industry's development, and, as well, government should encourage the processing and marketing of B.C. farmed salmon to be complementary to that of the conventional fishery.

With regard to markets and competitors, markets for seafood have never been so good. However, they are characterized by supply shortages, unprecedented demand, and high prices. This high trend should continue as seafood's nutritious and healthful qualities become better known. Moreover, through more efficient handling and transportation, fish can now be delivered to markets more quickly and in better condition.

I might say, honourable senators, that at the moment there is not much of a disposition on the west coast for marketing boards or other potential forms of direct government involvement in marketing. Issues relating to supplies, rather than marketing or selling, are the industry's main concern. It must not, however, be blinded by bright markets. Historically, the fishing industry in Canada is vulnerable to market fluctuations. High prices could also weaken consumer demand, given that fish and seafood are often in direct competition with other equivalent or substitutable foods.

The west coast industry, which sells most of its salmon in canned and frozen form to export markets with high per capita incomes, ranked fourth among the world's largest salmon-producing countries in 1985. West coast producers are not generally regarded as being a force in setting world market prices.

Salmon production is also expected to increase in a number of countries, which should bring marketing and competition very much to the fore.

An important competitor, as everyone knows, is Norway, which was the first country to export significant numbers of farmed Atlantic salmon, and is currently a leading producer, exporter and master marketer in fresh fish markets.

The State of Alaska is another. The members of the committee visited Alaska and many aspects of their fishery were brought to bear, which we could learn from. Its production of wild Pacific salmon rose from approximately 44 million pieces of fish—they count their fish by pieces and not by pounds—in 1976 to nearly 147 million pieces in 1985. Cited as a major reason for this phenomenon was the supplemented production from state hatcheries and private non-profit hatcheries practising salmon ranching, a technique which promotes the return of adult salmon, like that of wild stocks, after hatchery releases of fry.

The domestic market is very important and brought some revelations which surprised us. Perhaps the most important finding is that Canadian imports of fish and shellfish have grown substantially in recent years. An alarming 82 per cent of fishery products now consumed by Canadians are imported. About 60 per cent of these imports, worth some $616 million in 1986, came from the United States. This should be of concern since some of these imports are undoubtedly of Canadian origin. It seems that Canadian producers, especially those on the east coast, find it more profitable or convenient to deal with large buyers in the United States, leaving Canadian fish wholesalers and retailers to obtain their supplies from American sources. The committee intends to pursue this issue in more depth when it examines fish marketing on the east coast early next year.

The committee heard from many people from supermarket chains and brokers in Canada. We asked them the question, "Where are you getting your supply of fish?" We thought they would say Newfoundland or Nova Scotia. The answer was, "From the United States. We are getting 60 per cent of our supplies from the U.S. and other countries".

Senator Frith: How much of that was Canadian fish?

Senator Marshall: A lot of it is Canadian fish. Canada has to bring in large shrimp and other exotic species, but it has never been determined how much is Canadian fish. There must be quite a lot of fish that is going into the United States raw and being processed. When you take into account the U.S. exchange rate, the processing cost, and then the sale back to Canada, the Canadian consumer is suffering.

Senator Doody: Free trade will remedy that.

Senator Marshall: While relatively little is known about market demand in Canada—its size, nature and potential—there are undoubtedly opportunities yet to be exploited domestically, which should be of interest to processors on the west coast. Our research people are continuing to monitor that market demand, and from the results of that monitoring for the first three months of this year it appears that by the end of the year domestic sales of fish will be something of the order of $750 million. Deeper market penetration in Canada could be a strong ballast against protectionist measures such as exchange rates, tariffs and import quotas when we compete in foreign markets. If we are going to look forward to that happening, then it is natural that we should be developing our domestic market. In fact, substituting domestic products for imports should be a major objective not only for west coast producers but for the entire Canadian industry.

Improvements in packing, merchandising, new promotions, innovative fish displays, especially displays for fresh fish in the retailing chains, will likely continue in Canada. But despite these developments, it is generally believed that the domestic market is underdeveloped. Witnesses from the trade sector stated that an unfamiliarity with seafood seems to be a key reason why Canadians are not eating more fish.

With regard to promotions, while generic advertising is now managed by the private sector, the federal government still assists with funding on a shared-cost basis. Contributions of $275,000 were made in 1986-87 to the Fisheries Council of B.C., representing nine west coast processors. The government should in the future enlist the wider support of the fishing industry in funding generic promotions both in domestic and foreign markets.

As you are aware, fish teem with nutrients that keep us healthy. Researchers are discovering even more benefits from eating fish than had previously been suspected. While important, the health angle in promotion is not enough.

Consumers are increasingly demanding higher-quality products. The industry should seek further ways to improve fishing methods, fishing techniques, processing and marketing in order to maintain the region's reputation for producing top quality seafood. An emphasis on quality is a good way to increase the socio-economic returns of the resource. We point out the danger of complacency because everyone is buying our fish. It is easy to sell, and there may be some complacency in quality-grading at the docks and at the plants.

With regard to unharvested species, future promotions should also include new species and new product forms.

In the United States the inevitable consequence of supply shortages and strong consumer demands has been the introduction of previously unknown, sometimes exotic-sounding, species of fish from around the world. It may be said that following the extension of Canada's fisheries jurisdiction to 200 miles, the west coast fishery has yet to exploit the resource fully. It has an abundance of opportunities to develop commercially new species of groundfish and shellfish which are currently underharvested. More effort must be directed towards expanding the variety of cultured species as well, which is important, and was brought out by Senator Le Moyne, not only to meet market demand but also to generate more jobs in the region.

I might add that surimi, a fish paste used to make simulated crab legs and other seafood substitutes, could be manufactured from non-traditional, unutilized or underutilized species of

fish. That is taking place now throughout Canada. It is now in the markets and is being purchased at an increasing level.

With regard to new product development, an important trend in North American seafood markets has been to move toward value addition. When a product is highly processed, its marketability increases and the pricing can be administered more flexibly. It is hoped that market demand will further encourage fish harvesting and processing where they were discontinued on the west coast following poor industry returns in the early 1980s. It is also hoped that the range of product forms will be expanded.

Pacific herring is fished mainly for its roe, which is destined almost exclusively for the Japanese market. Not only should new markets for this product be found, more effort should be exerted to find uses for the fish carcasses, which might have some nutritional residual value. To explain that further, when they sell the roe, they throw away the rest of the herring. Senator Petten has pressed the point time and time again that we should use technology to develop the taste so that it can be used as food, or consider using the product in other ways. When a fish is cut, only one third is saleable. More stress should be placed on developing methods to utilize the carcass of the fish, and researchers on the west coast are doing some valuable work in that regard.

● (1540)

Being very dependent on exports, the west coast's prospects perhaps rest on too narrow a base. New markets should be aggressively pursued. The more market intelligence undertaken, with the assistance of the Department of External Affairs, and the more promotion and market development, the more positive will be the future of this industry.

With respect to the issue of trade protectionism, it occurs in current export markets and it assumes many forms. The federal government should move to improve the trading conditions for the regions' fishery products in such important markets as Europe, Japan and the United States. It should, however, continue to pursue its policy of separating tariff issues from issues concerning allocations of fish to foreign countries.

Finally, honourable senators, allow me to comment on the controversy surrounding a recent preliminary ruling by a panel of the Geneva-based General Agreement on Tariffs and Trade. Canada's bilateral fisheries relationship with the United States was the subject of much discussion during the committee's hearings on the west coast. In the spring of 1986 American fish processors filed a trade complaint against Canada in the form of a petition under the provisions of section 301 of the United States Trade Act. That ruling was just recently released, but we heard about that last year while we were holding meetings on the west coast.

It is alleged that Canadian regulations which prevent B.C. fishermen from selling unprocessed salmon and herring amounts to unfair practices in trade. Canada's rationale for having export restrictions on unprocessed salmon and herring is to recover some of the costs incurred by Canada in managing these stocks and their habitats. Economists refer to this concept as "economic rent." The Americans took the issue to a GATT panel which, in a preliminary ruling dated November 16, 1987—the one I just referred to—decided against the Canadian policy.

[Senator Marshall.]

The report notes the concerns expressed by west coast fish processors and fishermen—for example, the unions and the Fisheries Council of British Columbia—with respect to possible repercussions and a final ruling against Canada that might have an effect on employment in B.C. According to the Fisheries Council of Canada, the recent GATT decision, if upheld, might adversely affect Atlantic seafood trade flows as well.

The report urges that the federal government defend in bilateral and multilateral forums Canada's right to have its fish resources processed in Canada. The Canadian government should also make clear its position during trade discussions with the United States as these relate to the fisheries.

These are some of the major points put forward, honourable senators, in this interim report to ensure a prosperous fisheries industry on the west coast in the years to come. The time available has been enough for me to merely touch on this. The report is too large to go through it in detail.

Dealing with the salient issues facing the Pacific coast fisheries was a formidable challenge, and many questions remain unanswered. Accordingly, the committee is looking forward to completing its study on the marketing of fish in Canada, and hopes in the near future to visit the east coast and then produce a final report. We hope that the recommendations contained in that final report will help the fishing industry, the government, the consumer and, most importantly, the fishermen.

Some Hon. Senators: Hear, hear!

Hon. Raymond J. Perrault: Honourable senators, it is not my intention to speak at length. I thank Senator Marshall for the interesting and perceptive report he has brought to the chamber this afternoon. As well, I, as a senator from British Columbia, want to commend him for the competent and intelligent leadership he has given to the Fisheries Committee. It was a very useful experience for all of us who served on the committee on the west coast to see the way in which people of varying political persuasions could bring their attention and perceptive abilities to bear on a very real problem. There were members on the committee from the Atlantic provinces and from other provinces across Canada, and they performed a tough job, an arduous job at times. I was caught up in the air in fog and was unable to attend one or two of the meetings, but the members of the committee conscientiously fulfilled their Senate responsibilities. The process very much enhanced the reputation of the Senate on the west coast. I can assure you of that.

I want to give this commitment to members of the committee, and particularly to the chairman, that as we look forward to conducting a review of east coast fish marketing, I hope to play a role, as a west coaster, in helping to solve the problems of the Atlantic provinces.

Some Hon. Senators: Hear, hear!

On motion of Senator Doody, debate adjourned.

TAX REFORM 1987

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Stewart (*Antigonish-Guysborough*), for the adoption of the Twentieth Report of the Standing Senate Committee on Banking, Trade and Commerce (Tax Reform in Canada), tabled in the Senate on 1st December, 1987.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield to Senator Everett.

Hon. Douglas D. Everett: Honourable senators, in looking over the report of the Standing Senate Committee on Banking, Trade and Commerce on tax reform in Canada I was struck by the fact that this enormous undertaking by the Government of Canada involves, as senators will recall from the books they have received, several volumes and the widest possible change in the methodology and philosophy of taxation in Canada to date, including the 1971 reform.

I have to congratulate the standing committee, because in the interim report the members have dealt with this subject in a comprehensive manner in some 50 pages. I commend an easy reading to honourable senators who wish to understand in a precise and succinct way what tax reform is all about. It is far too broad a subject for me to stand here and go through the entire ambit of reform, but I do want to deal with one or two subjects that I feel are important in the reform package.

As honourable senators know, this package proposes a reduction in the number of personal taxation brackets from ten, I believe now, to three. It also proposes a substantial reduction in personal rates at the federal level and in corporate rates.

This is a two-stage reform; the first stage is dealt with here, but we are promised a second stage in which the manufacturers' sales tax, which now exists in Canada and is somewhat modified by this reform document, will be replaced by a multi-stage sales tax which will be much broader in its application to the Canadian economy and thereby produce a much greater revenue than the present manufacturers' sales tax.

• (1550)

In reducing the number of brackets and rates the government has also done away with most of the deductions that are used to reduce our income from gross income to taxable income so that, in effect, our gross income under the new act will become the taxable income. Some of those deductions, and those that have not been eliminated by this act, have been replaced by tax credits which, incidentally, are largely based on the lowest rate of tax. So that even if a person is in the middle and upper bracket—and, if I recall correctly, the rates vary from 17 per cent in the lower bracket to 26 per cent in the middle bracket and 29 per cent in the upper bracket—the tax credit that is received will be the tax credit that is available to the lowest bracket—that is, at the 17 per cent level. In effect, the government is saying, "We will not give a benefit to higher taxpayers that is any greater than the benefit that exists for lower taxpayers."

For the most part I think that that is a fair compromise. The rates have gone down; we have stopped the seeking for and the distortion of tax deductions. It is true that many of the tax deductions that have been given in the past have been proposals by a government to cause people and businesses in the economy to do certain things. But that in itself creates a distortion. What is being said here is that the tax regime will attempt to be neutral; the rates will attempt to be low; and we will leave it to the marketplace and to individuals to decide how best to spend their money.

There are, however, a couple of areas that bother me, and which I mentioned when Senator Sinclair presented his report.

First of all, there is the question of charitable deductions. As honourable senators know, at the present time, if an individual makes a donation to a registered charity, that individual is allowed to reduce his taxable income by the amount of the donation.

Now, it is true in Canada—and I think elsewhere also—that a large number of the donations are made by people who are in the higher tax brackets. Under this legislation the donations made by people in whatever tax bracket will only receive the tax credit which is available to those in the lowest tax bracket. So there will be a penalty to a higher tax bracket taxpayer that I believe will reduce the amount of personal charitable giving. I do not think we should be slavishly attached to the concept of tax credits. It seems to me that there is a perfectly good case there to continue the present regime and to say, where someone is making a charitable donation to a registered charitable institution, that a full deduction may be made from income.

Further than that, we have the question of medical expenses. Under the old regime medical expenses paid by a taxpayer above 3 per cent of his or her income were deductible from income and thereby reduced the taxable income. Again, as in the case of charitable donations, above the 3 per cent the tax credit involved is the tax credit that applies to the lowest taxpayer.

I can think of a friend of mine whose wife has multiple sclerosis. He looks after her, with help, in their own home. The first 3 per cent of his income is not a deduction for the purposes of looking after her, but beyond that he does receive a deduction for maintaining her in their home at his cost. What this act does is say to that person, "Even though you cannot afford to keep her at home, you will only get a partial tax credit." I am informed by this fellow that the difference in his case is about 50 per cent more in his cost. That is a substantial and significant amount. It seems to me again that we do not have to have any slavish attachment to the concept

of tax credits where it makes sense to encourage people to look after chronically ill people within their own homes and at their own expense rather than sending them to an institution where the whole cost devolves upon the government.

Another area that I am concerned about is the taxation of capital gains. As honourable senators will recall, up until 1971 capital gains were tax free, because we wanted to encourage people to take risks with their money. Under the 1971 tax reform capital gains were brought into income to the extent of 50 per cent. I remember at that time that there were several people, and in particular I remember Senator Hays' father, who thought that if that kind of taxation was imposed on capital gains we would reduce substantially risk-taking in Canada. I agreed with his position, but I think we were quite wrong; I do not think that occurred. In this paper we are talking about increasing the inclusion rate for the first couple of years to 66 2/3 per cent, and then after that it will go to 75 per cent. That 66 2/3 per cent, as the Banking, Trade and Commerce Committee says, is a fair compromise between the lowering of the tax rate and the increasing of the gain. But as this paper points out, it is the judgment of the committee that to go beyond that to 75 per cent will seriously interfere with risk-taking in Canada.

Prior to the 1971 reform, we had what was called the Carter commission. The theory of their report on taxation was "a buck is a buck is a buck." They were saying that no matter how someone derived their income, that income should be taxed at the same rate and should be included whether it was employment income, dividend income or risk income. I think that suggestion was probably not acceptable then, and that it is no more acceptable today.

● (1600)

Again, on the questions of dividends, in the past we have attempted in the Income Tax Act to integrate corporate taxation with individual taxation if an individual receives dividends. In other words, we have tried to avoid the concept of double taxation. If I understand the process correctly, it has been that where a corporation is paying the small business tax, it can pay the tax, flow the money out to shareholders, and the result would be one single tax.

It was accepted that corporations that were paying the higher corporate rate would have some sort of double taxation penalty, that is, that the corporation would pay a rate, there would be a deduction for the dividend, but the two combined would be higher than the single rate paid by the corporation. That was acceptable.

Originally, by virtue of grossing up and applying the tax dividend credit, one arrived at a situation where there was integration, that is, no double taxation if the corporation were paying a tax rate of 33 1/3 per cent. In 1987, I believe, that was reduced so that there was double taxation where corporate rates were above 25 per cent. Under this paper the double taxation will take place at 20 per cent.

What is the effect of increasing the capital gains rate and increasing or decreasing the amount of integration of corporate tax and dividend tax? I believe that taxation goes a long way towards a country's efficiency. People invest on the basis of the kind of tax they are going to pay, and if you get a very expensive tax regime and one that penalizes people, then I think you pay a price for it in the long-range efficiency of your economy.

In our study of the Canadian economy by the Standing Senate Committee on National Finance in 1971, the report which we entitled "Growth, Employment and Price Stability", we recognized that the main levers of economic policy were monetary policy, fiscal policy and exchange rate policy. But we also recognized that the long-term viability of the economy rested very much on tax efficiency and on a tax regime that encouraged people to invest and to take risks. I am somewhat concerned that the thrust of this act, especially in those two areas of capital gains and dividend taxation, will have a restrictive effect on our investment and, over a period, on our economy.

There are one or two other points I would like to make quite quickly. First, in reforming the Income Tax Act there had been a hope that we would achieve some sort of simplicity in our taxation legislation, and I think this report points out graphically that, if anything, this new act is going to be more difficult to deal with and more difficult to administer than the former act.

Second, there is one particular provision proposed, and that is an anti-avoidance provision which, if I understand it correctly, is a global provision giving Revenue Canada the right to disallow any transaction if it feels that its purpose is to avoid tax. Now, as I understood tax law, the taxpayer was allowed to minimize the amount of tax that he or she paid. If I understand the original common law on tax, it was that in order for a subject to be taxed, the transaction had to come clearly within the four corners of the act. There could be no implication of taxation unless the act was clear on the subject. There has always been a preclusion in the tax act against evasion of tax, but the taxpayer has been welcome to attempt to minimize the tax and to avoid tax as much as possible so long as he does not evade it. That comes from the common law concept that taxation was an interference with the rights of property of people.

That has been eroded over a period of time, but to go this far, to put into operation a global and general provision that says "anything that Revenue Canada feels is tantamount to avoidance can be disallowed" is really not good law and should be removed. If I recall correctly, Mr. Walter Gordon, when he was Minister of Finance, in I believe, the 1963 budget, brought in a similar provision that eventually was taken out by the same government that put it in.

People should have some sort of certainty about what kind of tax regimen they face, and they should not be put in a position where they either have to get a ruling from Revenue Canada on every transaction or they have to gamble that the transaction will be disallowed without reason and without appeal, as I understand it, to any court.

Honourable senators, I have really only talked about very little in both the reform package and this very succinct report. Once again I want to congratulate the members of the Standing Senate Committee on Banking, Trade and Commerce, and most especially its chairman, on a superb report that I think anyone could read and, as I say, in some 50 pages have a very good understanding of what tax reform is about and what its effect is likely to be.

Hon. Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

• (1610)

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE AND MOTION TO REFER MOTION TO COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment,

And on the motion of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Roblin, P.C.:

That this motion be referred to the Standing Senate Committee on Social Affairs, Science and Technology with instructions to review the following matters and to report thereon to the Senate:

(a) To establish the general program called for in the terms of reference of the special committee.

(b) In relation to this program, to provide an opinion on the relative ability to implement this program compared to that of a Royal Commission.

(c) To provide an estimate of the costs and the duration of the committee's study.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the wording of the motion in full appears at page iii of our *Minutes of the Proceedings of the Senate*. It deals with the establishment of a committee to examine Canada's health care system and to report upon the role that preventive medicine and other preventive measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians, and to examine how such an improved health care system might modify or control the ever-increasing costs of health care.

The motion in amendment suggests that this motion be referred to the Standing Senate Committee on Social Affairs, Science and Technology, with instructions to establish the general program called for in the terms of reference and, in relation to this program, to provide an opinion on the relative ability to implement this program compared to that of a royal commission. Further, the motion in amendment suggests that an estimate of the costs and duration of the committee's study be provided. The motion in amendment would involve a reference of the motion itself to a committee. I understand, however, that Senator Argue, the sponsor of the motion, and Senator Flynn, the mover of the motion in amendment, have discussed this matter.

I suppose that Senator Argue will tell us, if I agree to yield to him, as I do, the state of those negotiations, if I can call them that.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I do not want to see this debate completed if we can avoid that. Senator Flynn mentioned to me as he was leaving that if the matter arose I should adjourn the debate for him.

Hon. Hazen Argue: Honourable senators, that was not my understanding of my conversation with Senator Flynn yesterday. This motion has been on the order paper for a long time—it is soon to have its six-month anniversary. There is a good deal of interest in having it moved forward.

I discussed with Senator Flynn yesterday his motion in amendment. I said to him that I felt that there was no need to have this motion referred to another committee for assessment and report. As to the membership of this committee, there is a good deal of interest in it on this side of the chamber. Some 14 senators have indicated their interest in serving on the committee. While Senator David raised some questions, I felt that the committee itself, when established, could deal with the scope of the inquiry, with the hiring of staff, and with any money that would be spent. Of course the matter of the budget would have to be referred to the Standing Committee on Internal Economy, Budgets and Administration and would have to be approved by the Senate.

In our discussion Senator Flynn said to me that he was not going to make a big issue out of it, and that he would ask that I make a brief explanation of my position. He said that it was not his intention to call for a vote. I think that we have had a

good deal of discussion on this matter. I would envision the committee's having a very broad inquiry, initially, receiving evidence from a wide range of groups, after which the committee would have to decide where it might concentrate its study.

This field is not brand new. It is a field on which there has already been a great deal of consideration. One commission was set up recently in Ontario, chaired by Judge Thompson, to report on environmental hypersensitive disorders. Another commission was recently set up by the Government of Ontario looking into the whole health care question and making what I think are some pertinent recommendations. An excellent study was made on preventive care by Dr. Ray Jackson and was published as a report of the Science Council of Canada. All of this material is available. I think it can and should be examined. In my view, this would go a considerable distance towards facilitating the study and enabling the committee to conduct its affairs in an expeditious manner.

If the motion goes forward, as I hope it will, and if I should happen to be the chairman of that committee, its operation will be in the hands of the committee members. The chairman will not dominate the committee.

Honourable senators, as I see it, this study would be of great importance to Canada. It can be broad; it does not have to take an interminable length of time; it certainly does not require the sort of large research staff that was referred to by Senator David when he spoke of a commission on health established by the Government of Quebec.

For all of those reasons, honourable senators, I hope that we can bring this question to a conclusion and take a decision today.

Senator Doody: Honourable senators, I have no objection to that. It is just that I am in a rather awkward position. If Senator Argue can assure me that he and Senator Flynn have an arrangement that is mutually satisfactory, obviously I will do nothing to delay the matter.

Senator Argue: I believe that I can give that assurance. Certainly Senator Flynn and I had a talk. I explained to him my position, as I have explained it to the Senate today, and he shrugged his shoulders, as he sometimes does. Even when he moved his motion in the Senate he said that he could live with whatever decision was taken, or words to that effect. He also said that it was not his intention to call a vote.

Senator Doody: Honourable senators, the shrug is rather difficult for me to interpret as to whether he meant yes or no.

Senator Argue: I would say that he said yes to the procedure's going forward today.

Senator Doody: Would it be possible to adjourn this matter until Tuesday so that I have a chance to speak to Senator Flynn about it?

Senator Argue: Honourable senators, I am usually an agreeable person, but we are going to adjourn next week. I think decisions should be made, and that this committee should be given a chance to organize, although it cannot hold hearings. I think we have been at this long enough. I ask that a decision be taken now.

[Senator Argue.]

Hon. Jean Le Moyne: Honourable senators, considering our small numbers right now, is it opportune to take such a decision today? I do not think it is worth it inasmuch as in this project I am afraid that the very principle of science will be discussed and put into question. I do not agree with that at all. I am sympathetic to the intentions of Senator Argue, but I do not agree with that. As a symbolic member of the rationalist union, I am afraid that I would vote against this motion.

Senator Frith: Honourable senators, in fairness to Senator Argue, this matter has been on the order paper for a long time. In addition to the problem Senator Le Moyne mentioned regarding the number of senators here, I think the difficulty is that if we force a vote now, we will be forcing a vote refusing an adjournment, which is something we do not very often do. I understand that Senator Flynn, the mover of the motion in amendment, will be here next week, and we do have the three days in which to deal with the matter. I think, however, that we should understand that Senator Argue really would like the matter settled one way or the other before the Christmas break.

Senator Doody: That is perfectly acceptable.

Senator Argue: Honourable senators, I am not happy with that decision. I think I have been patient. This matter has been on the order paper for six months, and I think it is time we made a decision on it. But I guess I am an agreeable guy, and I guess I am not bloodthirsty enough, or whatever the word would be, to push it. I will not call for a vote, although I think I should; but I hope that the decision can be made next Tuesday. Will we try to agree to that?

● (1620)

Senator Doody: It is already agreed.

Senator Argue: Is it already agreed that we have a decision next Tuesday?

Senator Doody: It has already been agreed.

Senator Frith: Honourable senators, perhaps Senator Argue was not listening when I said that I believe it is reasonable, in view of the length of time that this item has been on the order paper, for him to give notice now, and for it to be understood that he would like the motion dealt with before the Christmas break, so that if the motion passes the organization aspect of the committee can take place during that period. He would like to know how the matter stands before the Christmas break. I think that is a reasonable position on his part.

On motion of Senator Doody, for Senator Flynn, debate adjourned.

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

MOTION FOR PROPOSED STANDING COMMITTEE—DEBATE ADJOURNED

Hon. Stanley Haidasz, pursuant to notice of Wednesday, December 9, 1987, moved:

That rule 67(1) of the Rules of the Senate be amended by inserting immediately after paragraph (*o*) the following new paragraph (*p*):

(*p*) The Standing Senate Committee on Human Rights and Fundamental Freedoms, composed of twelve members, four of whom shall constitute a quorum, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to the protection of human rights and fundamental freedoms.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Petten:

That rule 67(1) of the Rules of the Senate be amended by inserting immediately after paragraph (*o*) the following new paragraph (*p*):

(*p*) The Standing Senate Committee on Human Rights and Fundamental Freedoms, composed of twelve members, four of whom shall constitute a quorum, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to the protection of human rights and fundamental freedoms.

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

Hon. William J. Petten: On a point of order, Your Honour, I did not second the motion.

The Hon. the Acting Speaker: I mentioned Senator Petten as seconder of the motion. Would somebody on this side of the house second the motion? Would somebody on the right second the motion? Honourable senators, it is my information that if there is no seconder the matter will have to be dropped.

Hon. Eymard G. Corbin: Honourable senators, I apologize, but I did not hear the motion in its entirety. Could it be read again?

[*Translation*]

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Corbin? No?

[*English*]

Senator Corbin: Your Honour, I want to hear the motion before I am a party to anything.

[*Translation*]

The Hon. the Acting Speaker:

That rule 67(1) of the Rules of the Senate be amended by inserting immediately after paragraph (*o*) the following new paragraph (*p*):

(*p*) The Standing Senate Committee on Human Rights and Fundamental Freedoms, composed of twelve members, four of whom shall constitute a quorum, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to the protection of human rights and fundamental freedoms.

Is it your pleasure, honourable senators, to find a seconder?

[*English*]

Hon. Jean Le Moyne: Another time. I do not think that we will go with this decision at the last moment when we have only 16 or 17 senators here. I do not agree with that. This house has to be serious. It's not. It's a farce, like that.

The Hon. the Acting Speaker: Honourable senators, I will read in both languages rule 24 of Rules of the Senate of Canada—it appears on page 9—as follows:

A motion made in the Senate, but not seconded, shall not be debated or put from the Chair.

[*Translation*]

Une motion proposée au Sénat ne peut être débattue ou mise aux voix que si elle a été apuyée.

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Your Honour, as I understand it, the motion cannot be put. It has not been defeated. It can be reput with a seconder, but it must not be put without a seconder. Therefore, Your Honour should not put the motion. Because notice was given, as I understand it, the motion still stands on the order paper under "Motions", but it cannot be put until it has a seconder.

Senator Corbin: Honourable senators, may I be allowed to speak briefly on this point of order, this dilemma? I believe that Parliament is the place for debate. I believe that the Senate is the place for debate. I would be prepared, having heard the motion and recalling that the matter had been explained to me at a certain time in certain quarters—and not necessarily agreeing with the necessity or the opportunity of setting up this particular committee, because I feel that there is already a committee which is capable of dealing with such issues—and because I believe strongly in freedom of speech, I would not want to deny to a colleague an opportunity to put a matter before the house. Therefore, I will second the motion.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Corbin:

That rule 67(1) of the Rules of the Senate be amended by inserting immediately after paragraph (*o*) the following new paragraph (*p*):

(*p*) The Standing Senate Committee on Human Rights and Fundamental Freedoms, composed of twelve members, four of whom shall constitute a quorum, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to the protection of human rights and fundamental freedoms.

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

Senator Haidasz: Honourable senators, in thanking Senator Corbin for seconding my motion I would like to state that

today I am particularly pleased to move again a motion of which I gave notice yesterday, that a standing Senate committee be formed to inquire into any matter relating to human rights and fundamental freedoms.

As you know, today we celebrate Human Rights Day commemorating the Universal Declaration of Human Rights on December 10, 1948, by the United Nations General Assembly. Following the World War II holocaust, which consisted of the genocide of millions of Jews, Poles and others by Hitler's Nazi murderers and their collaborators, this declaration outlined a comprehensive framework of rights and freedoms for all people. Human rights were further elaborated on in the Helsinki Final Act of 1975.

● (1630)

Today's commemoration coincides with important discussions on human rights by President Reagan and Secretary-General Gorbachev at their summit meeting in Washington, where they signed the historic treaty reducing their intermediate nuclear arms, thereby diminishing the spectre of nuclear war, in a major effort to preserve peace. The inevitable link which exists between human rights and peace is highlighted in the first paragraph of the Universal Declaration of Human Rights, which states that the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world.

In its Constitution, and in its accession to international conventions, Canada has committed itself to the adherence to and protection of human rights domestically and internationally. Therefore, both its domestic and foreign policy should at all times be guided by these principles and commitments. On this day, as we commemorate the proclamation of the Universal Declaration of Human Rights, I think it is fitting that we celebrate the many progressive actions that Canadians and their governments have taken over the years to respect and enhance human rights at home and abroad.

Unfortunately, even today many human rights are still violated and fundamental freedoms repressed. An important fundamental human right is the freedom to worship according to the dictates of one's own religion. In many countries freedom of religion is denied or repressed. Earlier this year Canadians of Lithuanian origin, in celebrating the 600th anniversary of the Christianization of the Lithuanian nation, reminded us not only of the illegal forced occupation of Lithuania but also of the Russification of Lithuanians and the persecution of worshippers, priests, and in particular the forbidding of religious education in that country. They appealed to us and to other people of the free world to pray for the persecuted church and to leave no stone unturned in publicizing the plight of their brothers and sisters in Soviet-occupied Lithuania. In saluting Canadians of Lithuanian origin on this historic anniversary, I hope that their appeal will not fall on deaf ears, but that Canadians, led by their parliamentarians and their government, will give this appeal their concrete support.

Honourable senators, at this point I move the adjournment of the debate.

On motion of Senator Haidasz, debate adjourned.

The Senate adjourned until Tuesday, December 15, 1987, at 2 p.m.

THE SENATE

Tuesday, December 15, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[*Translation*]

APPROPRIATION BILL NO. 4, 1987-88

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-95, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

JUDGES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-88, to amend the Judges Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

CUSTOMS TARIFF BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-87, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

CANADA LABOUR CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-97, to amend the Canada Labour Code.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*Translation*]

HUDSON BAY MINING AND SMELTING CO., LIMITED

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-98, an Act to amend an Act respecting the Hudson Bay Mining and Smelting Co., Limited.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

PENSION ACT, WAR VETERANS ALLOWANCE ACT AND COMPENSATION FOR FORMER PRISONERS OF WAR ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-100, to amend the Pension Act, the War Veterans Allowance Act, to repeal the Compensation for Former Prisoners of War Act and to amend another Act in relation thereto.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

CANADA-UNITED STATES FREE TRADE AGREEMENT

FINAL TEXT AND TARIFF APPENDICES—REFERRAL TO COMMITTEE

On the tabling of documents:

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, one of the documents tabled by the Deputy Leader of the Government was the text and appendices to the agreement with the United States of America on the subject of trade and tariffs. I have been unable to lay my hands on the wording of the motion that referred this subject matter to the Standing Senate Committee on Foreign Affairs, so I do not know whether this will automatically be referred to that committee. We should be assured that it will be referred to the committee.

If a motion is necessary, I will move that motion tomorrow, and, if not, let the record show that at least we are all agreed that the text and appendices should be referred to the Standing Senate Committee on Foreign Affairs.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the subject matter is certainly before the committee already, and we will take every step necessary to ensure that the texts and appendices are also before the committee.

● (1410)

IMMIGRATION ACT, 1976

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Joan Neiman: Honourable senators, I have the honour to present the fifteenth report of the Standing Senate Committee on Legal and Constitutional Affairs respecting Bill C-84, to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof. I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and the *Debates of the Senate* of this day and form part of the permanent records of this house.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 2402.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Murray: With leave, now.

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

Hon. Senators: Agreed.

Senator Neiman: I thank honourable senators for their permission to allow me to comment on the report. Senators will notice from the copies of the report which are now being distributed that it is of considerable length. I realize that there is a long agenda this afternoon, and I shall try to make my comments as succinct as possible.

The members of the committee feel that they have been involved in a very important process in examining Bill C-84. I would first like to pay tribute to the members of the committee who worked so long and so assiduously in helping to prepare and agree upon the report that is before us. We had our last meeting with the Minister of Employment and Immigration just a week ago today. At that time he asked us to proceed as quickly as possible to make our report. I can assure honourable senators that after our final meeting last Thursday, the staff of the committee and the Senate staff worked all weekend long. I also want to pay a special tribute to them. They worked several hundred hours to prepare this report.

Hon. Senators: Hear, hear!

Senator Neiman: Senators will see that the report is divided into two sections, the first containing the actual amendments that we are proposing, with explanatory notes in the margin. There are some 13 amendments in all, several of which have several subsections. I would like to point out that the amendments we are proposing fall into broad categories, but I think the majority of them have to do with what we in the committee perceived, as did our witnesses, to be violations or potential violations of the Charter of Rights and of our Constitution. There are also objections to certain parts of the bill which apparently, in the view of many people and, I believe, in the view of the members of our committee, violate the spirit of our commitments to international conventions regarding human rights and the protection of refugees.

Part II contains the observations of the committee. I will try to go through the various sections very briefly. Senators will see that this begins at page 7 of the report with the background to the bill, and sets out the number of witnesses from various organizations and agencies, as well as individuals, who appeared before the committee. I may say that we did not have the opportunity to hear more than a quarter of those who asked to appear before our committee, but we are satisfied that we had a fair representation of opinion from all across Canada.

Senators will note that because of the fact that the amendments proposed by the committee involve constitutional questions, the committee was pleased to have the support of the Supreme Court of Canada in what the committee was attempting to do. The Supreme Court pointed out that the Senate had a role and a right to make amendments involving constitutional matters which it thought appropriate. The committee felt, therefore, that it was not only empowered but obliged to suggest the amendments it has put forward.

Senators will note in the committee report that a couple of judicial decisions have commented on the duty of legislatures in examining legislation. The first was in the Ontario Court of Appeal, where it was stated that:

> The judiciary is not the sole guardian of the constitutional rights of Canadians. Parliament and the provincial Legis-

latures are equally responsible to ensure that the rights conferred by the Charter are upheld.

Mr. Justice Dickson, as he then was, in another case heard in the Supreme Court of Canada, made the following comment:

> It is the Legislature's responsibility to enact legislation that embodies appropriate safeguards to comply with the Constitution's requirements. It should not fall to the courts to fill in the details that will render legislative lacunae constitutional.

Based on those views put forward by the Supreme Court of Canada, the committee accepted its responsibility in that area. It heard and agreed that there has been abuse of our immigration laws and that the abuse must stop. However, I believe that most of the committee members came to the conclusion that many of the provisions contained in Bill C-84 went too far. The bill would give significant new powers to the Minister of Employment and Immigration and his officials, and those powers will be discussed as I go through the report.

The first amendment is more of a housekeeping amendment. It simply deals with the term "smuggling," which really pertains to the illegal importation of goods, and the committee has suggested a rewording of that clause.

One of the most important areas is that dealing with security certificates. I will not take the time to go through the history of this matter, but I would ask honourable senators to read the background to the system that is now in place. The Security Intelligence Review Committee was established in 1984, and under this bill it is proposed to change both the procedures and the powers with respect to SIRC. Most of the witnesses who appeared before the committee felt that the changes proposed in the bill were unwise. They felt that SIRC had built up its own specialized expertise in the area of security matters.

However, the government presented its own argument in this area, and the committee felt that it should respect the government's decision that the oversight for security matters in respect of non-permanent residents should be given to the Federal Court.

Bill C-84 contains provisions which the committee felt were most unfortunate and which, in fact, would violate various sections of the Charter. They are listed for you on pages 10 and 11 and following, and I would refer briefly to them. Bill C-84 would provide that the certificate issued by a federal court judge must exclude from the hearing the person concerned when the government presents its case. We had a great deal of comment from legal experts and constitutional experts on this matter. The bill provides no test for exclusion and leaves no discretion to the judge. Exclusion would leave no opportunity for cross-examination, and the subject of the certificate would have less understanding of the case than he or she would need. It was argued—I think persuasively—that to deprive people of the fundamental right to hear the whole case against them is to violate section 7 of the Charter, which states:

• (1420)

> Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

On that basis the committee has proposed an amendment to the effect that the right to exclude people from a hearing should reside with the presiding judge, a process which would be comparable to the one followed by SIRC at the present time.

Another provision would make detention mandatory for all nonpermanent residents who would be subject to a security certificate, regardless of whether or not they are actually a danger to public safety and regardless of the sex, age or physical condition of the person. The current detention provisions are not nearly as stringent, and the decisions that are made thereunder are reviewed regularly by an independent adjudicator. Again, it was argued that this proposal violated certain provisions of the Charter. We recognize the government's position on this matter, but we feel that these provisions should be modified. The committee has proposed, therefore, that the judge of a federal court, who, unlike an adjudicator, is not only permitted but required to hear all the evidence, should perform the detention review at an early point in the hearing. Because the hearing must commence within seven days, it will mean that the period of mandatory arbitrary detention will be greatly diminished.

The third point is one that we brought to the attention of the minister and the government. It concerns the issuance of a security certificate by a judge. It is based on whether the minister and the Solicitor General's decision to sign and file a certificate was reasonable on the basis of the information available to them. This means that the judge has no discretion to alter that certificate. When we pointed the matter out to the departmental officials, they agreed that it was probably an oversight on their part. I do not think there will be any objection to the amendment the committee proposed to cover that situation.

The next general section covers provisions regarding the precluding from the refugee system of people found to be security risks. Bill C-84 would provide that people who are security risks and who have been certified to be a danger to the public in Canada on criminal or war crimes grounds will not be permitted to make a refugee claim. At the present time such people are permitted to make a claim, and, if their claim is successful, then, and only then, is the decision made as to deportation.

However, our international commitments do not require that we give protection to all people who are found to be refugees. We have signed the Convention relating to the status of refugees in which Article XXXII provides that we may deport refugees on grounds of national security or public order. We had a number of witnesses who argued that the proposed provisions were far too harsh and would be in contravention of our obligations under the Convention. We felt that there were constitutionally valid grounds to believe that the forced remov-

al of persons to a country where their persecution would be feared was a violation of section 12 of the Charter.

On those grounds, we felt that we would be justified in suggesting changes to Bill C-84, because, as various witnesses pointed out, to leave it in its present form would lead to some surprising and perhaps unwanted results. The chairman of the Refugee Status Advisory Committee pointed out that the clause as it is presently drafted is very subjective, and the description it contains would include such people as journalists, parliamentarians, social workers and academics. It would cover a number of people today whom we, as Canadians and the government itself, would not want to be included. As the chairman of the Refugee Status Advisory Committee pointed out, it would by definition exclude from Canada such people as Nelson Mandela, who is in prison because he will not renounce the use of force to overthrow a tyrannical government. We are not sure that the government really intended to draw up such a broad provision that would include all of those people.

For those reasons the committee proposed an amendment that people should not be precluded from the refugee determination system for security reasons. People convicted of crimes and people who are war criminals should continue to be excluded. This would be much more in conformity with our present practice.

The next most controversial section has to do with the proposals regarding the turning around at sea of ships that are suspected to be carrying illegal refugees; that is, those who are not in genuine need of aid or protection. We had innumerable representations with regard to this section. We canvassed it very carefully with almost every witness who came before us. We discussed how the procedure would work as far as the minister and the department are concerned, and I believe it is fair to say that we really could not figure out how one could possibly offer the protection under the Charter and under the Convention and still have the authority to turn a ship around at sea.

In the final analysis, we really felt that what the proposed changes to the Immigration Act were attempting to accomplish was to punish those offenders who were illegally aiding and abetting refugees for profit, and that the best way of accomplishing this, and the best type of deterrence, would be to bring the ship ashore, impound the ship, and deal with the captain and anyone else who was found to be an offender. We felt that to try to make a decision at sea to turn a ship around would involve grave dangers not only to the people concerned; it could mean ignoring our obligations under international conventions regarding refugees, some of whom might, in fact, be quite genuine.

Therefore, our proposal is that such ships be brought ashore and that the alledged offenders be dealt with on land. We were reminded of the positive example that Canada set for the rest of the world in 1979 and 1980 when Canada urged the countries of southeast Asia not to turn away boatloads of refugees. I recently visited Thailand with the Interparliamentary Union. That country is still receiving boatloads of refugees on a weekly, if not a daily, basis. The people there listened to the remonstrances of Canada and other concerned countries, and they have ceased that kind of practice. From a personal point of view, I would very much deplore Canada being party to any such similar action.

Bill C-84 proposes some significant changes with regard to the provisions relating to the aiding and abetting of people who come into Canada and who might not be genuine refugees as defined by the Geneva Convention. We had innumerable representations regarding these proposals, because, in fact, the act would catch, and presumably would have the power to punish, a number of agencies and organizations that are actively helping those they perceive to be refugees in need of protection. The minister and some of his officials argued that there was probably that kind of provision in the present act and it had never been used to punish or prosecute organizations such as church groups that are working in genuine good faith to help refugees. However, they felt that they wanted to add this extra wording for what they considered to be additional protection and as another deterrent. At the same time, they argued that they would not prosecute church organizations or refugee aid groups. The committee felt that if they were not going to do that, there was no point in putting into an act provisions that were not going to be implemented.

The committee has therefore changed slightly the wording of that clause to provide that the sanctions shall be imposed only against anyone who knowingly aids or abets a person to come into Canada in a clandestine manner. The committee agrees that that should be an offence.

The other provision regarding the aiding and abetting section that the committee felt was important was in its amendment number 6, that the law should apply to those who encourage people to come to Canada and make refugee claims, knowing that the individuals in question are spurious refugees. Therefore, the committee is very much in agreement that those two particular types of offences should be contained in the bill and should be implemented.

The clauses of the bill regarding search and seizure and forfeiture in certain circumstances received a great deal of attention from the witnesses, particularly those in the legal field. It was pointed out there again that some of those clauses obviously contravene provisions of the Charter of Rights and Freedoms.

We have to pay special tribute to the committee's legal counsel, because they were able to determine that the provision on which one proposed amendment was based—which the drafters of the bill had taken almost directly from the Customs Act—in fact had been invalidated some time previously by a decision of the Supreme Court of Canada. Therefore, the department itself, when this was pointed out, agreed that the appropriate amendment should be made. We felt that, again, many of the provisions in the bill were far too extreme, and we have provided, as honourable senators will see on going throught the report, ample arguments regarding the perceived violations of the Charter of Rights and Freedoms. On that basis, the committee proposes three amendments to that particular area of the bill. The committee believes that there

should not be warrantless searches, or that they should only be permitted when the necessary delay would result in danger to human life and safety.

There is a provision in the bill to the effect that peace officers or immigration officers could break into homes and wreck the premises in their search for illegal refugees. Again, that provision goes much further than any similar provision in the Criminal Code of Canada or any other act that we are familiar with, so the committee amended that area of the bill to make it conform to searches under the Narcotic Control Act or the Criminal Code of Canada.

Throughout the committee's study of this bill the members of the committee felt the problems of trying to deal with illegal refugees were certainly not any more difficult or dangerous than dealing with an alleged murderer or someone who violates the Narcotic Control Act. They have tried to make all of the amendments concerning remedies and recourse conform to what they consider are equally serious or even more serious crimes. The amendment therefore proposes that searches of premises, even under warrants, should be carried out by day only, and not by night as was provided for in the bill. That amendment conforms to the provisions of the Customs Act and the Criminal Code of Canada.

The following amendment concerns detention for identification or security purposes. As the law now stands, it provides that people may be detained if they pose a danger to the public or likely would not appear for future immigration hearings. The claimants can be detained under this provision if their identity is unknown, but the detention order must be reviewed every 48 hours. Bill C-84 goes much further than that in providing for detention for up to 28 days. Many legal experts argued that this would not only violate the Charter but it would not really address the problem of containing a perceived security threat, as some of the officials argued. They pointed out again that the clause appeared to violate sections 7, 9 and 10 of the Charter, and perhaps section 1 as well. Therefore, we have proposed to limit by amendment the powers under this particular section. The committee agreed that any provision that would allow for pre-trial detention should not be used simply for deterrent purposes.

● (1440)

Rabbi Plaut, who appeared before our committee, and who had written a special study for the government on the determination and processing of refugees, deplored this section. He said that it endangered bona fide refugees who may not have access to proper documentation, or who could only secure it at great peril. Therefore he asked, as did many other people, that this section be deleted. We have tried to amend it to reach a compromise between what the government proposed, on the one hand, and what was suggested by many of our witnesses who wanted it removed, on the other hand.

Honourable senators, the final section deals with testimony that we heard from transportation companies. They had serious concerns about some of the proposals in the bill. We have not made any amendments in those sections, but we recommend that the department and the minister seriously consider trying to harmonize some of these sections in this bill with what they have proposed in Bill C-55, another bill containing amendments to the Immigration Act, which we will have to deal with shortly.

The transportation companies pointed out that they are financially responsible for holding on to illegal immigrants who arrive in this country—something I had not realized—and then taking them back. With the other provisions in the act, it could involve a great additional expense as far as the transportation companies are concerned. We have recommended that a simple amendment could obviate that possibility.

The other area of great concern to the transportation companies is the requirement that they hold on to the passports of perceived immigrants coming to Canada. They pointed out to us that the airlines, in particular, were gravely concerned with this, because a passport is the property of the issuing country and not of the individual. They could not reconcile how they could do this and still avoid possible liability or problems with the issuing countries. As we all realize, some of these airlines travel through several countries before the passengers arrive in Canada, and there is a possibility for passports to be lost or mislaid at any point and at any stop along the way. The airlines could be held responsible for this—something that they do not think they should be required to be responsible for. Furthermore, there is the question of security. If they lift the passports of passengers on a plane, for example, these are often used to identify people in hijack cases. They felt that they should not be responsible for this type of action and have to account for anything that might happen to their passengers as a result of having to hold their passports or having to relinquish them to a hijacker.

Basically, that is the broad scope of the proposed amendments which you have before you. The minister, when he appeared before us last Tuesday, pointed out that he was deeply concerned that in the absence of a well managed immigration program, public support would be seriously jeopardized. He went on to say:

> The risk of erosion of public support for immigrants and refugees is too serious to ignore.

Honourable senators, the committee supports the minister in those views. It believes sincerely that the adoption of the amendments it has proposed will ensure a better managed immigration system and far greater support of the initiatives of the government in Bill C-84, since, as the minister also stated, it is "committed to continuing to ensure that Canada remains open to immigrants and refugees."

I move that the report be adopted.

Hon. Jerahmiel S. Grafstein: Honourable senators, at the outset of my comments I would like to commend the committee chairman, Senator Neiman, the deputy chairman, Senator Nurgitz, and all members of the committee and the staff for working so constructively and assiduously in a bipartisan effort to harmonize Bill C-84 with our existing Constitution and international Conventions.

Honourable senators, the Legal and Constitutional Affairs Committee report on Bill C-84 recommending amendments was passed with the support of senators on the committee. Why, honourable senators, was the report passed without dissent? Minister Bouchard, in his evidence before the Senate committee reporting Bill C-84 on December 8, stated:

> Charter compliance was foremost in my mind..I was unequivocally determined to do so within the full application of the Charter. I rejected any suggestion that the Charter should simply not apply to persons who are not Canadian citizens or permanent residents of Canada. Most Canadians do not know that the Charter applies equally to all people regardless of their status in Canada. However, that is now the law of the land and this bill is consistent with the law.

Honourable senators, I believe that there was support for the committee's report and agreement with the minister's statement, save his last phrase, which states that "the bill is consistent with the law." All of the evidence tendered before the committee, except that given by the minister and his officials, demonstrated beyond a peradventure of a doubt that Bill C-84 is flawed, because we were told by all witnesses from all groups and regions across the country that it does not conform with our Charter and our international obligations respecting refugees.

● (1450)

Therefore, honourable senators, Bill C-84 presents the Senate with a profoundly different issue and raises a fundamentally different question, particularly since the passage of the Constitution and the Charter of Rights and Freedoms in 1982, recently affirmed by the Meech Lake Constitutional Accord, which question I trust will be answered in the same generous spirit as the minister's comments before the Senate committee.

The roots of this issue can be traced to England over 760 years ago. The first celebrated fight took place there for the supremacy of the rule of law. You will recall from your constitutional history that King John abused the customary laws of the land. The barons, supported by the people and the church, revolted. Finally, in 1215, King John yielded at Runnymede and signed the Magna Carta, which document was designed to gain the king's promise, the king's covenant, not to abuse customary rights, not to abuse the law of the land.

One provision, one clause, from the Magna Carta catapulted into historic consciousness and was transformed into a lasting symbol of the supremacy of the rule of law. This one provision, this one clause, became the seeds of constitutional government in England and in our country. Let me quote briefly from that clause. The Magna Carta says this:

> No freeman shall be taken or imprisoned or disseized or exiled . . . nor will (the King) go upon nor will we send upon him except by the lawful judgment of his peers or the law the land.

The words "the law of the land" planted the powerful idea that the king himself must respect the law. Later King James I tested his supremacy before Sir Edward Coke, the great English judge, who suggested that even the king's judges must follow the law, to which the King exploded, "Then I am to be under the law?" Coke replied, in an exchange that has echoed down through the ages, "The King ought not to be under any man, but under God and the law."

Now, with the passage of our Charter in 1982, the notion of the supremacy of Parliament has given way to the principle of the supremacy of the Constitution, of the Charter, a charter which reflects our fundamental principles of law, which states clearly our fundamental principles of law. To command the allegiance of the minority and the majority in a democratic state, even judges agree that the law binds judges as well as the judged. It is certainly no less a fundamental principle of responsible government that lawmakers have a paramount duty to conform to the Charter, to maintain democratic respect for the rule of law.

Our own courts assume that all law is constitutionally valid, constitutionally correct. The courts put every claimant to the test. Every claimant who contests a law must show and demonstrate that the law is unconstitutional. The courts assume that the law is valid and constitutional. Therefore, the courts expect that legislators will pass laws that are constitutionally valid to support that assumption in the courts.

As to the role of the Senate, surely senators, as parliamentarians, have a duty equal to that of the members of the House of Commons to ensure that all legislation that passes the Senate conforms to the Charter. Otherwise, do we not weaken the rule of law? Otherwise, do we not erode democratic support for Parliament, both the Senate and the House of Commons?

Our own courts, as the committee report so eloquently points out, have made it abundantly clear that parliamentarians must not approve legislation when they are convinced by the evidence before them that the legislation is constitutionally flawed. The Supreme Court of Canada does not believe it has a duty to perfect legislation that is constitutionally flawed. That, they have told us, is the proper role for the legislatures, for Parliament, for the House of Commons, for the Senate.

Accordingly, the report of this committee received approval without dissent. Senators on all sides, I believe, were satisfied, based on evidence which would satisfy any reasonable observer, that Bill C-84 was flawed and that the evidence was balanced, cogent and convincing. It convinced me and, I believe, many of my colleagues that Bill C-84 must be amended in order to conform with both the Charter and the international obligations respecting refugees, which the Government of Canada has previously adopted as the law of our land.

Finally, honourable senators, William Blake, the greatest of English poets, once wrote, "Every human being is holy." So, Canadians have a devout belief in our courts and in the rule of law to protect each individual in Canada. Young Canadians have been taught in our schools to believe that individuals can only be fully protected with justice under the rule of law in a free and democratic state which, itself, is governed by just and

valid laws. Canadians are, and want to be, a law-abiding society.

We therefore commend this report to the minister in the honest belief, in the bipartisan belief, that he will affirm the responsibility of responsible government to pass only legislation that is in and of itself lawful and constitutionally valid and to perfect Bill C-84 so that it conforms to our Charter and to our international obligations. Canadians demand no more. Canadians expect no less!

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the committee has been most diligent and expeditious in dealing with this bill. It heard some 37 witnesses, received 400 briefs, and held 20 meetings, according to the report of the chairman, Senator Neiman, who quite properly expressed the appreciation of the committee and of the Senate to members of the staff who always bear a disproportionate, it seems, burden for the diligence of honourable senators. I join with her in expressing our appreciation to the staff and, on behalf of the government and of all senators, I express my thanks to her and to the members of the committee for their diligence.

Honourable senators, this is not a unanimous report, and the Senate will not be surprised to hear me say that it is unlikely in the extreme that all of these amendments would be accepted holus-bolus by the government. However, I am not in a position at this moment to say which, if any, of these amendments would be acceptable. I will come to that in a moment.

The difference in perspective that we have in a matter of this kind is illustrated by Senator Neiman's remark about Canada turning boatloads of refugees away from Canada. This bill is not about turning boatloads of refugees away from Canada. This bill is about dealing with bogus refugees who are abusing our system and who are, for the most part, economic migrants who are typically coming to this country from some country in western Europe where they have made arrangements with people who are in the business of transporting illegal immigrants to obtain passage to this country. As I say, they are abusing the system and they are making it extremely difficult for valid refugees and for legitimate immigrants who want to come to this country and who respect the laws and the procedures that we have put in place.

The difficulty is also illustrated by Senator Grafstein's comments about the constitutionality of this measure. He has, I think quite accurately, pointed out that the weight of the evidence from various people who appeared before the committee was that this measure would contravene the Charter of Rights and Freedoms and, indeed, that it runs counter to our international obligations. That, indeed, is the weight of the evidence from the witnesses who appeared as opponents of this bill.

● (1500)

This is the kind of bill that brings out opposition from various groups. There is no organized lobby in favour of the bill as there is an organized lobby opposed to it. The government is bringing in this bill because it perceives a serious problem that has to be addressed, and the government believes it has a responsibility to address it. It seems to me that the honourable senator should not brush off quite as casually as he does the considered opinion of the law officers of the Crown, the people in the Department of Justice who advised the government on this matter, their opinion being that this bill does not contravene the Charter of Rights and Freedoms and does not infringe any of our international obligations. However, I will leave that matter.

I do not intend to deal with the bill or with the proposed amendments in any substantive way today. I am not in a position to indicate which of these amendments might be acceptable to the government and which might not. I cannot indicate that today. I observe that my colleague, the Minister of Employment and Immigration, the Honourable Benoit Bouchard, has appeared on two occasions before the committee. At his most recent appearance on December 8 he indicated his willingness to consider amendments that did not negate the principle or frustrate the purpose of the act. It is obvious to me that it is now up to him, in consultation with members of the cabinet, to decide whether and to what extent the amendments proposed by the Senate can be accepted.

Honourable senators, there is some urgency to this bill. It was to deal with this problem that Parliament was recalled during the summer months. Therefore, I am concerned, as a member of the government, that the Senate and Parliament deal with it in the most expeditious way possible.

Therefore, in view of Mr. Bouchard's statements, in view of the openness that he has expressed to consider some amendments, in view of the invitation that he extended to the Senate committee to propose such amendments as would not frustrate the intent or the purpose or the principles of the bill, I believe that the most expeditious way to proceed at this moment would be to get the bill out of the Senate and over to the House of Commons. There, the minister, the government and, indeed, that House can address the Senate amendments in a formal way.

Therefore, while I certainly have reservations about some of the amendments proposed by the committee—reservations which I believe are shared by my colleagues who are supporters of the government—I am prepared to set those aside for the moment, and, without prejudice to any position I may wish to take later as a member of the government on this matter, I propose that we let this bill pass through the Senate as amended. In that way the minister, the government and the House of Commons can address themselves formally to these amendments.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): With leave, now.

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

Hon. Senators: Agreed.

Motion agreed to and bill, as amended, read third time and passed.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Finlay MacDonald: Honourable senators, I bring all honourable senators warm Yuletide greetings from Senator Sinclair, who is involuntarily spending the day in the Toronto airport. In his absence, and on his behalf, I have the honour to present the twenty-first report of the Standing Senate Committee on Banking, Trade and Commerce, respecting Bill C-64, to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971, without amendment but with observations.

(*For text of report, see Appendix "B", p. 2431.*)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Roblin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

AGRICULTURE

NEED FOR COMPREHENSIVE FINANCIAL SUPPORT PROGRAM FOR GRAIN PRODUCERS—NOTICE OF INQUIRY

Hon. H.A. Olson: Honourable senators, I give notice that on Thursday, December 17, 1987, I will call the attention of the Senate to the need for a comprehensive financial support program for agricultural producers, especially cereal grain producers, to compensate for the drastic lowering of cereal grain market prices.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I was overtaken by events.

Senator Olson: Yes, but the problem with being overtaken by events is that the background information is not available. Therefore, I give notice of this inquiry so that my honourable friend can appear here Thursday with the necessary background information and we can explain it to the producers.

AGRICULTURE AND FORESTRY

DEADLINE FOR PRESENTATION OF COMMITTEE REPORT ON FARM FINANCE EXTENDED

Hon. Dan Hays: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

[The Hon. the Speaker.]

That, notwithstanding the order of the Senate adopted on Wednesday, May 6, 1987, the Standing Senate Committee on Agriculture and Forestry, which was authorized to examine farm finance, be empowered to present its report no later than Thursday, March 31, 1988.

Hon. Senators: Honourable senators, is leave granted?

Hon. Senators: Agreed.

● (1510)

Senator Hays: Honourable senators, by way of explanation, the motion is put simply because the committee has not had sufficient time to hear all of the witnesses and prepare its report in the time originally envisioned, which would have ended on January 31, 1988.

Motion agreed to.

ENERGY AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Efstathios William Barootes, with leave of the Senate and notwithstanding rule 45(1)(*a*), moved:

That the Standing Senate Committee on Energy and Natural Resources have power to sit at four thirty o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

QUESTION PERIOD

[*English*]

AGRICULTURE

FINANCIAL ASSISTANCE TO PRODUCERS—REQUEST FOR INFORMATION

Hon. H.A. Olson: Honourable senators, I wish to raise a question or two with the Leader of the Government concerning the very important announcement that was made earlier today by both the Minister of Agriculture and the Prime Minister. I believe the announcement was made in the name of the Minister of Agriculture, but I understand that the Prime Minister made the announcement at the Outlook Conference that is being held in Ottawa today.

I was under the impression that one could enter the lock-up some time ago and find out about this. Some people did, but I did not. I was under the impression that the details would be available when the Prime Minister began his speech, but I could not find anything. However, I have some photocopies of details that were sent to some members of Parliament, but nothing came to me—and I understand that nothing was sent to any honourable senator.

I believe that to be a legitimate complaint, and I hope sincerely that the Leader of the Government will try to see that we have copies of these things so that we can deal with them as they come up.

I would say also that the payment is not as much as was expected by some people, but I think it is a very significant contribution to the financial support of those who need it most, namely, the cereal grain producers throughout Canada, but particularly those in some parts of western Canada.

I gave notice of an inquiry for Thursday, and I believe that there are some details that the minister can obtain. Whether he assigns that task to Senator Barootes, Senator Balfour or another senator from the grain-growing area, it makes no difference to me, but there are some matters which I think Canadians, particularly the grain producers, should know about.

For example, I would like to know the basis on which the payment will be made. There is a sort of formula, which appears to be very complicated, but which deals with some of the problems that were included in the formula last year, such as the summer fallow portion. That is normal practice in western Canada, but last year anyone who happened to be on the high side of summer fallow in his crop rotation was short-changed that much in the payment. I now understand that that has been corrected or dealt with, but I am not sure that it is fair even now, and I would like the Leader of the Government or someone to come prepared on Thursday to deal with that matter.

In the announcement it was stated that the government is prepared to increase the producer levy rate. But by how much? I have no idea; it doesn't say. I believe it is now between 1.5 per cent and 2 per cent, and it was announced that it is going to be increased upward as much as 5 per cent of gross receipts. If that is true, then that is an enormous amount of money.

The government—and I wish to give it credit—is going to reduce the deficit by writing off $750 million of the deficit in the Western Grains Stabilization Fund this year, and by a similar or another amount next year.

I believe that we have a right, after all these months, to hear the details. I do not wish to be critical, because I believe it to be a good announcement in many respects. Even though it falls a little short of some of the expectations, it is still very welcome and helpful.

The government has also announced an extension of the Farm Fuel Tax Rebate Program. One of the problems that we have always had with that is that it is defined as "off-road" rebate; but in Alberta it is legal to put purple-dyed gas in a farm truck and it is not illegal to drive that truck on the road. Therefore there will be a different interpretation between what the Alberta government does with respect to farm fuel and what the federal government does. Surely they can get together so that by complying with provincial law one is not breaking the federal law.

I do not know of any other way of dealing with these matters other than by raising them now. I am hopeful that one of the government supporters, perhaps Senator Bielish, will be prepared on Thursday to answer my questions. Senator Barootes looks as though he knows all about this background, and I wish he would share it with the rest of the senators on this side.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Olson is obviously getting warmed up for his speech on Thursday. I thank him for giving me notice of some of the matters that he wished to raise. I undertake that I or one of my colleagues, speaking on behalf of the government, will be in a position to deal with these and other matters that he may wish to raise in connection with today's announcement.

I have been informed since I came into the chamber that the Prime Minister was due to speak at 1.45 p.m. today. While I am familiar with the broad outlines of his announcement, I do not have a copy of his speech. The deficiency payment, of course, is the major item in financial terms. There is also the Farm Fuel Tax Rebate Program and the Western Grain Stabilization Fund as well as some action concerning the Farm Credit Corporation.

Senator Olson: And potatoes.

Senator Murray: And potatoes, as my honourable friend observes. There is also an invitation issued to provincial governments to join with the federal government in respect of certain possible programs.

In any case, this is a matter for discussion on Thursday, at which time we will be prepared to deal with the questions and concerns of the honourable senator. Meanwhile, I note his positive reaction to the announcement made today by the Prime Minister, a reaction which I am sure will be shared by many in that sector. After all, it is a fact that in the past few years, since this government took office, direct government assistance to that sector has increased by almost 400 per cent.

Senator Argue: That is not correct.

Senator Olson: Perhaps the Leader of the Government would check his facts. I wanted to give credit for a good announcement. However, I have brought along a chart that was published by the Minister of Agriculture today and which indicates that the increase with regard to farm receipts came far more from the Western Grain Stabilization Program that was established by the previous government rather than this government. So why does the Leader of the Government not stick to the facts and, when we on this side are being generous and charitable, accept that what we are saying is true?

Senator Argue: The farmer is getting his own money.

Hon. Efstathios William Barootes: Honourable senators, I should like to respond to Senator Olson's laudatory and kind remarks and congratulate him on the very fine programs which today he has taken time to praise. We are all very grateful for that, no matter how unusual it is. As a matter of fact, the more rare these things are, the more we appreciate them. I do know that should he raise an inquiry on Thursday, it would be so helpful if some of those questions to which he

wishes answers were put in writing; then one could ensure that the appropriate answers could be given.

● (1520)

Senator Olson: All the honourable senator need do is read *Hansard*. That is why I put these points on the record today.

REPRODUCTIVE TECHNOLOGY

REQUEST FOR APPOINTMENT OF ROYAL COMMISSION—GOVERNMENT ACTION

Hon. Lorna Marsden: Honourable senators, a number of women's organizations and a number of well-known researchers in Canada have called on this government to appoint a royal commission to study new reproductive technology. Has the government taken a decision on this request yet?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must say that to the best of my knowledge the government does not have that matter under consideration at the present time.

AGRICULTURE

PRINCE RUPERT GRAIN HANDLERS' STRIKE—CURRENT SITUATION

Hon. Hazen Argue: Honourable senators, it will be an interesting time on Thursday. I am not as generous as my colleague, Senator Olson.

Senator Doody: Oh come on! You are so!

Senator Argue: Not when it comes to dragging up a program that provided $1 billion last year and has only increased to $1.1 billion this year. The farmers lost much more than that increase when the initial price was lowered. The government says that the Western Grain Stabilization Program is a government program. I thought it was the farmers' program. It is the farmers' money that is in there, but now it is the government's program.

Senator Murray: There are those who would say that it is a Liberal program.

Senator Argue: The program was put in by the Liberal government, but, to me, it is an insurance program, a joint program between the government and the farmers. I do not know of any case where the insurance company is given great credit after paying out the money involved in the policy for the house having burned down. If the government had not put up the 400 per cent, it would have broken the law. That law was there when the government came to power. The prices have collapsed so much since they have been in power, and they have so little influence with the President of the United States, that farmers have to look for these bail-outs. My goodness, I know that all farmers would like to make their earnings in the market, but they cannot.

On another subject, but a related one, can the minister report any developments in the grain handlers' strike at Prince Rupert? It has been going on for some time now, and it puts grain producers in a serious situation. The Minister of Labour has taken certain initiatives with regard to the Air Canada strike, and there appears to be some progress, at any rate, in that situation. I am wondering whether the government has taken any similar action or proposes any action with regard to the grain handlers' strike at Prince Rupert.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, about a couple of hours ago my colleague, the Minister of Labour, the Honourable Pierre Cadieux, instructed Mr. J.M. Collins, the mediator assigned to the dispute, to reconvene the parties for further mediation meetings.

Senator Argue: Honourable senators, I can say that that announcement is a welcome one. So sometimes I am on your side.

Senator Doody: I knew that you were generous.

Senator Argue: I have my moments.

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION

Hon. Hazen Argue: Honourable senators, I am wondering if there is anything further to report on the Air Canada situation. I am aware from news reports of what has been going on. Does the minister have anything to add at this time? Do things look pretty hopeful for the resumption of air service soon?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, when we entered the chamber almost two hours ago my information was that the parties were still talking. Negotiations continue, and the government is hopeful that there will be a resolution of the dispute today.

Senator Argue: I would take an even bet that there will be.

[*Translation*]

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—THIRD READING

Hon. Jean Bazin moved that Bill C-90, an Act to amend the Unemployment Insurance Act, 1971, be read the third time.

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

Hon. Eymard Corbin: Honourable senators, I believe this bill was referred to the Committee on Social Affairs, Science and Technology. The Committee on Social Affairs, Science and Technology did not make any amendment to the bill and reported it without any comment. Still, would it be relevant to ask the committee chairman or another senator if any consideration was given to the advisability of making the provisions of this bill permanent next year instead of going through the same exercise every year? Did the committee debate this aspect of the bill? Was there official reaction from the govern-

ment, a minister or an official saying why this provision is not made permanent in the Unemployment Insurance Act?

Hon. Jean Bazin: Honourable senators, I was not present when the committee sat. I believe the committee was chaired by Senator Bonnell on that day. I do not know whether Senator Bonnell wants to respond directly to the question concerning what happened at the committee meeting. I can, however, provide a general answer.

[*English*]

Senator Corbin: Senator Bonnell was not paying attention to what I was saying. Therefore, I will ask him, in his capacity as chairman of the committee which considered the bill presently before us, which deals with the extension of variable entry requirements for another year, whether the matter of the extension of these requirements was discussed in committee; whether or not the minister or high officials of the department addressed the matter, and whether, indeed, in years to come we can expect this feature to be a permanent feature of the legislation, or, on the contrary, whether the government intends for some time yet to come to Parliament year after year for approval of that particular provision of the legislation?

Hon. M. Lorne Bonnell: Honourable senators, I have to advise the Senate that neither the minister nor any high officials appeared before our committee to give a commitment as to what would happen in the future. However, the committee felt that it was important to pass this bill before the first of the year so that people on unemployment insurance would not lose any of their benefits. We agreed to the bill without amendment, but made the recommendation that the government of the day consider passing legislation so that this provision will not have to come before Parliament every fall in the future.

Senator Corbin: I thank the honourable senator for his answer. It is not exactly exciting news, but I find it satisfactory.

Motion agreed to and bill read third time and passed.

CITIZENSHIP ACT

BILL TO AMEND—THIRD READING

Hon. Peter Bosa moved the third reading of Bill C-254, to amend the Citizenship Act (period of residence).

Hon. Eymard G. Corbin: Honourable senators, as one who made some remarks on Senator Bosa's bill earlier this year, I must again register some—I shall not call it "displeasure" but regret, that the provisions of this legislation, as I understand it, apply only to spouses of people in the Public Service of Canada.

• (1530)

Senator Bosa: And of people in the service of the provinces and of those in the armed services abroad.

Senator Corbin: Yes, those employed in the service of the Government of Canada, of provinces and some of their agencies. However, it does not apply to the spouse of a person in private enterprise who serves abroad and who may marry abroad and whose spouse does not have extended to her or to him credit for the time spent abroad as the spouse of a private Canadian citizen.

Therefore I find that the legislation does not apply equally across the board. I am not sure whether or not it sins against the Charter of Rights and Freedoms. I suppose in a sense that a spouse who is not a Canadian citizen does not have any rights.

However, we are extending such privileges to certain spouses to allow them to become Canadian citizens sooner than other spouses who find themselves in pretty much the same circumstances, so again I wanted to register this caveat.

I am sure we are doing the right thing for spouses of persons in the service of the governments of Canada and the provinces, but I think that we ought to have extended the same privileges to spouses of other Canadian citizens who find themselves in similar circumstances. Otherwise, the saying that the law applies equally to all has no meaning in these particular circumstances.

Motion agreed to and bill read third time and passed.

APPROPRIATION BILL NO. 4, 1987-88

SECOND READING

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-95, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988.

He said: Honourable senators, the bill before us today, Appropriation Bill No. 4, provides for the release of the whole of Supplementary Estimates (B) for 1987-88, amounting to $693 million, and the whole of Supplementary Estimates (C) for 1987-88, amounting to some $1.881 billion. The total spending authority requested by this bill is just over $3.588 billion, the difference representing statutory items.

Supplementary Estimates (B) included $466 million for the Department of Regional Industrial Expansion, with the balance covering funding for two new agencies, namely, the Atlantic Canada Opportunities Agency and the Western Diversification Office.

Supplementary Estimates (C) covers $1.4 billion for forgiveness of debts and $350 million for Canadian Exploration and Development Incentive contributions, with the balance being distributed throughout a number of government programs.

Honourable senators, Supplementary Estimates (B) were tabled in the Senate on August 28, 1987, while Supplementary Estimates (C) were tabled in the Senate on November 19, 1987. Both were immediately referred to the Standing Senate Committee on National Finance. These estimates were discussed by the National Finance Committee with Treasury Board officials, and the committee presented their reports on November 17 and December 2 respectively.

Honourable senators, I would like to assure the Senate that this bill is in the standard form as we usually see it and there are no surprises that I am aware of. I also would like to table at this time the list of the estimates tabled to date for 1987-88 and the supply to date for 1987-88 and ask that they be printed as part of today's proceedings.

I would also be prepared to supply additional information if honourable senators should require it. However, as I have said, the Standing Senate Committee on National Finance has examined both sets of estimates and has reported same, and the reports have been accepted by the Senate.

(*See Appendix "C", p. 2439.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as Senator Doody has pointed out, the estimates that are the subject of this appropriation bill have been studied by the Standing Senate Committee on National Finance and reported by that committee, and the chairman of that committee, Senator Leblanc (Saurel), has put on the record his comments on those estimates. I have consulted with him and he has assured me that the members of the committee have made their comments and have no other reservations with respect to this supply bill. Of course, it is only in most unusual circumstances, it seems to me, that the Senate should consider denying the government supply. For that reason I believe that we should give this bill second reading now.

The Hon. the Acting Speaker: It is moved by Senator Frith, seconded by Senator Argue—

Senator Frith: I am sorry, who is the mover of the motion?

Senator Doody: Your Honour, I moved second reading, seconded by someone on this side of the house. I appreciate very much the cooperation of the honourable gentlemen across the way, but I do not believe that they would be willing to move supply for the government.

The Hon. the Acting Speaker: I am sorry, the motion was moved by Senator Doody and seconded by Senator Roblin. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

JUDGES ACT

BILL TO AMEND—SECOND READING

Hon. Michel Cogger moved that Bill C-88, an Act to amend the Judges Act, be read the second time.

He said: In 1981, honourable senators, Parliament established a process whereby a commission appointed every three years would inquire into the adequacy of the salaries, benefits and other amounts payable to judges appointed by the Federal Parliament and make recommendations to the Minister of Justice.

The purpose of these triennial reviews is to enhance the independance of the judiciary and to provide judges with sound financial security.

In September 1986, the Honourable Ray Hnatyshyn, the Minister of Justice, appointed a triennial commission chaired by Mr. H. Donald Guthrie, Q.C., which included such other members as Mr. Edward Crawford, Maître Jeannine Rousseau and Mr. Eldon Wooliams. The commission submitted its report to the Minister of Justice in February 1984 who, in turn, tabled it in the House of Commons on March 11, 1987.

The commission had been appointed to inquire into the adequacy of judges salaries and other benefits. Its report contained 27 recommendations dealing with the salaries, pensions, benefits and income tax related matters.

The commission had recommended that the proposed salary adjustments became effective retroactively as of April 1, 1986. The commission had also recommended that the level of 1975 be the benchmark for the new judicial remuneration. The commission found that the 1975 base had been adequate, but that it had lost some of its relevance over the past twelve years.

The House's standing committee to which the bill had been referred and which considered the same issue last April reported on the commission's recommendations suggesting that the proposed salary adjustments recommended by the commission become effective April 1, 1987, rather than April 1, 1986.

The government has accepted the proposed salary adjustments recommended by the commission, but has decided to phase them in over a three year period. Accordingly, the first increases will become effective April 1, 1986, the first year, then April 1, 1987, and then April 1, 1988, the last year.

Under the provisions of this bill, all judges appointed by the federal government will see their salaries increased retroactively as of April 1, 1986, again on April 1, 1987, and a third time on April 1, 1988.

In the current legislative provisions, the salaries of district and county judges in Ontario, British Columbia and Nova Scotia are $5,000 lower than those of justices at corresponding levels in the Superior Courts, as of the three salary adjustment dates. The salary levels of judges of the Canadian Tax Court are the same as those of district and county judges as of July 1, 1987.

Since the proposed salary increases are to be phased in over a three-year period, the salary adjustments that were already provided for under the Judges Act, that is the indexed salary adjustments will have their application deferred while the increases under Bill C-88 are implemented.

Honourable senators, the government feels those are significant changes in a number of respects, but more specifically in that they emphasize and strengthen the all-important principle of judicial independence. Moreover, by providing for salaries that come closer to the fees being paid in private practice, the legislation will make it easier for the government to attract the

top quality people we need for the good administration of our courts.

Thank you, honourable senators.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, at the outset I would like to commend Senator Cogger for his very clear, straigthforward and even limpid explanation of the aims and provisions of the bill. As he was saying, the bill follows on the Guthrie Commission's findings and recommendations. Certainly the principle of the bill deserves our support. At second reading we deal with the subject matter of the bill, and therefore I suggest again that we pass this bill at second reading stage.

I hope indeed that Senator Cogger will move reference to the Senate Committee on Legal and Constitutional Affairs before third reading is moved.

Hon. Eymard G. Corbin: Honourable Senators, Senator Cogger in his speech on two or three occasions referred to "judicial independence".

Could he tell me whether that judicial independence is in any way similar to Senate or senatorial independence? Is there a connection?

Senator Cogger: No connection.

Senator Corbin: Could you explain why, in your opinion, there is no connection?

Senator Cogger: I am quite willing to get into a debate with Senator Corbin on this subject. However, I do not see how the dependence or independence of senators in this matter has anything to do with Bill C-88 or at the very least its subject matter.

Senator Corbin: This answer, honourable senators, gives me no satisfaction. I have always thought that Parliament was the highest court in the land. It is a phrase which is on everyone's lips and which is constantly being used in the other place.

It is true that I have hardly or perhaps never heard it in this house. I cannot remember.

However, can we really say that the justices of the Supreme Court of Canada, the justices of the Federal Court, and the justices of provincial courts are totally independent? We know for instance that some of them were Members of legislative assemblies, federal or provincial, that they get a pension from those assemblies on top of their salaries. Can we say that in such a context the judiciary authority is totally independent? I think that there is always an umbilical cord, however thin it may be.

Now when I am reminded of the "independence of the judiciary", I think that a rather vivid term is used. I know that I am deeply hurting the feelings of some of my colleagues who consider judges, whether they are sitting in the Supreme Court, in the Federal Court or in any other court, as individuals who are beyond reproach. I do not think so. They are as human as anybody else. Besides, I think they are very well paid. The commitee which studied the whole matter was very generous to judges and rather over generous in all the consideration given to them. I am eagerly awaiting the day when senators, for instance, will be dealt with the same consideration as shown to judges. We are legislators and judges are asked to interpret the contentious points of legislation.

That is why I find a bill such as this one insulting for our institution, the Senate. I hope the Government will realize the disparity between salaries granted to judges and senators, regardless of all the arguments they can come up with, particularly about senators' pensions. We periodically hear promises that a solution will finally be found to the problem of disparity between pensions granted to members of the Commons and to senators.

Some of my colleagues will certainly be offended by my remarks, but this is the only opportunity I have to make them, and a certain amount of digression may be in order in a debate—on the principle of a bill. I look forward to the day when the government will recognize that senators, whether we like them or not, deserve some consideration.

The poor guy who loses in Federal Court or a provincial Superior Court may not like the judge who decided against him. I do not expect everybody to like the Senate or like me as a senator, but I would like to see an end to those problems that are brought to the attention of the government year in and year out. They should be quickly addressed.

I do not see why senators, who are constantly ill-treated, should be willing to grant generous salaries to judges. I do not think of the rough time we are given every day in the media, because I do not care. A few things should be put in order in terms of salaries, of resources for research, of equipment and pensions for senators.

I wanted to take this opportunity to raise those problems since cooperation may not be as good in different circumstances.

I will conclude by saying that the remuneration formula we are about to pass for judges is greatly enriched and very generous. I hope their Lordships will remember.

Senator Cogger: Honourable senators, I would like to point out to Senator Corbin that, precisely because of the independance of the courts, judges are not supposed to remember it. If the honourable senator finds the bill a bit offsensive for the Senate, I am sorry for him. I would like to draw his attention to the fact that, proferred outside these walls, some of his comments would nearly amount to contempt of court, and that the courts might be offended by them.

Senator Corbin: I believe that Senator Cogger forgets the fundamental rights we have as legislators . . .

Senator Cogger: Honourable senators, I said if his comments had been made outside these walls . . .

Senator Corbin: That is why I make them here, because it is not only my role, but also my duty to say what I think of a bill like this one, which is extremely generous toward the judges.

I believe it is a pretty good Christmas present we are giving them, and one not very many other Canadians will be getting. That is all I have to say.

Naturally, I can vote against the bill, but I will first explain my stand.

The message I tried to put across this afternoon is not directed to the judges whom I must respect like any other Canadian outside these walls, and even within. I do not think I said anything basically nasty against them. I do not believe I said anything which might prejudice their integrity or independance.

I just said to the government "please consider also the Senate and the senators". The situation here has been going on for too long. Some senators are irritated and hurt because of such a bill that shows no hesitation to bring about very comfortable and longlasting settlements in favour of judges.

If judges are entitled to such generosity, that doesn't mean that senators are asking for an equally generous treatment, but at least we expect some action regarding the grievances that for years we have been bringing to your attention.

Consequently, the moment was well chosen to make this kind of representations.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cogger, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1550)

[English]

CUSTOMS TARIFF BILL

SECOND READING—DEBATE ADJOURNED

Hon. Brenda M. Robertson moved the second reading of Bill C-87, respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.

She said: Honourable senators, Bill C-87 will replace the current Customs Tariff and incorporate the Duties Relief Act into one piece of legislation. I wish to take this opportunity to comment on the benefits which this new legislation will provide to Canadian business, and in particular the importing and exporting communities all across Canada.

As honourable senators are aware, our country is one of the great trading nations of the world. Since our very beginnings we have built our economy on international trade. Today exports provide one of the major engines of growth for the Canadian economy. Imports also play a vital role in the functioning of our economy, providing the inputs, machinery and equipment necessary in many sectors to complement the Canadian sources of supply. It goes without saying that a great trading country such as Canada needs up-to-date trade legislation. While it may not be obvious to the casual observer, the smooth flow of international trade depends very much on the underpinnings provided by such legislation as the Customs Tariff Act and the Duties Relief Act.

[Senator Corbin.]

Of course, I do not have to make that point to Canadian producers who in their daily activity are engaged in import and export operations. Those people know that their very ability to produce and compete in markets both here and abroad depends on the efficient functioning of the framework of laws and regulations put in place by the federal government to regulate trade.

Honourable senators, our import tariff legislation is in desperate need of updating. While it has served the country well over the many years since its inception, today we are faced with new needs and new opportunities. Essentially what the business community requires is an easily understood, straightforward system of classifying goods for import and for export so that rates of duty and other tariff-related regulations affecting trade in goods are easily determined and clear in their application. Uncertainty can lead to delayed decisions, loss of business opportunities, or unexpected costs. We also require a system which can lend itself to computerization so that import and export transactions can be recorded and transmitted electronically. Business and government are more and more relying on machines to transact their business. Our current system for processing imports is woefully inadequate in this regard.

• (1600)

Because we maintain a separate tariff and commodity classification system, importers are required to be familiar with two systems. Consequently, our trade data is imprecise and lacking in accuracy. In addition, with the current tariff system, which is different from that of every other country, we are unable to make a direct comparison of our tariff rates and our trade statistics with these other countries.

The proposed legislation is intended to correct these deficiencies and to meet new requirements. It is an entirely new approach to the classification of goods for customs purposes. The harmonized system, on which it is based, is a new standard international method for classifying goods. Canada's adoption of a harmonized system-based customs tariff is timed to coincide with similar moves by all of our major trading partners.

This international initiative to standardize tariff systems will assist Canadian producers by making their determination of the rates of duty on imported and exported goods easier to determine. The greater predictability in customs classification, both by Canadian authorities and in other countries adopting the harmonized system, will benefit Canadian business. For example, once a Canadian maker of ice skates knows where ice skates are classified in the Canadian tariff, he will also know where to look to see where they are classified in the U.S. tariff, in the tariffs of the European Community or the Nordic countries.

The logical approach of the harmonized system is also designed to facilitate automated processing of import and export transactions. Canadian business has been gearing up to

adapt its reporting of import and export transactions to the new tariff system. A key incentive in adopting the new system will be the increased efficiencies and cost savings that will be realized by the private sector in this area. Once a system is up and running, it is expected to save millions of dollars a year to the importing community.

Revenue Canada is in the process of implementing its new customs commercial system, and as of January 1 of next year it will be based on the harmonized system. This means that importers and customs brokers will be able to provide accounting data directly to Revenue Canada from their own offices and to receive confirmation of such data directly in return. This is a great step towards a paperless work environment.

The new tariff will also facilitate the conduct of trade negotiations. As evidence of this, the Canada-U.S. trade negotiations were conducted on the basis of the harmonized system. In fact, this is the first time international trade negotiations aimed at trade liberalization have been conducted under the new tariff system. It is expected that similar positive results will be possible in multilateral trade negotiations as well, such as the Uruguay Round of trade negotiations currently under way.

Finally, under the harmonized system, Canada will be able to reconcile its trade statistics with other countries more easily. As honourable senators will be aware, the question of the U.S. trade deficit is a matter of urgent concern to the U.S. authorities. Each year Statistics Canada undertakes an exercise with their U.S. counterparts to try to reconcile the trade statistics kept by our two countries. In the past the U.S. has produced statistics showing the U.S. trade deficit with Canada as being much higher than it is according to our calculations. Much detailed discussion and analysis are required to try to reconcile these differences. While this may appear to be a technical exercise to many, such is not the case at all. The perceived trade deficit or surplus between the two countries can have many effects, including effects on currency fluctuations and protectionist pressures. Accurate trade data is also a major benefit to the business community. It is therefore important that we will now have a better way of comparing our trade statistics with other countries.

Honourable senators, if I have gone on at some length to detail the benefits of introducing the new customs tariff, it is because this is an important and landmark piece of legislation. While on the surface the bill may appear to be technical and complex, it is certainly worthy of senators' attention and will be of vital interest to the business community.

Honourable senators, I therefore commend Bill C-87 for your consideration and approval.

Honourable senators, I do not know how you want to handle the bill. If you wish to debate the bill on the floor, the minister is quite willing to come to a Committee of the Whole; or perhaps you wish it referred to the Standing Senate Committee on Banking, Trade and Commerce. However, it is a technical bill, and I assume that honourable senators will have questions for the minister and senior bureaucrats before moving to third reading. I am at your disposal.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Hicks will be speaking on our behalf about this bill.

With regard to the question raised by Senator Robertson, before we adjourn the debate to enable Senator Hicks to speak to it I suggest that if Senator Robertson is able to persuade the Senate that there is an urgency to have this bill passed before we adjourn for Christmas, then we should proceed to Committee of the Whole. However, if there is no such importance to passing it this week, then I think it would be better to refer it to the Standing Senate Committee on Banking, Trade and Commerce for consideration and study, because it is the kind of bill that the Senate and its committees usually examine closely. As Senator Robertson has said, it is rather technical, and the tradition has been for Parliament, and to some extent the country, to rely on the Senate to study technical bills. Unless there is an important reason for us to pass it this week, I think we should follow the usual procedure and refer it to the committee.

That just deals with the procedure. Senator Hicks will be speaking for us on the substance and other aspects of the bill.

Senator Robertson: Concerning the urgency of passing the bill, as some of you know, the discussion on this matter started in Brussels in 1981. Some 58 countries have agreed to the harmonized system.

Generally those countries have been working steadily toward this type of legislation since then. About 20 have already passed this type of legislation in their countries, and there are another ten or so who expect to have their legislation in place by January 1.

There are areas of the bill that establish some retroactivity. So, on first blush you might not think there is an urgency. I suppose the world could live without it, but it would be quite difficult.

I am advised that the staff would have between now and January 1 to draft most of the remission orders in section 17 of the Financial Administration Act if this does not pass by January 1. Certainly the government would like the bill by January 1. It has been long and tedious in its coming and has meant a lot of hard work for the staff who have been involved. There seems to be nothing very controversial in the bill, and I am sure that questions from honourable senators will be answered by the minister.

• (1610)

Honourable senators, there was a list of some 700 petitioners who presented a petition in regard to this bill. I assure you that the first petition received opposing this legislation has now been withdrawn, and there no longer seems to be general opposition to the bill.

From the evidence of those who came forward to discuss the bill it appeared that the parts clause may result in some increases in tariffs. However, there is a provision in the bill whereby a departmental committee will be given authority to

resolve a situation where anyone feels that their circumstance has not been properly appraised and that they will be adversely affected by the change. It is felt that that will be an infrequent occurrence. Those who have a grievance may go to this interdepartmental committee and, at the committee's recommendation, the minister may take remedial action so that no one suffers as a result of any change in tariff.

From all of the information I have received and from my knowledge of the work that has been done, it seems to me that the bill is uncontroversial. If the bill could be passed so as to come into effect on January 1, it would be most appreciated by the minister.

Senator Frith: Honourable senators, I do not want to be at all provocative, in fact, I would like to point out that having had the obligation at one time to try to get government legislation passed and to explain how the government would like it by a certain time, I have a certain amount of empathy for the government on this question. However, one is certainly tempted to ask: Why, if it is so important, does it come here so late?

I want to emphasize that we must remember our role in legislation, and we should not encourage the government, of whatever party, to say, "Well, one way of getting something done quickly is to leave it to the last week before Christmas. We want it by the first of January." The Senate thereby would allow something to go through which is, admittedly, complicated and which, admittedly, has probably had, as Senator Robertson has said, a lot of the controversy wrung out of it in the long process that it has gone through up to this point. We have to remember that a corollary to that is to say, "Therefore, if the House of Commons studies it and if other countries pass it, then, of course, the Senate should pass it in a matter of a day or two." Honourable senators, that is the aspect I am concerned about.

Senator Robertson: I certainly appreciate the honourable senator's comments in this regard, and I would not want to be a party to urging senators to rush a piece of legislation through if I felt it deserved much longer treatment.

The history of this bill is as follows: There was the tabling of a notice of ways and means motion back in February of 1986 during the budget debate; there was the tabling of a notice of ways and means motion on February 18; there was the tabling of a detailed notice of ways and means motion on October 2; there was concurrence on October 14; introduction and first reading were on October 15; the debate on first reading started on October 15; and the debate on second reading took place on October 29, 30 and November 2. The bill was referred to committee on November 2. Many associations directly concerned with tariffs and import and export have been working on this with the officials and they have given evidence before the committee, so they have had their input. The committee tabled its report on November 26. The debate at the report stage was held on December 1, 3 and 4, the vote was held on December 7, and third reading was given on December 8.

I am at the pleasure of honourable senators.

[Senator Robertson.]

Hon. C. William Doody (Deputy Leader of the Government): Perhaps I might just add a word of support to what Senator Robertson has said and allay the fears that may be in some senators' minds regarding the government's intention or attempt to try to jam this piece of legislation through in a day or so towards the end of the session.

The subject matter of this bill was brought to our attention, or at least to my attention, by the minister, the Honourable Tom Hockin, around mid-November. At that time he outlined to me in a letter the importance of the bill and the necessity of getting it through before the end of the year. I conveyed those sentiments to the chairman of the Standing Senate Committee on Banking, Trade and Commerce, Senator Sinclair, who, as usual, was most cooperative and undertook to get the bill into his committee just as soon as it could reach the Senate and be dealt with here.

Unfortunately, for whatever reason, it never did reach the degree of urgency on the order paper in the other place that the content of the bill seems to suggest it should have, and it has only now reached us.

It would be very much appreciated if a way could be found to expedite the passage of the bill, but I fully appreciate the reluctance of senators not to get into that rut, which is one with which we are not completely unfamiliar.

Senator Frith: And we do not want to get back into it.

Senator Doody: Having struggled out of it, I can appreciate the reluctance to climb back in again.

However, in this particular case, if honourable senators could see their way clear, it would be most appreciated.

Hon. Henry D. Hicks: Honourable senators, I want to ask a question of Senator Robertson and then I shall adjourn the debate.

The bill before me is in the form in which it was introduced for first reading in the other place on October 15. Is that the form in which the bill was passed by the House of Commons?

Senator Robertson: Yes.

Senator Hicks: None of the proposed amendments was carried by the House of Commons.

I wish to say a few words about the bill, and I shall do so at the next sitting of the Senate. Honourable senators, I am prepared to do that as soon as the order is called tomorrow.

Honourable senators, we have been making more use of the Committee of the Whole in this chamber during this session than has happened previously in my time, and if it were agreeable to honourable senators generally to have the minister come here sometime tomorrow, I would undertake that my remarks could be gotten out of the way and would not impede the process. I think that a Committee of the Whole might not be an unreasonable way of dealing with this bill.

Of course, we really ought to know today how we shall proceed, and I realize that until I have spoken Senator Robertson cannot make her specific motion regarding what should happen to the bill. If we could agree to have arrangements made for the minister to come before a Committee of the

Whole tomorrow sometime, that would seem reasonable to me. I do not know whether we can make any further comments or test the wishes of the house further at this time. Perhaps the two leaders could confer and decide what they want to do.

In any event, I want it clearly understood that I will not hold up the bill. However, I do want a little more time to consider the material that has just recently been updated and handed to me. I will be prepared to deal with it expeditiously tomorrow. With that statement, honourable senators, I move that the debate on Bill C-87 be adjourned.

Hon. Eymard G. Corbin: Honourable senators, on a point of order, I should like to ask Senator Doody why it is that we still receive bills from the House of Commons the text of which is, in fact, the text of the first reading of the bill. The text of the first reading of the Commons bill which was given to us today is dated October 15, 1987. Ought we not to have in our hands the text approved by the House of Commons on third reading, as amended? Is this the proper bill we should be dealing with?

I understand that no amendments were made in the House of Commons, but, nonetheless, that is not my principal point, because I guess the answer to that is obvious. Why is it that we do not receive bills in the Senate with marginal notes, as do members of the House of Commons. We receive bills on which the left-hand page contains both the English and the French texts and the right-hand page is blank. There are no explanatory notes. We do not know if there have been amendments to the original texts, what those amendments were and what the original text meant.

● (1620)

It seems to me that it would greatly expedite our understanding and, indeed, the passage of legislation in the Senate if we were afforded the bill in the same form as that in which the commoners are privileged to obtain it. In addition, senators do not have the research assistance that members of the House of Commons have. They benefit generously from the work of their research assistants. That seems to me to be an additional reason why we ought to have explanatory notes and amendments, which we are now deprived of, on the right-hand page of the text.

Honourable senators, I thought I should make this comment now, because this is significant legislation. I always pay attention to this type of legislation, because I come from an area which shares its border with the State of Maine. I know a good many people who bring to my attention problems that have to do with customs duties, tariffs and immigration. I make a point of paying special attention to this kind of legislation. It would indeed facilitate my task if we were given more material with which to work. It may be that Senator Hicks benefits from advice from departmental officials. I do not know. I believe that Senator Robertson is certainly in a position, being a senator sitting on the government side, to benefit from the advice of departmental officials. We backbenchers, if I may refer that way to myself and colleagues who have no specific functions around this place, do not benefit from the same kind of advice and information. I hate like heck to have to pronounce myself blindly on legislation about which I am not entirely satisfied. I would hate like heck to have it put under my nose two years down the road that, after all, I did support the legislation when it passed the Senate. I want to know what we are talking about. I want to know what we are dealing with.

On the surface of it, I do not have any reluctance in supporting this legislation. However, to satisfy myself and to allay the concerns expressed to me by some of the people from New Brunswick, I would like to be better equipped to deal with this type of material. Perhaps Senator Doody, who will recall that I raised this same point with him a few years ago, could tell me whether he has had an opportunity to look into what seems to me to be the standard practice of presenting in the Senate bills without marginal explanatory notes. Why is it done that way, and why can we not improve on that practice so that our task would be facilitated?

Senator Doody: Honourable senators, I do not have that material with me now, although I remember the question being raised. Obviously this question affects the entire Senate, and, as such, it can be raised in the Internal Economy Committee. That committee can deal with it one way or the other. The Senate has within its power the rights and abilities to equip itself with any tools it wants in order to do its job. If it is the wish of senators that the process outlined by Senator Corbin be implemented in the chamber, then I suggest that the appropriate place to bring the matter up would be in the Internal Economy Committee.

This is another one of those situations where something directly affects the operation of the government's business in the house. But the operator of the government's business does not have the authority to put into effect the idea that Senator Corbin has put forward. Obviously I have no quarrel with the idea; it is probably an excellent one. I have no way of knowing at this time how logistic and other problems might present themselves, but, as I say, I would be only too happy to discuss it in committee and there, together with our colleagues, come up with some solution.

Senator Robertson: Further to your comments, Senator Corbin, and to help you with your concerns, I notice from my notes that the Tariff Board held nine public hearings before the appointment of the committee. They were widely publicized hearings. It was the Tariff Board, not the joint committee, which received over 750 representations, both written and oral, from the general public. I suppose that every organization having anything to do with exportation and importation was heard. These groups are now lobbying the government to get this bill passed. These people are distinctly on side. In addition, this is a revenue-neutral bill. When it is passed, the same revenues will be generated.

As I have said, the people involved in export and import have had the opportunity to work with the Tariff Board in having their concerns expressed. I found some comfort in that.

On motion of Senator Hicks, debate adjourned.

[*Translation*]

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Paul David moved that Bill C-97, an Act to amend the Canada Labour Code, be read the second time.

He said: Honourable senators, it is a pleasure to introduce Bill C-97. All three stages were adopted yesterday in the House of Commons, with the unanimous consent of all three parties.

The bill will affect conditions of work for several hundred thousand Canadian workers.

It remedies a problem that remained in the Canada Labour Code after a series of changes were adopted in Parliament in June 1984. The amendments before us today concern maternity leave (up to 41 weeks), sick leave and pension plan contributions to be made during that time. In such cases, the Canada Labour Code required the employees concerned to make their normal contributions in order to continue accumulating these benefits. However, the Canada Labour Code did not require employers to continue their contributions. In the absence of such a legislated obligation, some employers have required employees to assume most of the cost of these contributions and sometimes even the entire cost. This practice, which is contrary to the intent of the law, has lead to many complaints by both individuals and unions.

The sole purpose of both clauses of Bill C-97 is to amend the Canada Labour Code and make it compulsory for employers to continue payment of contributions to pension, health and disability plans for employees who are on child care or sick leave, such contributions being at least equal to those paid when the employees are at work. Employees do have the option of deciding not to contribute to the plans while on leave, and in that case the bill provides the employer's obligation would cease.

The proposed amendments to subsection 59.52(2) and (3) concern maternity or child care leave and the amendments to subsections 61.4(2.2) and (3) concern sick leave.

Since this bill remedies a problem arising from the legislation passed in 1984, I move that the proposed amendments be approved by the Senate with the same celerity with which they were passed in the House of Commons. I am convinced that the passage of this bill will be warmly welcomed by the workers concerned, and I think it would be appropriate, at the beginning of the holiday season, to extend to these workers, on your own and my behalf, our best wishes for a happy and prosperous 1988.

Hon. Royce Frith: Honourable senators, could senator David tell us whether there is any urgency about this Bill? Perhaps he has already done so, but I did not hear him.

Senator David: Honourable senators, the House of Commons certainly dealt with this Bill with some urgency as it went through its three readings with the unanimous support of all parties yesterday. The Minister of Labour, the honourable Pierre H. Cadieux, has assured me that, if we want any clarification, he will be available today or tomorrow to reply to the questions of the honourable senators.

Senator Frith: Honourable senators, can Senator David inquire to verify the urgency of this bill? In my opinion, the fact that the House of Commons went through the three readings of this bill on the same day is not enough to establish its urgency. I shall adjourn the debate in the name of Senator Marsden who is now absent, but in the meantime, Senator David could perhaps inquire about the urgency of this bill and about whether or not there is any reason why this bill should be passed this week or before the Senate adjourns this week.

Senator David: I believe that the main reason, Senator Frith, would be to give a well-deserved Christmas gift to the thousands of workers, especially women, who are now deprived of fair employer-employee contributions and who would certainly be very happy if the Senate acted promptly to correct a situation which has, unfortunately, existed for some time and which involves certain large crown corporations.

Honourable senators, I believe that the urgency comes from the fact that the Bill corrects two very simple provisions. The text is so easy to understand that it was not even referred to a committee. An evidence of this, I was able to summarize it very easily in one hour this morning in my office.

Senator Frith: Honourable senators, I accept what Senator David has said as being the main reason for the urgency of this bill, but there might be others. He could perhaps verify whether or not there are other reasons and tell us what they are tomorrow.

Senator Corbin: Honourable senators, I would like to ask a question of Senator David. When does this bill come into effect? Usually, we are told whether it will be after it receives Royal Assent or at a date to be set by the Governor in Council or at some other date. There is no mention of the date this amendment to the Canadian Labour Code will come into effect.

Senator David: Honourable senators, a member of the House of Commons asked exactly the same question. Mr. Murphy asked the following:

> Mr. Chairman, I have one question. When does the Minister intend to have this Bill proclaimed?

Here is the answer of the Minister of Labour, Mr. Cadieux:

> Mr. Chairman, hopefully as quickly as the Senate is prepared to look at the legislation. We should proceed as quickly as possible.

Senator Corbin: Honourable senators, another short question. What is the cost of the amendment? Will the employer or the employee have to make additional payments? Will the cost remain unchanged?

Senator David: As I recall, honourable senators, I think the cost of this measure to the industry involved, that is almost 300,000 employees, amounts to $600,000 all told.

Senator Corbin: Will this legislation apply to employees of the Senate and the House of Commons?

Senator David: The bill does not make that very clear. Perhaps you might direct this question to the Minister of Labour, Mr. Cadieux, next time you see him.

Senator Corbin: Honourable senators, if it were to apply to the Senate and the House of Commons, it would mean a corresponding increase in budgetary expenditures of the House of Commons and the Senate.

On motion of Senator Frith, for Senator Marsden, debate adjourned.

● (1630)

[*English*]

HUDSON BAY MINING AND SMELTING CO. LIMITED ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jean-Maurice Simard moved the second reading of Bill C-98, to amend an act respecting the Hudson Bay Mining and Smelting Co. Limited.

He said: Honourable senators, I rise in support of Bill C-98, which amends an act respecting the Hudson Bay Mining and Smelting Co. Limited. I strongly urge all honourable senators to support the bill, since the proposed amendments will make an important contribution toward protecting the lives and well-being of employees of the Hudson Bay Mining and Smelting Company in the Flin Flon mineral area.

[*Translation*]

Under this bill, Hudson Bay Mining and Smelting workers will get the protection of a single standard set of provincial occupational safety and health rules.

[*English*]

The following are the reasons for the amendments: As honourable senators are no doubt aware, the labour jurisdiction in Canada is divided between the federal and provincial governments, depending on the type of industry involved.

While most of the Canadian mining industry falls under provincial jurisdiction, both federal and provincial labour laws govern such matters as conditions of work, collective bargaining, and occupational safety and health.

[*Translation*]

The Flin Flon mineral area is situated mainly in Manitoba, but it extends into Saskatchewan, with the majority of employees and mining operations being located in Manitoba.

Because of the interprovincial nature of the enterprise, mining operations in the area were brought under federal labour jurisdiction by the Hudson Bay Mining and Smelting Act of 1947.

[*English*]

However, mining is an occupation that has very particular and specific dangers and hazards that require special regulations expressly suited to the industry. Therefore, all the operations of the Hudson Bay Mining and Smelting Co. are under federal jurisdiction. For many years each of the two provinces concerned has tried to apply its own occupational safety and health legislation to mining.

[*Translation*]

This has resulted in a duplication of efforts and some confusion, so that protection of the occupational health and safety of company employees was not effective in the Flin Flon mineral area.

● (1640)

[*English*]

In order to elminate all possible confusion and to give the workers the benefit of a single, uniform set of rules in the all important area of occupational safety and heatlh, the following measures are proposed: first, amendment of the act respecting the Hudson Bay Mining and Smelting Co. Limited to provide that all Manitoba occupational safety and health statutes and regulations will apply to all Hudson Bay Mining and Smelting Co. operations in the Flin Flon mineral area on both sides of the boundary between Manitoba and Saskatchewan; second, the Flin Flon mineral area will be defined in a memorandum of understanding between the parties involved; third, inspection and occupational safety and health services will be provided by the Manitoba inspectorate. It should be noted that Saskatchewan is prepared to accept this arrangement because only a small number of the employees involved work solely in Saskatchewan. The vast majority of Hudson Bay Mining and Smelting operations and employees are in Manitoba, as I have already said.

[*Translation*]

Finally, I should add that Manitoba has recently enacted a new set of mining regulations. These regulations are the result of a tripartite consultation process and provide good protection in terms of occupational health and safety in contemporary mining operations.

The Act will come into force after the Province of Manitoba has ratified a letter of agreement embodying the technical measures that are necessary for its enforcement.

[*English*]

This bill, which has the support of the provinces of Manitoba and Saskatchewan as well as the support of the company and the unions, provides an effective resolution to this long-standing problem, ensuring a high standard of occupational safety and health protection for this company and its employees.

[*Translation*]

Honourable senators, while the amendments that are being proposed today only affect a small percentage of Canadian workers, the spirit of cooperation between the unions, the employers and the government that resulted in these amendments is part of a trend that can easily be perceived in the area of labour, especially in the area of occupational safety and health. As an example of the important and concrete achievements made possible by this new spirit of cooperation, let me mention the information system on dangerous products used on the work place and the employee/employer safety and

health committees that are set up by the Canadian Labour Code.

[*English*]

Therefore, I would ask all honourable senators to support this bill and to allow its expeditious passage so that together we continue this spirit of cooperation and contribute to better protection for the safety and health of Canadian workers.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before the debate is adjourned, may I ask what has become of my usual question today: Would Senator Simard make some inquiries as to whether there is any urgency for this bill to pass, and, if so, give us some detail between now and tomorrow as to why it is urgent, or tell us that it is not urgent?

[*Translation*]

Senator Simard: Honourable senators, I inquired about this. The world is not going to come to an end next January if the bill is not passed before Christmas. As in the case of Bill C-97, the House of Commons decided to adopt all three stages the same day.

All parties concerned have been working on this bill since January, when an agreement in principle was reached. I imagine we could let it go until February. I think the minister would have no objection if the bill were passed in February, although I do not claim to speak on his behalf. There does seem to be a consensus. There is not the slightest hint of an argument from Canadians or non-Canadians. Nobody is objecting to the bill. Everybody wants this uniform legislation.

Manitoba was taking care of it before, but there was still the federal legislation that could be enforced. The federal government will retain the right to monitor compliance.

Practically speaking, not much has changed, except for the fact that from now on, inspection and compliance will be under the sole jurisdiction of Manitoba.

I do not think there is any real rush, but I think it would be appreciated if Opposition critics, after examining the bill, and I think you have the same notes I do, if they realized that there is really no problem here. These are things everyone wants.

Even if it takes another month to pass the bill, there is really no problem.

Hon. Eymard Corbin: Honourable senators, I can't help asking Senator Simard, who just referred to Senator Frith or another senator having certain notes, whether they are the same notes he has.

Senator Simard: Yes, Senator Corbin.

Senator Corbin: What kind of notes? As a junior senator I don't have a research staff, and it would certainly make things a lot easier if I had access to the same information that is available to you and some of my party colleagues.

Senator Simard: The department informed me it was customary to provide the opposition critic with the same notes I received, except perhaps for the page of questions that might be raised. I can give you that as well. There is really no problem.

[Senator Simard]

I could make 100 copies if you wish. I think the Senate leadership must know who already has the questions. I should be glad to give you my book, there is no problem.

Senator Corbin: I am delighted—I think we do not use the word often enough in the Senate—to accept your offer.

Not that I find the bill terribly interesting, but before speaking to the substance of this bill, I want to make sure I can live with it for the months and years to come.

I would appreciate it if Senator Simard would send me just one copy.

Senator Simard: With pleasure.

Senator Corbin: Thank you, Senator Simard.

Hon. Joseph-Philippe Guay: Honourable senators, I should like to direct a question to Senator Simard.

I noticed you referred to Saskatchewan several times. I am quite familiar with the site of the mine in question, Hudson Bay Mining and Smelting in Flin Flon. There is as important a part of the mine in Saskatchewan as in Manitoba, as you would know. Do they have the same laws for Saskatchewan as the one we are debating today?

Senator Simard: They do not have the same laws, but in this case the Government of Saskatchewan has decided that residents of Saskatchewan, who work for that company would be subject to similar laws. That is what I was told.

Senator Guay: In that case the same law applies in both Saskatchewan and Manitoba, that is what you are telling me?

Senator Simard: Yes, to all the employees of Hudson Bay Mining and Smelting.

Hon. Gildas L. Molgat: Honourable senators, I should like to direct a question to Senator Simard. Since he has agreed to make a copy of the notes for Senator Corbin, I wonder if he would be kind enough to make a copy for me because I did not get any notes on this subject.

Senator Simard: I would be pleased to make as many copies as honourable senators may require. I hope I am not creating a bad precedent, but I have never been afraid of precedents. In this case, I will have them within 20 minutes.

On motion of Senator Molgat, debate adjourned.

PENSION ACT, WAR VETERANS ALLOWANCE ACT AND COMPENSATION FOR FORMER PRISONERS OF WAR ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Arthur Tremblay moved the second reading of Bill C-100, to amend the Pension Act, the War Veterans Allowance Act, to repeal the Compensation for Former Prisoners of War Act and to amend another Act in relation thereto.

He said: Honourable senators, I am very sensitive to this welcome and I will proceed with my presentation.

Essentially, Bill C-100 does two things.

First, it repeals the Compensation for Former Prisoners of War Act so that former prisoners of war and their dependents are from now on protected under the Pension Act, or the Veteran Pension Act as it is sometimes called.

Hon. Fernand Leblanc: Is this the general Act?

Senator Tremblay: The exact title is: an Act to provide pension and other benefits to or in respect of members of the Canadian naval, army and air forces and of the Canadian Forces.

The short title is Pension Act. It provides for veteran pensions.

From 1971 to 1976, there was only one act to provide pensions for veterans and former prisoners of war. For reasons which I did not seek and, of course, did not manage to identify, perhaps in the light of experience with this one act, it was felt that it would be better or more practical to have separate acts for veterans and former prisoners of war.

But then experience once again showed that the previous situation was somewhat better and that it could be worthwhile to combine both acts again. This is what the bill does essentially, by inserting in the Pension Act a new part entitled "Prisoners of war".

The second thing this legislation does is bring in amendments to two acts which will now become one. It introduces amendments that will enhance both. Among those amendments are a number of changes of an administrative, home care nature.

One clause corrects a mistake that crept into the French text of the Veteran's Act. There are other provisions of a similar administrative nature.

On the other hand, there are changes that are clearly more important, more substantive ones that in fact respond to representations made to the Minister of Veterans' Affairs over the last three years by a number of veterans' groups. They are aimed at improving matters of a number of concerns to those groups, such as the National Prisoners of War Association, the National Council of Veterans' Associations and the Royal Canadian Legion.

Therefore, further to these representations, the minister has included in Bill C-100 amendments that improve matters in areas that were brought to his attention.

No doubt you already knew it. I must very simply confess that I learned this in the course of my own cursory study, no doubt more cursory still than that made by Senator David when he received the legislation this morning. I got it early this afternoon. So I learned what no doubt all honourable senators already knew, that compensation is paid to former prisoners of war for time spent in captivity. It is the same for veterans for what I would call their period of service. Former prisoners of war can get compensation for any incapacity incurred during their period of captivity.

Parliament has always wanted to recognize that double eligibility in the computation of benefits to surviving dependants. In fact, such had been the policy of the Canadian Pension Commission up until 1986, when it was ruled that legislative provisions in their current version did not include former prisoners of war who were not getting any invalidity pension.

By repealing the Compensation for Former Prisoners of War Act, and by including its substance into the Pensions Act, that is the administration of benefits to war prisoners, that situation will come to an end. Accordingly, benefits that will be provided in the future to all applicants, dependents and surviving spouses, will again be at the same level as had always been desired, but which that Pension Commission decision actually changed in 1986 through its interpretation of the existing legislative provisions.

Furthermore, it was noted that the Compensation for Former Prisoners of War Act gave the Canadian Pension Commission no authority to combine the rates in computing survivor benefits. The compensation for war prisoners and the invalidity pension must now be figured out separately. This in effect reduces the benefits to a number of widows. The proposal in the legislation will give the Canada Pension Commission authority to revert to the usual practice and set the maximum to a full survivor pension. That proposal in particular will benefit widows of prisoners of war who were getting a pension, a compensation which added to it comes to a total 48 per cent or more.

I will attempt to explain to you as clearly as possible how the whole thing works. For example, a widow of a POW who had been receiving 25 per cent compensation and 25 per cent pension will currently receive a survivor benefit of half the 25 per cent compensation and half the 25 per cent disability pension. This amendment will permit the commission to add the two percentages and pay the higher full widow's pension instead of two separate proportionate pensions. I was as clear as I could be. Besides, we could exchange views on this.

Another provision of this bill will make it possible for the commission to continue paying the pension at the married rate for a full year, and not only for a month, following the death of a spouse. Under this amendment, these benefits will continue to be paid in full for a full year following the death of the POW or his spouse thus giving the surviving spouse an opportunity over a longer period to adjust to the new circumstances; this puts our POW benefits in line with those already in effect for disability pensioners.

Finally, together with all the proposed amendments, the Canadian Pension Commission will have the discretion to grant POW compensation in especially worthy situations such as in the case of war veterans held prisoners in North Africa. These veterans had been unable to receive prisoner of war compensation because there was doubt as to whether they had been detained in enemy territory. From now on, the commission will have the discretion and flexibility to resolve these matters. This flexibility already exists in the case of disability pensions and has enabled such deserving people as the veterans exposed to nuclear radiations in the 1950s to apply for pension.

Those are essentially the clauses and the effects of Bill C-100.

The information which I will give to you is similar to that given by Senator David and Senator Simard. I take the liberty of telling you that in the other place the bill was unanimously passed yesterday after the three readings in that same day. I am aware that this argument is not absolutely persuasive in this chamber of sober second thought, but it can be valid information. We could take it as we like. The essential point of course is that those individuals subjected to those new provisions will be dealt with more fairly in comparison with other similar groups such as prisonners of war and other survivors. There is some sort of equity involved and the provisions for the legislation which would prevent such inequity have been throughout the years the subject matter of demands and representations from groups concerned with those problems after having experienced them. The Minister of Veterans' Affairs is answering to those valid and indisputable demands through this bill. This is the reason why I am pleased to move second reading of the bill.

[*English*]

Hon. M. Lorne Bonnell: Honourable senators, I would like to congratulate the Minister of Veterans Affairs on bringing this bill forward. We on this side of the house are more than pleased to see this legislation come before us. It is a piece of legislation which ties up some loose ends and clears up some misunderstandings of the previous pension legislation. We will agree to have it pass its three stages on this day. If there is any legislation that should be passed quickly, it is this legislation.

There are a few things regarding this legislation which I do not quite understand. I do not understand why it says the legislation will come into effect when it is proclaimed. That seems to indicate that the government is not too anxious to pass it and have it come into effect. I would like to see this legislation come into effect the minute it is passed so the widows of the prisoners of wars can have the benefit of this legislation almost immediately, and not have to wait for it to be proclaimed by the Governor-in-Council at some later date. Obviously the members in the other place felt the same way, because third reading was given on the same day the bill was introduced. It seems ridiculous to have to wait for the government to sit back and decide when they might proclaim it.

I notice that by this legislation the number of commissioners has been changed. I do not know if there are more or fewer commissioners than there were previously, but under the present legislation a commission is defined, and forming part of that commission there are three different types of commissioners. Subclause 3(1) says:

> There shall be a commission to be known as the Canadian Pension Commission, consisting of not fewer than eight and not more than fourteen commissioners, not more than ten *ad hoc* commissioners and such number of temporary commissioners as the Minister considers necessary.

The next subclause says that each commissioner shall be appointed by the Governor in Council.

Subclause 3(4) states:

> Each temporary commissioner shall be appointed by the Minister to hold office during pleasure for a period of six months.

It looks as if there is a commission consisting of up to 14 commissioners, which is appointed by the Governor in Council. Then the minister can appoint as many *ad hoc* commissioners as he wishes to serve during pleasure. The minister should advise when there will be a vacancy so if anyone wishes to get a job they can let the minister know. In that way we could eliminate part of the backlog of applications from veterans who are seeking pensions.

Perhaps we could ask the minister to appoint people who understand veterans and who understand their suffering. Perhaps we can then rush some of these applications through, and not hold them up for six months or nine months or two years before a hearing takes place.

This is a worthwhile piece of legislation, because it will give consideration to former prisoners of war in Africa who were not considered in the past. However, those former prisoners of war will only be considered if the commission decides there are extenuating circumstances. If the commission feels there are extenuating circumstances, then they can be considered for a pension because they were prisoners of war. In the past they could not be considered, because Africa was not considered a war zone. One of the most beneficial aspects of this amendment is that the disability pension and the prisoner of war pension are being amalgamated so that on the death of a pensioner receiving 48 per cent or more of the two pensions combined the widow can get a full pension. On the death of a pensioner receiving less than 48 per cent, the widow will receive only half the pension.

• (1710)

This legislation also provides that on the death of a prisoner of war the widow will continue to receive benefits for one year. Prior to this, the benefits carried on for one month, forcing the widow to find cheaper accommodation during a time of stress and heartbreak. Now the pension will continue for one year after the death, as though it were a disability pension, which is another great benefit.

But, honourable senators, there are other amendments that could have been made to this legislation. There is no reason in the world for a veteran, who happened to have married an English girl, a French girl, or a Dutch girl, and who lives outside of Canada, to have to come all the way back to Canada and reside in Canada for one year in order to qualify for a pension. The veteran served overseas and was disabled overseas, so I see no need for that veteran to have to live in Canada in order to qualify for a pension. The legislation should be further amended so that there is no residency requirement required for a veteran to qualify for a disability pension.

The promoter of the bill has said that veterans will now be able to receive pensions if they suffered radiation burns. I believe that that was possible all along if a veteran could get some doctor at the Pension Board who would say that the

cause of the veteran's cancer was exposure to radiation. But no doctor would ever admit that, yet a high percentage of veterans who were down in Nevada and who were exposed to radiation, or who were involved in the clean up of explosions of nuclear reactors here in Canada, end up with leukaemia and die. Many are still sick but cannot prove that that is the cause of their leukaemia, and so cannot receive a pension. This legislation should make it easier for those people who were in Nevada and other places where they were exposed to radiation to obtain pensions. Those Canadians who served in Japan on the clean-up crews, and who were exposed to radiation after the atomic bomb, should be able to receive pensions. They were certainly exposed to radiation. We now know the dangers of that radiation exposure. Such provisions should be in the legislation, but they are not.

I believe the day has come when all war veterans who receive a disability pension, or who have served overseas or in Canada and are unable to support themselves and their family, and who are 60 years of age or over, or under 60 years of age and disabled and unable to support their families, should receive the War Veterans Allowance. As it is today, if a veteran did not serve overseas or receive a disability pension or did not travel in dangerous waters, he does not qualify. I know people in Prince Edward Island who are war veterans and who joined up in Charlottetown and went across the Northumberland Strait to Halifax, and because they crossed the Northumberland Strait they crossed "dangerous waters" and get the War Veterans Allowance. Those veterans who decided to join up in Charlottetown, but went over to Halifax to get their medicals and sign the papers, cannot receive a War Veterans Allowance, because they crossed the dangerous waters before they signed up. There is discrimination here against certain veterans. All veterans, regardless of where they lived in Canada, should have something in this legislation to protect them. They served to give us the freedom that we have today.

Honourable senators, each year the Minister of Veterans Affairs goes to Dieppe, Korea, or some other place, to honour the great Canadian soldiers who served in the two World Wars and the Korean War. I suggest that the minister, when going on those trips with a planeload of veterans, also take some of Canada's young people so that they will see first hand and understand what our Canadian soldiers went through, and see the appreciation on the faces of those people who lived in Holland and France during the war, so that on every November 11 Canada's young people will remember our veterans. If we do not show our young people what our veterans did for us in both World Wars and the Korean War, it will not be long before we will not be singing *O Canada* or *God Save the Queen* in this country. I think it is time that we showed more respect for our veterans and a little honour for our country.

I have had people approach me in support of this legislation from the Royal Canadian Legion, the Council of Veterans, the War Amputees, and other veterans' organizations. They support this legislation, but are looking forward to other legislation to support the veterans of this country. I will support the government in getting this legislation passed as quickly as possible.

To show the promoter of this legislation that it has the support of both sides of the chamber, I propose that the bill receive third reading today so that it can receive Royal Assent as quickly as possible.

Hon. Henry D. Hicks: Honourable senators, I have one brief comment to make in response to the remarks made by Senator Bonnell. He referred to the desirability of adding to the groups who visit war graves, battlefields, and so forth. He suggested that young people accompany the minister and the veterans.

I had the good fortune of representing the Senate at the 40th Anniversary of the Dieppe Raid in 1982 and at the 45th Anniversary of the Dieppe Raid in 1987. On the first occasion there was a substantial and extremely attractive group of Canadians of high school age, both boys and girls, who accompanied the delegation. They were extremely well received everywhere we went. I thought it was a practice of the Department of Veterans Affairs to include young people generally. I was very disappointed when I attended the 45th Anniversary of the Dieppe Raid in August of this year to see no young people had been included.

I merely rise to emphasize the desirability of implementing the suggestion that Senator Bonnell has made in his remarks.

204 [*Translation*]

Hon. Norbert Thériault: Honourable senators, I have a short question for Senator Tremblay. Like all my other colleagues, I support this bill. Many things remain to be done, but I shall not take up the time of the Senate by listing them today.

I would like to ask Senator Tremblay whether the information he received from the department shows how many people in Canada will benefit from Bill C-100 and at what cost.

Senator Tremblay: Mr. Speaker, if I rise once more to speak at the second reading stage, am I not in effect closing the debate?

Hon. Eymard Corbin: No, if it is only to reply to a question asked by a senator.

Senator Tremblay: Shall I reply first to the question asked by Senator Thériault?

The Hon. the Speaker: Yes, Senator Tremblay.

Senator Tremblay: I cannot provide the figures requested by Senator Thériault. However, I can assure him that I shall ask for them and communicate them to Senator Thériault as soon as possible.

Senator Thériault: Very well, Senator Tremblay.

Senator Corbin: Will the honourable senators allow me to ask a question of Senator Tremblay? Will the commission still have its headquarters at the same location?

Senator Tremblay: After reading the bill, I have the feeling that it will. However, as I read it very quickly, I cannot be positive.

● (1720)

[*English*]

Hon. William J. Petten: Honourable senators, I would like to make a few brief remarks.

Every year I am invited to one of our Legion branches in Newfoundland. This bill was mentioned on my last visit there. I know that the veterans down there were looking forward to it and hoping for quick passage of it. When I go back home I will be happy to be able to tell them that it was passed in this house, and that this house did all three readings in one day in order to expedite the matter.

[*Translation*]

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Senator Tremblay: I am sorry, maybe I do not quite understand the procedure to be followed in the circumstances. I would have liked to make a few comments after those of Senator Bonnell.

Do I make them now or when I move third reading, with leave of the Senate?

The Hon. the Speaker: Yes, Senator Tremblay, at third reading.

Motion agreed to and bill read the second time.

THIRD READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Arthur Tremblay: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move this bill be now read the third time.

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

Hon. Senators: Agreed.

Senator Tremblay: Honourable senators, I just have a few comments to add to those Senator Bonnell made on second reading.

About the coming into force of this legislation, the impression I got from my conversations with the minister and his officials is that, as far as he is concerned, at least, we can be sure the language used does not mean it will be postponed indefinitely but that it will really occur as soon as possible and that Senator Bonnell's wish will come true.

I can understand Senator Bonnell's questions about the membership of the commission if he has before him the bill as passed by the other place yesterday which does not show what changes have been made to what was there before.

There are no fundamental changes to the membership of the commission. I have the text of the existing legislation that says exactly the same thing, at least in French: "est établie". The word "établie" is changed.

The act as it stands now says that there should be not less than eight commissioners and that the Governor in Council may appoint up to fourteen at his discretion.

Instead of "not less" the clause reads "consisting of not fewer than eight and not more than fourteen", which means essentially the same thing. Another phrase already present in the act is also found in the bill: "not more than fourteen ad hoc commissioners".

I do not see any substantial change compared to the act, which I must say may be open to criticism from that point of view, but there is no change.

Finally, concerning Senator Bonnell's remarks on the absence of amendments to make benefits for veterans even better, I will transmit his suggestions to the minister. This is made in the same spirit as Bill C-100 which is a great step forward. Since everybody agrees, I am deeply convinced that the minister will try and get better benefits at a later date.

I move that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

[*English*]

HEALTH CARE

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment,

And on the motion of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Roblin, P.C.:

That this motion be referred to the Standing Senate Committee on Social Affairs, Science and Technology

with instructions to review the following matters and to report thereon to the Senate:

(a) To establish the general program called for in the terms of reference of the special committee.

(b) In relation to this program, to provide an opinion on the relative ability to implement this program compared to that of a Royal Commission.

(c) To provide an estimate of the costs and the duration of the committee's study.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield to Senator Flynn.

Hon. Jacques Flynn: Honourable senators, I was not here last Thursday when my amendment was briefly discussed by Senator Frith and Senator Argue.

I agree that I have always said that I would not insist on my amendment if there was a general agreement in the Senate to have this committee set up. However, that does not mean that I am satisfied with the explanation given by Senator Argue. All of my objections, and those which arise from the speech made by Senator David, remain.

However, if the Deputy Leader of the Opposition indicates that on their side they favour the setting up of this committee, I would just say that my amendment will be defeated on division and the motion will be carried on division. If that is the wish of the Senate, then I do not insist on my motion, but I would like to know if this is the sentiment of the majority of senators.

Hon. Jean Le Moyne: Honourable senators, it might be, but on division.

• (1740)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, my understanding was that the Liberal caucus has discussed this on many occasions, and I understand that it supports Senator Argue's motion. Senator Le Moyne's comments encouraged me to say "was" instead of "is." As far as I understand the situation, it is in support, but perhaps Senator Le Moyne has some explanation as to why he says, "on division," which, I assume, means that he is not in favour of this motion. I did not quite understand his comment.

Senator Le Moyne: Just for the reason, honourable senators, that I gave the other day. I am afraid that this puts into question the fundamentals of science. For me, medicine put into question, as are for example, tensorial calculus and stochastic calculus and probabilities and matters like that. I do not agree. I will vote against the motion, because I do not think it is opportune and justified.

We can have an inquiry on the way medicine is distributed and provided, but not on the fundamentals.

The Hon. the Speaker: Honourable senators, does the honourable Senator Flynn wish to withdraw his amendment?

Senator Flynn: No, I want it on the record. I want the question put, and it will not carry, on division.

The Hon. the Speaker: It is moved by the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment.

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

An Hon. Senator: On division!

The Hon. the Speaker: It is moved by the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Roblin, P.C.:

That this motion be referred to the Standing Senate Committee on Social Affairs, Science and Technology with instructions to review the following matters and to report thereon to the Senate:

(a) To establish the general program called for in the terms of reference of the special committee.

(b) In relation to this program, to provide an opinion on the relative ability to implement this program compared to that of a Royal Commission.

(c) To provide an estimate of the costs and the duration of the committee's study.

Is it your pleasure, honourable senators, to adopt Senator Flynn's motion?

Senator Argue: No.

An Hon. Senator: Yes.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion please say "nay?"

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

An Hon. Senator: On division!

Motion negatived, on division.

The Hon. the Speaker: Those in favour of the motion by Senator Argue please say "yea."

Some Hon. Senators: Yea.

[*Translation*]

Hon. Paul David: Honourable senators, before we proceed to vote, I would like to ask a fundamental question of Senator Argue.

I have the feeling that since we do not have any detailed information on such a wide ranging subject as that which Senator Argue's committees want to tackle, we do not have any idea—unless that has been said in my absence, Senator Argue, in which case I regret not having read the transcription, which has not been forwarded to me—in any case I do not have the slightest idea of how much such an investigation would cost. Moreover, and I refer again to the health inquiry in the province of Quebec which is to table its report on December 18 next, I mentioned a figure of $6 million, but I am told that the cost is actually more than that. It is an inquiry that is quite similar to that proposed by Senator Argue. That commission of inquiry, which was to sit for eighteen months, eventually lasted 24 months. This is to show that for a single province, an inquiry as far reaching as the evaluation of the health care system that includes the study of alternative medicines, which are not yet part of the official medicine in many cases, as well as the impact of such factors as stress, unemployment and new technologies, implies in my view a staggering scope of investigation. Dozens of researchers might be required to answer questions as precise or as imprecise as that mentioned by Senator Argue.

I suggest that we are taking on an enormous responsibility today by authorizing in effect such a commission without knowing as fully as we would like what the parameters are of what ultimately amounts to practically a royal commission on health care services and paramedical services, as well as on prevention factors, then on to the treatment and finally the mortality causes among the Canadian people.

[*English*]

Hon. Hazen Argue: Honourable senators, I appreciate the comments of Senator David, and I think I did, at least in some way, endeavour to deal with this when I was making my remarks last Thursday.

I would have no idea in my mind—and when the committee is set up, I would speak as one of the committee members—of making such a broad, thorough and in-depth study as obviously is being made in the province of Quebec with all of the researchers that Senator David has talked about.

I would look at this study as one that would examine the health care system and certain principles in a very broad way, but once having made, shall we say, a broad assessment, then it would bring that broad assessment together to concentrate or focus on certain particular aspects. Perhaps, after due consideration, the committee would make certain general recommendations.

The more I look into this whole matter, the more I believe that a great many excellent scientific papers are now available. Some of them are as a result of commissions and some are as a result of studies. Some of them have been prepared by a professor emeritus of one university or another and by doctors who have different practices. There is a great body of scientific material available that could be gathered together by the committee, and with a very modest number of research people who are competent to look at the area of concern to the committee, we could do some useful work.

It seems to me that the Senate can undertake studies of this magnitude for a lot less money than could royal commissions. We would have the benefit of the views of those senators who are medical doctors and of senators from both sides of the chamber. I would think that we might all cooperate and take into account Senator David's important views and try to make a broad assessment, but concentrating on particular aspects and, hopefully, use good judgment and reason. I hope that we could make suggestions that could result in a greater emphasis on, if we decided to do so, preventive medicine and, perhaps, certain other health practices, which would, in total, show a direction which, if followed by governments, might have a beneficial effect on Canadians and which might be more in keeping with the budgetary provisions available to governments.

I think we could do some practical, good work in this field.

Senator Frith: Honourable senators, perhaps, for the sake of order, we should have something on the record to indicate that we gave leave or special leave to have a mini debate launched in the middle of a vote so that this will not be turned up ten years from now, or at any other time, as a precedent for starting a debate while we are in the middle of a vote. I did not want to interfere with the legitimate concerns of Senator David and with Senator Argue's response, but I do not think it is a good idea to start a debate in the middle of a vote.

● (1740)

Hon. Eymard G. Corbin: Honourable senators, I do not feel there is any difficulty. There was no agreement that the two questions be put consecutively. We did have a vote on Senator Flynn's amendment. It seems to me that debate on the main motion simply continues. There was no agreement or deal to have the two questions put consecutively, so I think that it is quite right and proper to have a debate on the main motion at this time, now that we have disposed of the motion in amendment. We have thrown aside certain suggestions; therefore, we still have to debate the contents of the main motion. I might mention that I also want to participate in that debate; I have just risen on a point of order.

Senator Frith: Honourable senators, I do not agree at all with that point of view. When the question is called, any motions in amendment should be put, after which the motion should be put. I do not think we need a special agreement to do that. As far as I understand it, the debate was closed on the main motion and has now been closed on the motion in amendment. In any event, I disagree with the proposition that in the normal course, if a motion is put and a motion in

amendment is put, we must then have some special agreement not to have them dealt with in sequence but to have the amendment dealt with, debated and put, and then have the debate opened again on the main motion.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, having regard to the time, could we finish this matter or agree to come back this evening?

Hon. Gildas L. Molgat: Honourable senators, I rise on a point of order. I regret that I do not agree with the Honourable Senator Frith. We had a motion, and an amendment was made to that motion by the Honourable Senator Flynn. That motion in amendment was defeated. We are now back to the main motion, and, indeed, we could entertain another amendment to it if that were desired. Each stands on its own. When a vote is called, we must call the motion in amendment first—if there is a subamendment, that would be called first—and then we deal with the main motion. Once we have dealt with the motion in amendment, we return to the main motion and the process can start again. I think we should really get this clear in our rules, if it is not clear; otherwise, it could lead to confusion. My impression is that we are back to the main motion, subject to further amendment if anyone wishes to move one, and that the only thing that would terminate debate on the main motion would be the mover's rising to speak. The mover of the motion would effectively then close the debate.

[*Translation*]

Senator David: Honourable senators, I think Senator Molgat helped me a lot to clarify my own thoughts about Senator Argue's motion. I wonder whether Senator Argue would agree to an amended version of his motion that would establish a committee, with the twelve members that he wants, to examine the feasibility of a health care study in Canada. The committee would define the parameters of the study Senator Argue wishes to conduct, establish specific limits as to its scope and prepare estimates of its cost and duration. In essence, it would be a feasibility study of the kind that is made before very big projects are undertaken, when you do not know exactly where you are going.

Under these conditions, I would be very willing to co-operate, after we know precisely what is to be done, how much it will cost and how long it will take. Otherwise, the budget of the study may be modest, but then its report would be modest too and would not add anything to what we presently have, in terms of a sophisticated assessment of the practice of medicine and paramedical sciences. I am certain this is not what you want. Your goal is to improve health care, but since I have been in this field for quite some time, I have a very good knowledge of its parameters. I do not think it would be done in the time frame mentioned in your motion, particularly without knowing how to do it.

So I am wondering whether you would agree to such an amendment which would provide you within three to six months with an appropriately designed and well structured plan showing exactly where to go. All of this could be done here in Ottawa and no travel would be involved. The travel you were thinking of could take place in a second phase as a result of comments or recommendations made in the first feasibility phase. If you agree, then I would be more than willing to co-operate.

[*English*]

Senator Frith: Honourable senators, if I may, I will make one additional remark on this point of order on procedure. I understood, and the record might show it, that the sequence was not as was described by Senator Corbin or Senator Molgat. I understood that the motion in amendment had been put and defeated, and that the main motion had been put. If the main motion had been put for a vote, then I do not think debate is in order. If, on the other hand, the main motion had not been put, that is a different question.

Senator Corbin: Honourable senators, I want to disagree in a friendly way with Senator Frith. How can one have an understanding of the amendment if one does not put it in context? That is why the main motion is put and the motion in amendment is read. It does not mean that once the amendment is defeated we must immediately put the question on the main motion.

Senator Frith: No, we do not have to, but in this case that is what happened.

Senator Corbin: I suppose that Senator Frith misses my point entirely.

Senator Frith: Apparently we miss each other's points.

[*Translation*]

Senator Molgat: I have a different point of order which could be considered a response to Senator David's suggestion.

The concern you have raised is one that the Senate has had for a long time. That is why the Committee on Standing Rules and Orders suggested some eighteen months ago, I believe, an amendment requested by the Senate. Senator David should go to page 77 of our rules where procedural guidelines for the financial operation of Senate committees are found.

Today, we are simply approving the principle. Once the principle is approved, the committee must be established and it will decide on its own operation and budget. It cannot spend money before the budget is approved by the Committee on Internal Economy, Budgets and Administration. This committee reports to the Senate which makes a decision on expenses. In the meantime there will be a debate in committee once it is set up. This is precisely what he intends to do. The membership will have to draw up a budget which will be restrictive.

You will note that in the proposal before you, there is a 12-month time frame, according to the guidelines of that committee. Then, that will thus be doing a little of what you are asking. Perhaps it will not be done in depth as much as you wished, but surely it can be done under those guidelines.

Hon. Jacques Flynn: The principle will have been approved.

Senator Molgat: The principle will be accepted.

The Hon. the Speaker: Under the motion of Senator Argue, the principle will be agreed to.

Senator David: I apologize, honourable senators, because as a result of my inexperience I am probably asking questions for which I am not used to readymade answers. Does that mean that Senator Argue's committee will be able to carry out everything that is provided for in the motion or, once the budget is drawn up, will it have to come back to the Senate to obtain leave to carry on with the work which it will be asked to do?

Senator Molgat: No, the principle will be approved if we pass the motion. What has not been passed yet, is the funding needed to proceed. That funding of course will control what will be done in committee. The committee can only spend the amount approved by the Senate Committee on Internal Economy and finally approved by the Senate. The work plan will be based on the budget and vice versa.

Senator David: Yes, but what happens first? Is it the budget or the objectives pursued by Senator Argue? If the Committee on Internal Economy says: "That's fine, we give you a budget of $300,000" then we will work for $300,000.

But if we set objectives which, to the best of our knowledge, call for one million dollars, what will the committee do? Refuse it or accept it? Is this the procedure? Just to know how much it will cost, we will need well prepared researchers to assess the major objectives.

Then, which comes first? The budget or the objectives? I would have thought that we should assess the objectives and the budget together, refer them to the Committee on Internal Economy, which would then decide to give or not to give approval depending on the amount requested. I am under the impression that we are now confusing the two things.

• (1750)

[*English*]

Senator Argue: Honourable senators, perhaps I might say a word in response.

Senator Guay: Close the debate!

The Hon. the Speaker: I think, Senator Argue, that if you speak now, it will have the effect of closing the debate.

Hon. Brenda M. Robertson: Is the honourable senator closing the debate?

Senator Argue: Yes.

Senator Robertson: Before the honourable senator does so, may I say a few words?

Senator Argue: Yes.

Senator Robertson: Honourable senators, I wish to associate myself with Senator David's remarks. For some time now—because this item has been on the order paper for a while—I have read and reread the preamble to Senator Argue's motion, and I do not know what in the world we are getting into. It is such a very broad subject. The provinces, of course, deliver the services and are living up to the principles of the Canada Health Act.

A lot has been done provincially on preventive health care and a lot has been published—I am sure that professional people would support me in this regard—by recognized scientists; and, of course, a lot has been published which is not recognized.

I do not know how we would begin to start this study unless we had some very strict guidelines. Senator David referred to a Quebec study involving $6 million. If we are looking toward a national study, I would hate to see a committee of the Senate begin a study that was not useful or which could not be considered as being a worthwhile study. If that were so, the results could be questioned.

I have no hesitation in saying that if we set up a committee to do what I am reading and rereading here, we would be multiplying the $6 million to which Senator David referred. I really have grave reservations about this.

I would like to support Senator David's recommendation, which I believe was in the form of a suggested amendment to the motion. Surely we could then explore in some detail the purpose of this committee and nail down the limitations—because unless we are able to do that, we will not achieve our purpose and we will end up with a piece of work that is not worthy of the Senate. I really have some very grave misgivings about this.

One person's interpretation of prevention is not another person's interpretation, and I for one would not want to be a member of that committee unless it were nailed down very solidly. I am sure that we could get 12 interested senators who would work very hard on the committee; but I am terribly nervous about it, honourable senators, and I really would like to support Senator David's amendment to the motion.

Senator Doody: Honourable senators, in view of the hour and of the comments that have been made in the past little while, I believe it would be fair and in the interests of honourable senators not to put the question. The subject seems to have generated a great deal of concern and interest, and in fairness to other honourable senators who have no way of knowing that we would be sitting here at 10 or 12 minutes after 6, and who might want to express an opinion, it might be more appropriate to hold the motion over until tomorrow and try to deal with it then.

Senator Argue: Honourable senators, I have endeavoured to cooperate. The motion has been on the order paper for six months. I do not know how much longer it should be required. There was quite an interchange in the course of the debate last Thursday, and I was under the impression that the decision was going to be made today.

I do not mind making a strong defence of the broad terms as they now exist, and I do not believe that honourable senators on the committee would undertake any unnecessary wide ranging discussion that would involve a budget of $6 million. There is a great body of scientific evidence out there, and we would not be groping in the dark. The Canada Health Plan has some problems. I think we can all agree on that. There is a large volume of evidence, including that from royal commis-

sions, and so on, and I would think that the 12 senators who would constitute the committee—there would first be a steering committee—would decide on the objectives and the details of this inquiry.

As Senator Molgat has said, the money to be spent can only be determined after the Senate has given its approval. The commitment was that the question should be settled this week. Tomorrow we will be in Committee of the Whole on the Meech Lake Constitutional Accord, and on Thursday we may have Royal Assent. I think that a decision should be made by the Senate.

On motion of Senator Corbin, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, dare I suggest that all remaining orders stand?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Doody: Then I so dare. Honourable senators, I realize that Senator Cochrane had intended to give us her views on her inquiry this afternoon, as her maiden address; but I wonder if she would bear with us for another day when she will have a larger and more receptive audience, and when we can all receive the benefit of her words of wisdom.

With that small caveat, I would ask that all inquiries stand, as well as the two motions.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 2374*)

IMMIGRATION ACT, 1976

BILL TO AMEND — REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

TUESDAY, December 15, 1987

REPORT OF THE COMMITTEE

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof, has, in obedience to the Order of Reference of Wednesday, September 16, 1987, examined the said bill and now reports the same with the following amendments and observations.

Respectfully submitted,

JOAN NEIMAN
Chairman

PART I

AMENDMENTS

Amendments	Explanatory Notes
1. *Page 1, clause 1:* Strike out lines 22 and 23 and substitute the following: "(c) to deter those who assist in the clandestine entry of persons into Canada and thereby minimize the"	**Purposes** This amendment would replace the word "smuggling" with the words "clandestine entry." The word smuggling is a term applicable to goods, not to people. This change mirrors the change to the "aiding and abetting" offences for which the Committee recommends concentrating on clandestine entry. (Para. 12)
2. *Pages 4 and 5, clause 4:* (a) Strike out lines 29 to 50, on page 4, and lines 1 to 3, on page 5, and substitute the following: "(a) examine within seven days, in camera, the security or criminal intelligence reports considered by the Minister and the Solicitor General and hear any other evidence or information that may be presented by or on behalf of those Ministers and may, on the request of the Minister or the Solicitor General, hear all or part of such evidence or information in the absence of the person named in the certificate and any counsel representing the person where, in the opinion of the Chief Justice or the designated judge, as the case may be, the evidence or information should not be disclosed on the grounds that such disclosure would be injurious to national security or to the safety of persons;"	**Security Certificates** This amendment would safeguard the fundamental right of a person to be present to hear the case against him or herself. It would permit a person who is the subject of a security certificate to be present during the presentation of the government's case to the judge, except where there are very compelling reasons for exclusion. The compelling reasons would relate to national security or to the safety of persons. This change would ensure respect for the principle that people have the right to know the case against themselves and would bring this aspect of the procedure into compliance with section 7 of the *Canadian Charter of Rights and Freedoms* (the Charter). (Paras 13-19) As a consequence of permitting the person to be present during much of the government's case, it would no longer be necessary to provide the subject of the certificate with a written summary of the government's evidence. (Para. 20)

"(b)determine forthwith whether or not the person named in the certificate is a danger to the public in Canada, and if not, subject to such terms and conditions as the Chief Justice or the designated judge, as the case may be, deems appropriate, order that the person be released from detention;"

The new paragraph (b) would provide for a review by the Federal Court judge of the detention of the person who is the subject of the security certificate. It would remedy the arbitrary nature of the detention so that only those who pose a danger to the public would be detained. It would thus bring the provision into compliance with section 9 of the Charter. (Paras 21-23)

3. *Page 5, clause 4:* Strike out lines 7 to 12 and substitute the following:

"(d)determine whether the certificate filed by the Minister and the Solicitor General is reasonable and, if found not to be reasonable, quash the certificate; and"

This amendment would clarify that the Federal Court review is concerned with the reasonableness of the security certificate itself and not just the reasonableness of the original decision to issue the certificate. The amendment would ensure that the person's case would be taken into account, a principle of fundamental justice guaranteed by section 7 of the Charter. (Paras 24 and 25)

4. *Page 7, clause 5:* Strike out lines 13 to 20 and substitute the following:

"subject of an inquiry, is a person
(a) described in paragraph 19(1)(c) or (j), or

(b) who has been convicted in"

Precluding from the Refugee System People Found to be Security Risks

This amendment would ensure that people found to be security risks would not be precluded from making a refugee claim. People convicted of serious criminal offences and war crimes would continue to be precluded. This would bring Canada into compliance with the *Convention Relating to the Status of Refugees* (the Convention) with regard to security cases. (Paras 26-35)

5. *Pages 8 and 9, clause 8:*

(a) Strike out lines 13 to 30, on page 8, and substitute the following:

"91.1 Where the Minister believes on reasonable grounds that a vehicle within

(a) the internal waters of Canada, or

(b) the territorial sea of Canada

is bringing any person into Canada in contravention of this Act or the regulations, the Minister may direct that the vehicle be escorted to the nearest port of disembarkation and any such direction may be enforced by such force as is reasonably necessary."

Turning Ships Around

This amendment would remove the power to order a ship not to enter or to leave Canadian waters and would provide for it to be escorted to port. This would provide the best deterrence for organizers of irregular boat arrivals because it would ensure that they would be fully punished. It would also ensure that Canada could meet its commitments to refugees under the Convention by dealing with passengers in the same manner as all other refugee claimants. Further, the amendment would ensure compliance with section 7 of the Charter. The Committee notes that in international meetings Canada has urged other nations to accept ship arrivals. (Paras 36-47)

(b) Strike out lines 38 to 41, on page 8, and substitute the following:

"(a) the internal waters of Canada, or
(b) the territorial sea of Canada"

This amendment is consequential on the removal of the reference to "twelve nautical miles of the outer limit of the territorial sea of Canada" above.

(c) Strike out lines 2 to 7 on page 9.

This amendment would remove the definition of "Convention." It is no longer necessary because the reference to the Convention would be removed by the amendment set out in paragraph (a) above.

6. *Page 9, clause 9:*

"Aiding and Abetting" Offences

(a) Strike out lines 21 to 28, on page 9, and substitute the following:

"95.1 Every person who

(a) knowingly organizes, induces, aids or abets or knowingly attempts to organize, induce, aid or abet a person to make a manifestly unfounded or fraudulent refugee claim, or

(b) knowingly brings or attempts to bring or otherwise knowingly organizes,induces, aids or abets or knowingly attempts to organize, induce, aid or abet any other person to come into Canada in a clandestine manner

is guilty of an offence and liable"

This amendment would target criminal prosecutions specifically at those who intentionally encourage false claims (a) and at people who assist clandestine entry (b).

The amendment responds to the concerns of many witnesses and would permit humanitarian organizations to continue their work without fear of prosecution. Abuse of the system by those who knowingly assist people to make fraudulent refugee claims and who assist people to enter the country surreptitiously would be clearly punishable. (Paras 48-54)

(b) Strike out lines 37 to 45, on page 9, and line 1, on page 10, and substitute the following:

"95.2 Every person who

(a) knowingly organizes, induces, aids or abets or knowingly attempts to organize, induce, aid or abet a group of ten or more persons to make a manifestly unfounded or fraudulent refugee claim, or

(b) knowingly brings or attempts to bring or otherwise knowingly organizes, induces, aids or abets or knowingly attempts to organize, induce, aid or abet any group of ten or more persons to come into Canada in a clandestine manner

is guilty of an"

This amendment would deal with organizers of larger groups, in the same manner as proposed above, i.e., targeting the offence to provide for prosecution only of those who knowingly aided, abetted, etc., manifestly unfounded or fraudulent claims, or who encouraged entry in a clandestine manner. (Paras 48-54)

7. *Page 10, clause 9:* Add, immediately after line 6, the following:

"95.21 No proceeding for an offence under section 95.1 or section 95.2 shall be instituted without the personal consent in writing of the Attorney General of Canada."

This amendment would provide an additional safeguard by requiring the personal written consent of the Attorney General of Canada before a prosecution could be launched under the aiding and abetting sections. (Para. 54)

8. *Page 11, clause 11:* Strike out line 39 and substitute the following:

"grounds to believe that there will be found"

Search, Seizure and Forfeiture

Amendments 9 to 13 are proposed in order to ensure that the wording of the search and seizure sections clearly complies with section 8 of the Charter. (Paras 55-57)

This amendment would provide that a search warrant would only be issued where there are reasonable grounds to believe evidence will be found. This change is made to reflect the holding of the Supreme Court of Canada in *Hunter* v. *Southam*, where the wording "evidence may be found" was rejected. Departmental officials agreed to this proposed change. (Paras 58-63)

9. *Page 12, clause 11:* Strike out lines 46 to 48 and substitute the following:

"warrant exist but the delay necessary to obtain a warrant would result in danger to human life or safety."

This amendment would restrict the power to search without a warrant to situations involving human life or safety. Search without warrant has been held to be *prima facie* unreasonable under section 8 of the Charter and thus should be available in only the most limited circumstances. Prevention of loss or destruction of evidence is not a sufficient reason to override Charter rights. (Paras 64-67)

10. *Page 13, clause 11:* Strike out lines 1 to 7 and substitute the following:

"(6) Where an immigration officer or a peace officer believes that the grounds for a warrant exist under subsection (1) but that it would be impracticable to appear personally before a justice of the peace, the officer may submit an information on oath by telephone or other means of telecommunication to a justice designated for the purpose by the chief judge of the provincial court having jurisdiction in the matter, and the provisions of section 443.1 of the *Criminal Code*, modified according to the circumstances, shall apply."

This amendment would authorize the use of telewarrants where it is not practicable to appear personally before a justice to obtain a warrant. This would permit immigration officials or peace officers to act quickly, but still retain protection of the fundamental rights of citizens and all others in Canada. (Para. 67)

11. *Page 13, clause 11:* Strike out lines 8 to 15.

The lines struck out would have provided broad powers to immigration officers or peace officers to break open doors, windows, locks, etc., in their search for vehicles or evidence, similar to powers in the *Narcotics Control Act* and *Customs Act*. Such powers are excessive in relation to immigration matters. (Para. 68)

12. *Page 13, clause 11:* Add, immediately after line 7, the following:

"(7) A warrant issued under subsection (1) shall be executed by day, unless the justice of the peace, by the warrant, authorizes execution of it by night."

This amendment would further safeguard the right guaranteed by section 8 of the Charter to be secure against unreasonable search and seizure, by requiring that warrants be executed by day except where there are valid reasons for carrying out the search by night. (Para. 69)

13. *Pages 20, 21 and 22, clause 12:*

(a) Strike out lines 42 to 44, on page 20, and substitute the following:

"detention for a period not exceeding forty-eight hours from the time the person was first detained under this Act."

Detention for Identification or Security Purposes

These changes would bring the detention provisions into conformity with existing practice and with the guarantees in sections 7, 9 and 10 of the Charter, by providing for independent review of the reasons for detention within forty-eight hours and weekly thereafter if detention continues. (Paras 70-84)

The amendment contained in paragraph (a) states that new arrivals could be detained up to forty-eight hours on the basis that their identity was not established or that there is reason to suspect they may be a security risk. (Para. 85)

(b) Strike out lines 1 to 22, on page 21, and substitute the following:

"(2) At the expiration of the period set out in subsection (1), the person shall be brought before an adjudicator who may make an order for

(a) the release from detention of the person, subject to such terms and conditions as the adjudicator deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond; or

Under the amendment provided for in paragraph (b), the detention of new arrivals could be continued after review by the independent adjudicator on identity or security grounds or on the grounds already provided in the *Immigration Act, 1976* (that they pose a danger to the public or would not appear for immigration proceedings). Alternatively, they could be released. (Para. 85)

The Minister's certificate process is eliminated, since the government would be called on to establish the grounds for detention in the course of the review by the adjudicator.

(b) the continued detention of the person where, in the adjudicator's opinion

(i) the person's identity has not yet been established,

(ii) there is reason to suspect that the person may be a member of an inadmis- sible class described in paragraphs 19(1)(e)(f)(g) or (j),

(iii) the person poses a danger to the public, or

(iv) the person would not otherwise appear for examination or inquiry or for removal from Canada."

(c) Strike out lines 23 to 47, on page 21, and substitute the following:

"(3) Where a person is detained under subsection (2), that person shall be brought before an adjudicator at least once during each seven day period thereafter, at which times the reasons for continued detention shall be reviewed."

This amendment would provide for weekly review of detention.

(d) Strike out lines 48 to 50, on page 21, and lines 1 to 18, on page 22, and substitute the following:

"(4) Where an adjudicator who conducts a review under subsection (3) is not satisfied that reasonable efforts are being made by the Minister to investigate the matter referred to in subparagraph (2)(b)(i) or (ii), the adjudicator shall make the appropriate order under subsection (2)."

If, during the weekly review, the adjudicator is not satisfied that officials are making reasonable efforts to investigate the case, the adjudicator may order the release of the person detained. This puts a duty on the government to pursue its investigations diligently. (Para. 85)

(e) Add, immediately after line 32, on page 22, the following:

"(9) Every person detained under this section shall be informed that the person has the right to retain and instruct counsel and shall be given a reasonable opportunity to obtain such counsel."

This amendment would require officials to inform persons detained of the right to counsel, and permit them to obtain such assistance. (Para. 85)

PART II

OBSERVATIONS

1. Bill C-84 was presented to Parliament in the summer of 1987 in apparent response to the arrival by boat of 174 refugee claimants in Nova Scotia. The Minister of Employment and Immigration, the Hon. Benoît Bouchard, emphasized the importance of this bill in stopping abuse of Canada's immigration and refugee policies. Before the Committee on 8 December 1987 the Minister maintained that passage of the bill is needed to enable Canada "to control organized abuse of our immigration laws, deter the smuggling into Canada that jeopardizes human lives, and respond to security concerns." He stressed that these measures were necessary even though another bill - C-55, presently before Parliament - would reform the refugee status determination process.

2. Parliament was recalled on August 10 to deal with the legislation. The bill was passed by the House of Commons and referred to the Senate in September. Since our Committee began its consideration of the bill, over 400 individuals and organizations have sent comments and many also asked to appear before the Committee. We heard 37 witnesses who provided us with a comprehensive review of the issues involved.

3. Our witnesses included church and humanitarian groups from all regions, the Canadian Bar Association (Immigration Law Section), the Criminal Lawyers' Association, professors of constitutional and international law, experts in civil liberties and private citizens. Their views were forcefully expressed and virtually unanimous on the necessity of substantial changes to the bill. The only support we heard came from the Minister of Employment and Immigration and his officials. We were told by witnesses, and in written submissions, that various provisions in C-84 would, if enacted, be found to violate the *Canadian Charter of Rights and Freedoms*. We were also told that several provisions would either violate, or seriously undermine, our commitment to human rights and to international refugee protection.

4. The Committee knows that we must approach constitutional questions very cautiously. We have given considerable thought to what our role should be as legislators now that the Charter is part of Canadian law and now that laws of Parliament which do not conform to it will be adjudged to

be of no force and effect. After careful consideration of the evidence, the Committee is of the opinion that where major portions of a bill as it stands appear to be constitutionally defective, we, as legislators, must recommend change.

5. We are supported in that view by the courts themselves. In *Reference re Education Act of Ontario and Minority Language Education Rights* (1984), 10 D.L.R. (4th) 491 at 547, the Ontario Court of Appeal wrote:

6. > The judiciary is not the sole guardian of the constitutional rights of Canadians. Parliament and the provincial Legislatures are equally responsible to ensure that the rights conferred by the Charter are upheld.

7. A similar point was made by Mr. Justice Dickson (as he then was), writing for the Supreme Court of Canada in *Hunter* v. *Southam*, [1984] 2 S.C.R. 145 at 169:

8. > [I]t is the Legislature's responsibility to enact legislation that embodies appropriate safeguards to comply with the Constitution's requirements. It should not fall to the courts to fill in the details that will render legislative lacunae constitutional.

9. The Committee accepts this view of our responsibility. At a very minimum, we interpret that responsibility to be to recommend appropriate amendments to legislation where we believe that the legislation as presented would violate the Charter.

10. All of the witnesses before the Committee agreed that abuse of our immigration laws must stop. However, they pointed out that the drastic measures in this bill will not affect only those who would come to abuse our refugee system. For example, any person approaching our borders without proper documents - whether engaged in a fraudulent scheme or fleeing from persecution and danger - would be subject to the same measures. They could be detained without independent review for up to a month. If they had engaged in resistance to the government they had fled, they could be detained longer and classed as a security threat. Canadians assisting anyone arriving without proper documents would be liable to prosecution, including those who pursue the humanitarian refugee work that is a hallmark of Canada's international reputation.

11. Bill C-84 would give significant new powers to the Minister and immigration officials. These will be discussed in turn in this report, and the reasons for the Committee's amendments will be explained. Each and every amendment has been approved by at least a majority of the Committee.

PURPOSES

12. The first amendment is to the purposes clause. In dealing with later sections of the bill, the Committee concluded that the term "smuggling" properly refers to illegal importation of goods, not of persons. The Committee recommends in amendment 1 that the purposes clause be amended to refer to assisting people to come into Canada in a clandestine manner rather than smuggling.

SECURITY CERTIFICATES

13. The Committee is well aware of the need to safeguard Canada against threats to our security. We recognize the need to have a process in our immigration law that will permit us to deport permanent residents and visitors who are found to be security risks.

14. In 1984, the present system was instituted whereby the Security Intelligence Review Committee (SIRC) investigates a joint report of the Minister of Employment and Immigration and the Solicitor General that a permanent resident or a visitor is a security threat to Canada. SIRC makes a recommendation to the Governor in Council and the latter may direct the Minister to issue a security certificate.

15. Bill C-84 would retain the SIRC procedure for permanent residents, but for all others (which would include refugee claimants) it would institute a process whereby the Minister and the Solicitor General jointly file the certificate, which would then be reviewed by the Chief Justice of the Federal Court or a designated judge.

16. Most of the witnesses before the Committee argued that such a change would be unwise because of the expertise in security matters that SIRC as a specialized body has built up. With two different review processes for the same subject matter, inconsistency in approach and decisions may result. It was argued that treating similar cases in two different ways would be unfair and would violate section 7 of the Charter by providing fewer procedural protections to non-permanent residents than to permanent residents. The need for such a change is also somewhat unclear since we understand that SIRC has not been required to investigate a single refugee case as such since it began.

17. On the other hand, we heard the testimony of government officials that the present process is cumbersome and time-consuming. The Committee respects the government's decision in Bill C-84 that oversight regarding security matters for non-permanent residents should be given to

the Federal Court. We do, however, propose three amendments to the Federal Court process which we believe are essential to bring it into conformity with the Charter.

18. Bill C-84 provides that the Federal Court judge who would examine the security or criminal intelligence reports upon which the certificate is based must exclude the person concerned from the hearing when the government presents its case, if the Minister or Solicitor General so requests. There would be no test provided for exclusion and no discretion would be left to the judge. Exclusion would leave no opportunity for cross-examination and the subject of the certificate would have less understanding of the case that he or she would have to meet. Both are essential parts of a fair process.

19. To deprive people of the fundamental right to hear the full case against themselves is to violate section 7 of the Charter: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." Violation could only be justified on compelling grounds. The Committee agrees that exclusion from a hearing such as this can be justified where the evidence relates to national security matters or where disclosure of sources could endanger people's lives. But many witnesses argued that a blanket exclusionary power in the hands of either the Minister or the Solicitor General is too broad. The Committee therefore proposes in amendment 2(a) that the right to exclude people from the hearing should reside with the presiding judge, a process comparable to that followed by SIRC at the present time. This change would ensure compliance with section 7 of the Charter.

20. If this amendment is accepted, there would be no need to provide the person with a summary of information of the government's case. That provision clearly foresaw the exclusion of the person from the proceedings but is no longer needed if the person can be present.

21. Bill C-84 would make detention mandatory for all non- permanent residents who would be the subject of a security certificate, regardless of whether or not they are actually a danger to public safety and regardless of their sex, age or physical condition. Currently, detention is governed by section 104 of the *Immigration Act, 1976* which permits detention for those who are a danger to the public or would not appear for further proceedings when required. This decision is made by an independent adjudicator and reviewed regularly.

22. Many witnesses pointed out that mandatory detention regardless of circumstances is arbitrary and likely violates section 9 of the Charter which states: "Everyone has the right not to be arbitrarily detained or imprisoned." Even though Bill C-84 would require the Federal Court judge to

begin hearing the case within seven days, the time it might take to reach a final decision could be quite unpredictable and would no doubt in some cases be lengthy.

23. On the other hand, the government's position is that the present system is unsatisfactory. Officials explained that in many cases, for security reasons, adjudicators cannot be given sufficient reasons why detention is desired, and people who might pose risks are consequently not detained. However, while we recognize the problem, the Committee would prefer a less extreme approach. The Committee proposes in amendment 2(b) that the judge of the Federal Court who, unlike the adjudicator, is not only permitted but is required to hear all the evidence, should perform a detention review at an early point in the hearing. Because the hearing must commence within seven days, this will mean that the period of mandatory, arbitrary detention will be greatly diminished.

24. Bill C-84 would require the judge to examine the basis for the issuance of a security certificate and to "determine whether the Minister's and the Solicitor General's decision to sign and file the certificate was reasonable on the basis of the information available to them, and, if found not to be reasonable, quash the certificate" (emphasis added). Witnesses pointed out that what might have been reasonable on the basis of information available to the Minister and the Solicitor General when they issued the certificate could be found to be unjustified by the judge after hearing witnesses and listening to the testimony of the person who is the subject of the certificate. It would make no sense to permit the judge to examine all the evidence and then restrict him or her to only part of it in reaching a decision.

25. The Committee concurs with the witnesses on this point and is encouraged in this view by the government officials themselves who agreed that amending the language would not offend the principle. Amendment 3 merely clarifies that the Federal Court would be concerned with the reasonableness of the security certificate itself and not just the reasonableness of the original decision of the Minister and the Solicitor General.

PRECLUDING FROM THE REFUGEE SYSTEM PEOPLE FOUND TO BE SECURITY RISKS

26. Bill C-84 provides that people who are security risks or who have been certified to be a danger to the public in Canada on criminal or war crimes' grounds would not be permitted to make a refugee claim. At the present time, such people are allowed to make a claim and, if their claim is successful, then the decision is made on deportation.

27. Our international commitments do not require that we give protection to all people who are found to be refugees. Article 32 of the *Convention Relating to the Status of Refugees* permits us to

deport refugees on grounds of national security or public order. Subsection (3) states that refugees to be expelled should be allowed a reasonable period within which to seek legal admission into another country. There might well be a country willing to accept a Convention refugee under these circumstances, but a person being expelled without a determination that he or she is a Convention refugee has no case to put either to another country or to the United Nations High Commissioner for Refugees (UNHCR), whose representatives advised the Committee that they may assist Convention refugees in these cases, but only following determination of their status.

28. Witnesses before the Committee argued that the decision on the refugee claim should be made before the decision on deportation, as is the case, we understand, in all Western countries except Belgium at the present time. Only in that way can factors relating to the seriousness of the risk to Canada be weighed against the consequences to the person of return to the country of persecution.

29. Constitutionally, there are valid grounds to believe that forced removal to a country where persecution is feared would be a violation of section 12 of the Charter: "Everyone has the right not to be subject to any cruel and unusual treatment or punishment." The European Commission on Human Rights has decided such a case in favour of the individual under the wording of Article 3 of the *European Convention on Human Rights*: "No one shall be subjected to torture or to inhuman or degrading treatment." A constitutional law expert pointed out that exclusion of such people from the refugee process also violates section 7 of the Charter. Amnesty International asserted that the removal of persons to countries where they risk being tortured would be a clear violation of Article 3 of the U.N. *Convention Against Torture*, to which Canada is a signatory.

30. The Committee is also concerned that much of the security intelligence that would underlie the exclusion decision might be unreliable and possibly even fabricated because it would originate in the country of the person's origin and might be designed to discredit dissidents. Witnesses argued that sometimes this kind of "evidence" actually helps to prove the person is a *bona fide* refugee. Moreover, they stated that very few refugees are actually security risks. As previously mentioned, SIRC has not been required to deal with any refugee cases since its creation in 1984.

31. The Chairman of the Refugee Status Advisory Committee (RSAC) also pointed out that some of the security grounds for exclusion are highly subjective and could exclude some surprising people:

32. When we talk about protecting our borders and protecting our citizens, I think most of us are thinking of terrorist attacks or of people who come here to

commit acts of violence, criminal attacks against individuals or subversion against the state.

33. However, this clause also includes a category of people in Canada who are working to - as the language says - " engage in or instigate the subversion by force of any government". This is a highly subjective part of the Act. These are people who have not been convicted of any offences and are not necessarily people who are terrorists. This description could include people such as journalists, parliamentarians, social workers or academics. It could include a large number of people who believe that the only way to overcome a tyrannical government is through force. For instance, it certainly would include the members of the ANC; and it would include those who argue in favour of the Contras who are seeking to overthrow the Government of Nicaragua by force. It would exclude from Canada people such as Nelson Mandela, who is in prison because he will not renounce the use of force to overthrow a tyrannical government.

34. As did the UNHCR, the Chairman of RSAC emphasized the importance of attempting to re-locate these people in a third country.

35. For the foregoing reasons, the Committee proposes in amendment 4 that people should not be precluded from the refugee determination system for security reasons. People convicted of serious crimes and war criminals should continue to be excluded.

TURNING SHIPS AROUND

36. Bill C-84 would give the Minister - or someone delegated by the Minister - the power to direct a ship to leave or not to enter Canada's waters if the Minister on reasonable grounds believes the vehicle is bringing any person into Canada in violation of the Act or regulations. The Minister is directed to have "due regard to the safety of the vehicle and its passengers and to the Convention."

37. In his appearance before the Committee on December 8, the Minister stated that a ship would only be turned around if the government was absolutely sure that the passengers on board were not refugees, but he stressed that the bill was an important message to the world that Canada would not tolerate abuse. On the other hand, witnesses pointed out that in recent history Canada has only had two boatloads of refugee claimants - fewer than 400 people. The vast majority of abusers of the refugee system in the past few years have been people who arrived by air and, more importantly, who possessed the required documents.

38. Witnesses before the Committee presented a number of arguments why ships should not be turned around. Their reasons centred on logic, on our international obligations and on the Charter. They argued that, from a common sense point of view, turning a ship around would provide little deterrence to those who would organize schemes to bring people to Canada by ship in violation

of our law. To such an organizer, turning the ship around would result in a total lack of punishment. Better to ensure that those involved are caught, fined, imprisoned, and suffer the loss of their ship if deterrence is the goal. It was also of concern to witnesses that passengers' lives could be threatened if a captain ordered to leave Canada's waters were to abandon them at sea.

39. From an international perspective, the witnesses argued that it is difficult to imagine how Canada could adhere to its international obligations in such a situation, although Bill C-84 says the *Convention Relating to the Status of Refugees* is to be taken into account. Representatives of the United Nations High Commissioner for Refugees spoke of what is implied by the reference to the Convention in the bill:

40. The reference to the Convention means that no decision to turn the boat around can be made until there are safeguards in the country of origin so that the person can be allowed to return to that country, its already having been established as a safe country. It is not possible to make a quick decision to say that these boats should be turned around. There should be safeguards so that the boats can go to a country where the people do not fear persecution.

41. They spoke also of the danger of turning a ship around to an unknown destination:

42. The bill, as amended by the House of Commons, gives an instruction to the minister to have regard to the Convention which is binding upon Canada. Internationally interpreted, that means you cannot send to an unknown destination someone who claims to be a refugee. However, you can do so if you find he is not a refugee, but not before that.

43. It is also possible that turning a ship around without allowing due process to any refugee claimants on board violates section 7 of the Charter by depriving them of a hearing. Although departmental witnesses testified that it is their belief that the rights under the Charter apply to people at a port of entry and not at sea, the matter is at present unresolved and the Committee is not persuaded that Charter rights do not apply whenever actions are taken pursuant to Canadian law.

44. In the case of *Re Singh and the Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, the Supreme Court of Canada held that the protection of the Charter extends to "every human being who is physically present in Canada and by virtue of such presence amenable to Canadian law" (p. 202). As a result of that decision, refugee claimants can invoke the Charter and, in that context, section 7 requires that they be given an oral hearing before they can be returned to the country in which they claim to fear persecution.

45. Clearly, the issue of a claimant who has not yet landed in Canada but is in Canadian waters was not before the court in the Singh case. Yet the words "amenable to Canadian law" would seem to apply with equal force to the claimant still offshore as soon as the government takes action

pursuant to a statute. If this analysis is correct, due process would require a hearing before returning a person to a country where persecution is feared. A hearing might not be required before returning a claimant to a third country but, as departmental witnesses have testified, unless the navy escorts the ship, or a crew is put on board, the Minister cannot be assured that a ship that has been turned around can or will go back to the port from which it came.

46. The Committee has been reminded of the positive example Canada set for the rest of the world in 1979 and 1980 when we urged the countries of Southeast Asia not to turn away boatloads of refugees. More sadly, we have also been reminded of the voyage of the St. Louis in 1939. Canada was not the only country, but was the last, to reject people whose subsequent deaths remain a potent memory in the Canadian consciousness.

47. The Committee has therefore concluded that ships should not be turned around at sea but should be brought to port. Amendment 5 reflects that view. The best deterrence for organizers of irregular boat arrivals is swift and sure punishment. The only appropriate treatment for passengers who claim to be refugees is speedy and just processing according to the laws which apply to all refugee claimants, whether they arrive by air, land or sea. Those rejected by the system should be returned to their country of origin swiftly. Only in that manner will others be deterred.

AIDING AND ABETTING

48. Bill C-84 would create offences with heavy penalties for knowingly organizing, inducing, aiding or abetting people to come into Canada without proper documents. The aiding and abetting sections were severely criticized by witnesses and are clearly of great concern to many Canadian citizens, particularly those working with refugees. Legal experts, church groups and refugee organizations argued that these sections would criminalize humanitarian work. An offence would be committed if a person aided someone to come into Canada without valid documents. Witnesses pointed out that many genuine refugees come to Canada without valid visas, passports or travel documents; on the other hand, many people making unfounded claims <u>have</u> the necessary documents. They stated that in a country where a person is in real danger, the very act of applying for a visa at a Canadian consulate may expose that person to even greater danger. Much of the work of church and refugee groups consists of advising such people how to get to Canada, and how to proceed to make a refugee claim through proper channels when they arrive. By the breadth of its wording, the clause appears to apply to such activities. In order to stay within the law, humanitarian groups would have to cease this work.

49. The question was raised before the Committee whether the aiding and abetting offences would be new or whether they already form part of the *Immigration Act, 1976*. Government officials asserted that the offences are not new; only the penalties are increased. In the government's view, church and humanitarian groups can be prosecuted now for bringing people into Canada without proper documents through the combined effect of sections 95(m), 99 and subsection 9(1) of the Act. Other witnesses disagreed, maintaining either that no offence presently exists or that the legal situation is unclear.

50. In response to the fears of church groups, the Minister assured them that the bill is not directed at their activities, and that they would not be prosecuted. On December 8, the Minister told the Committee: "Those people who assist undocumented refugees to go through the system are not under more of a threat with this legislation." He also pointed out that when government officials attempted to draft the clause more narrowly, loopholes were created.

51. Lawyers and law professors appearing as witnesses took issue with the Minister's statement that he did not intend to prosecute such groups. In their view, it is important as a principle of law to look at the actual words and the effect of a statute, not at the intention of those who propose the bill and would be charged with its implementation. Some witnesses, believing that the government would not prosecute church groups, argued against passage of a law that would not be enforced. Others argued that the law would have to be targeted much more specifically at the abuses to which the bill is directed.

52. In view of the serious concerns about this part of the bill, the Committee proposes amendment 6 to ensure that two types of activity form the subject matter of this offence. The law should apply to those who encourage people to come to Canada and make refugee claims knowing that the individuals in question have spurious cases. The problem of organizers or consultants who advise claimants to make false or misleading statements in connection with refugee proceedings is already addressed in the bill by the offence of "counselling false statements." That offence, however, does not reach people who encourage entrants to make unfounded claims, but without advising those claimants to lie. In such cases, the person makes a claim but offers no evidence to back it up.

53. The second activity that should be punishable is bringing people into Canada in a surreptitious manner. This is addressed by making it an offence knowingly to aid or abet anyone to come into Canada <u>in a clandestine manner</u>. This formulation, with no reference to smuggling, a term more properly applied to goods than to people, best expresses the essence of the offence. The

Committee has previously recommended in amendment 1 that part (c) of the purposes of the bill be changed to refer to clandestine entry rather than smuggling.

54. The Minister, in his appearance on December 8, suggested that a safeguard could be added to reduce fears about prosecution under this section by inserting the requirement that the Attorney General of Canada consent to any such prosecution. Amendment 7 reflects that proposal.

SEARCH, SEIZURE AND FORFEITURE

55. Bill C-84 sets out extensive search, seizure and forfeiture powers and a procedure for return of forfeited goods. These powers would be exercisable by immigration officers or peace officers only in connection with contravention of the new offences of aiding and abetting groups of 10 or more undocumented persons and disembarking people at sea. In these circumstances, immigration officers would be empowered to seize vehicles as forfeit and to seize evidence; the powers would be similar to those granted to customs officers under the *Customs Act*.

56. Immigration officers currently have powers to arrest, detain or remove people from Canada, but not to search for and seize vehicles or evidence. In response to irregular arrivals and abusive refugee claims, Bill C-84 marks a departure from the present state of the law. In order to enforce new measures against abuse, the government has felt it necessary to extend search, seizure and forfeiture powers to immigration officers.

57. The questions before the Committee were whether such additional powers were necessary and, if so, how extensive such powers should be. Many witnesses called for the deletion of these provisions in their entirety, arguing that the powers of search and seizure in the *Customs Act* and the *Criminal Code* are sufficient. Others called for amendments to ensure the provisions would contain at least the minimum procedural safeguards to comply with the Charter. The Committee has concluded that such amendments are possible.

58. The bill as currently drafted would provide that a search warrant could be issued where a justice of the peace was satisfied "that there are reasonable grounds to believe that there may be found" vehicles or evidence relating to contravention of the offences of organizing entry of 10 or more persons and disembarking at sea.

59. This provision appears to be constitutionally defective for failing to meet the minimum standards consistent with section 8 of the Charter: "Everyone has the right to be secure against unreasonable search and seizure." These standards were set out in a unanimous decision of the Supreme Court of Canada in the case of *Hunter* v. *Southam*, [1984] 2 S.C.R. 145. The court stated that

there is a problem with a stipulation of a reasonable belief that evidence may be uncovered in a search. Such a formulation would seek to justify intrusions by the state on the basis of the possibility of finding evidence. Mr. Justice Dickson (as he then was) said:

> 60. This is a very low standard which would validate intrusion on the basis of suspicion, and authorize fishing expeditions of considerable latitude. It would tip the balance strongly in favour of the state and limit the right of the individual to resist, to only the most egregious intrusions. I do not believe that this is a proper standard for securing the right to be free from unreasonable search and seizure.

61. The search and seizure provisions in Bill C-84 are virtually identical to those in the *Customs Act*. The only significant change seems to be that the latter act requires execution of a search warrant by day unless the justice of the peace specifically authorizes execution by night, whereas Bill C-84 is silent on the point. Because they are essentially identical, issues of constitutionality raised by the search and seizure provisions of C-84 are equally relevant to the provisions of the *Customs Act*.

62. In this connection, the legislative history of the *Customs Act* is revealing. Revisions to the *Customs Act* began as Bill C-6, given first reading on 16 January 1984 under the former government. They were obviously drafted, then, before the Supreme Court of Canada decision in *Hunter* v. *Southam*, which was released later in 1984. Bill C-6 was not passed and was reintroduced as Bill C-59 by the present government. The search and seizure provisions were unchanged, except for the addition of the power to execute a warrantless search in exigent circumstances. In dealing with the *Customs Act*, the issue of the grounds for authorizing a search warrant was not raised, although in the interim *Hunter* v. *Southam* had been decided by the Supreme Court.

63. Officials agreed with the Committee that amendments were required to the English text. The Committee recommends in amendment 8 that the power to issue warrants be based on the test "that there are reasonable grounds to believe that there will be found...."

64. The bill would provide for search and seizure without a warrant "if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant." Exigent circumstances would be defined to include circumstances in which the delay necessary to obtain a warrant would result in:

a) danger to human life or safety, or

b) the loss or destruction of any thing liable to seizure.

65. In *Hunter* v. *Southam*, the Supreme Court stated that the protection in section 8 of the Charter generally requires prior authorization as a precondition for a valid search and seizure. Warrantless searches are prime facie unreasonable. Where the government seeks to justify them, it must prove that obtaining a warrant beforehand is not feasible and that the circumstances are such that the search is reasonable despite the lack of a warrant.

66. Witnesses argued that warrantless searches to prevent loss or destruction of evidence may violate section 8 of the Charter. It was pointed out that nowhere in criminal law is there a power to search without warrant in order to preserve evidence. Other means of acting quickly are available. One option is to adopt the telewarrant procedure found in the *Criminal Code*, by which warrants can be obtained by telephone where it is impractical for a peace officer to appear personally before a judge.

67. The Committee has concluded that warrantless searches should only be permitted where the delay necessary to obtain a warrant would result in danger to human life or safety and amendment 9 accomplishes this. In all other cases, warrants should be required. Where it is impractical to appear personally before a justice to make an application, the *Criminal Code* provisions permitting telewarrants should be incorporated into the Bill. Amendment 10 reflects this proposal.

68. The Committee has two further concerns about the search provisions. The powers to "break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing" may well be necessary for customs and narcotics offences, but seem both inappropriate and excessive for immigration offences. The Committee recommends their deletion in amendment 11.

69. The Committee also wishes to introduce one further safeguard to the search provisions by requiring that warrants be executed by day except where there are valid reasons for carrying out the search by night. This safeguard is currently found in the *Customs Act* and the *Criminal Code*. Amendment 12 proposes this change.

DETENTION FOR IDENTIFICATION OR SECURITY PURPOSES

70. Bill C-84 would provide for detention of people seeking to come into Canada who were unable to satisfy an immigration officer of their identity or whom the Deputy Minister (or designate) had reason to suspect were security threats. In either of these cases, initial detention would be mandatory. The immigration officer would detain such a person and report to a senior immigration officer who would have the power to continue detention for a total initial period of up to

seven days. This period could be extended for another 21 days if the Minister certified in writing during the first seven days that the grounds for detention still existed and that more time was needed to investigate. After the 28-day period (or after seven if there was no certificate) detention would be reviewed weekly by an adjudicator who would have power to release the person, using the standards set out in section 104 of the *Immigration Act, 1976*.

71. Under existing law, people may be detained if they pose a danger to the public or would not appear for future immigration proceedings. Refugee claimants may currently be detained under this provision if their identity is unknown. However, any such detention must be reviewed within 48 hours by an adjudicator, who reviews the reasons for continued detention and may release the person. Continued detention is reviewed weekly on this basis after the first 48 hours.

72. Witnesses criticized the detention provisions proposed in Bill C-84 both because of the length of detention, and because of the process. The length of detention without independent review - 7, then 21 days - of persons neither accused nor convicted of crimes is unprecedented in Canadian law. Anyone charged with a criminal offence in Canada has the right to a bail hearing before a justice within 24 hours of arrest. The process would vest decision-making power in officials for the entire 28-day period, during which no person exercising power in a judicial manner could review the circumstances of the case unless officials permitted. These measures thus would constitute a lengthy period of executive detention.

73. Legal experts appearing before the Committee stated that this clause appears to violate sections 7, 9 and 10 of the Charter. They doubted that it could be justified under section 1 of the Charter as a reasonable limit in a free and democratic society.

74. Section 7 guarantees that "everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." Deprivation of liberty for 28 days, without the right to have the reasons for detention and the circumstances of one's case assessed by an independent decision-maker, was said to violate this provision. Section 9 guarantees the right not to be arbitrarily detained or imprisoned. Professor Marc Gold said:

75. > We start with the proposition that although lawful a detention may still be arbitrary. ...[T]he ministerial decision to seek and extend detention is essentially unreviewable, and this therefore puts into place a system that allows for arbitrariness. This is not to suggest that the Minister might ever act arbitrarily, but the system allows for arbitrariness.

76. Concerns were also expressed about whether individuals in these circumstances would be guaranteed the rights in section 10 of the Charter, particularly subsection 10(b), the right to counsel, and the right to be informed of that right.

77. In assessing whether such limitations of rights could be demonstrably justified in a free and democratic society, it is necessary to look at the government objectives in proposing these measures. Several witnesses suggested that the measures are so severe that they appear to be intended as a deterrent, and not just a means of establishing the identity of unknown entrants or protecting national security. Government officials, in fact, expressed the hope before the Committee that these detention provisions would act as a deterrent to people coming into the country without documents.

78. The Criminal Lawyers' Association brief was strongly critical of this use of detention:

79. Criminal and quasi-criminal legislation and the penalties provided therefore in our view are the only appropriate deterrent mechanisms in a free and democratic society. A provision akin to pre-trial detention should not be used for deterrent purposes.

80. Rabbi Plaut, author of the government-commissioned study *Refugee Determination in Canada*, characterized the 28-day detention as excessive and unreasonable. He warned that:

81. ...it endangers bona fide refugees who may not have access to proper documentation, or who can secure it only at great peril. Therefore that section significantly contributes to deterring the arrival of genuine claimants.

82. The Committee questions the use of detention as a deterrent. We note that in the very recent past the Canadian government has indicated in international meetings that it regrets the increasing use of detention of refugees and asylum seekers as an indirect means of deterrence.

83. Recent arrivals - both by sea and by air - have illustrated the difficulty of establishing identity in some cases. Detention while establishing identity and as a means of protecting Canada against security threats may well be necessary in some cases, but these objectives can be achieved by much less drastic measures than those contained in Bill C-84. Although officials suggested that in some cases individuals had been released who should have been detained, there appears to be no strong evidence that the current system is not working.

84. The Criminal Lawyers' Association and Professor David Beatty argued that to justify such a detention provision, the government would need to show that the current exercise of adjudicators' discretion to release has frustrated the purposes of the *Immigration Act, 1976* or caused breaches of national security. The Canadian Bar Association recommended that the new detention

provisions be deleted entirely or, alternatively, that the adjudicator be granted the power to release a person detained under this provision.

85. In amendment 13, the Committee proposes a series of changes which would provide safeguards for the rights of persons detained. The changes would bring the detention provisions into conformity with existing practice and with the guarantees in sections 7, 9 and 10 of the Charter. Parts (a) to (c) would ensure that an adjudicator would review the reasons for detention within 48 hours as is the current practice. The new grounds for detention proposed in C-84 - unknown identity or potential security risk - would be retained and added to the grounds for detention already in the Act. Any one of these factors, if established by the government, would justify continued detention past the first 48 hours. At that point, detention must be reviewed weekly. A further safeguard is proposed in part (d) which would provide that at those weekly reviews the person could be released if the government was not making reasonable efforts to establish identity or to verify whether a security risk existed. Part (e) of the amendment would clarify the detained person's right to counsel, and require that the person be given a reasonable opportunity to obtain such assistance.

TRANSPORTATION COMPANIES

86. The Committee heard testimony from witnesses from the airline industry. We have no amendments to propose in this regard; we do, however, have a recommendation for amendment which would harmonize Bill C-84 with C-55 and some observations with regard to possible future regulations requiring or authorizing transportation companies to collect the travel documents of their passengers. Our recommendation concerns the fact that transportation companies are held responsible under the *Immigration Act, 1976* for the detention costs of people who are detained and then not granted admission to Canada, or who are detained prior to being granted admission unless they arrive with valid visas. The airlines have been concerned about these provisions for some time, and the validity of their concerns was recognized by a provision in Bill C-55 which would limit their costs to the first 72 hours after arrival. Bill C-84, however, creates the possibility that more people will be detained, and for longer periods of time, and should it become law before Bill C-55, the airlines will be exposed to those increased costs. It would be a straightforward, uncontroversial matter for the government to insert the limitation on detention costs into Bill C-84 and the Committee so recommends.

87. The Committee is also concerned about the provision in the bill which enables the Governor in Council to pass regulations requiring or authorizing transportation companies to hold

the travel documents of their passengers so that these will be available for examination by an immigration officer at the port of entry.

88. A spokesman for the Air Transport Association of Canada addressed this issue in his testimony before the Committee:

89. Clause 14 would require or authorize airlines to hold passports or travel documents. This gives the airlines grave concerns, because a passport is the property of the issuing country, not the individual; so what are the airlines' liabilities if documents are lost or stolen or claimed to have been lost or stolen?

90. A representative of the International Air Transport Association raised some additional questions and gave some practical examples that airlines would face if regulations required them to collect documents:

91. First, there is the question of extraterritoriality. That arises because Canadian law would be required to be implemented in the port of a foreign state. Second, there is the question of privacy laws. Third, there is the question of liability, which Mr. Giles referred to.

92. Consider the type of operation that we have. You have an airline which starts, say, in Singapore and comes over Bombay, goes to London and then on to Canada. The potential for those passports collected by an airline to disappear en route is tremendous. Purely by accident, papers can be taken off an airline at intermittent stops when garbage is collected. Flight documents can go off at such points also. We know from experience what happens on arrival if we suddenly have 200 or 300 passengers and no passports for them. Should honest citizens - maybe senators - be detained or go to prison while someone sorts out where their passports are? If the passport is handed back to the wrong individual - and some people will, for obvious reasons, claim the wrong passports - where do the innocent passengers go? Where is the liability for the carriers under such circumstances? The liability would be unlimited; we would have no Warsaw Convention protection in this situation.

93. Finally, there is the question of security. For example, if you had a hijacking situation and the airline staff was handing passports over to hijackers who sought out special races or special groups from various religions to start killing those individuals, where would the liability cover be for the carriers under those circumstances? That is a question which causes us great concern.

94. The Committee recognizes that these concerns are valid. We urge the Governor in Council to take them into consideration in deciding on the feasibility of enacting such regulations.

APPENDIX

LIST OF WITNESSES

Tuesday, September 22, 1987: (Issue no. 26)

The Honourable Benoît Bouchard, P.C., M.P., Minister of Employment and Immigration.

From the Department of Employment and Immigration:
Mr. M. H. Brush, Legislative Coordinator;
Mr. Raphaël Girard, Coordinator, Refugee Task Force;
Mr. Warren Black, General Counsel.

Wednesday, September 23, 1987: (Issue no. 27)

From the Department of Employment and Immigration:
Mr. Joe Bissett, Executive Director, Immigration;
Mr. John Butt, Project Leader, Legislative Development, Refugee Task Force;
Mr. James Trussler, Project Officer, Refugee Task Force.

Tuesday, September 29, 1987: (Issue no. 28)

From the Canadian Bar Association, Immigration Law Section:
Mr. Carter Hoppe, Chairman;
Ms. Barbara Jackman, Chairman (Ontario).

Thursday, October 1, 1987: (Issue no. 29)

From the Inter-Church Committee for Refugees:
Mr. George Cram, Secretary, Primates' Fund For World Relief and Development, Anglican Church of Canada.

From the Canadian Conference of Catholic Bishops:
Ms. Nancy Nicholls, Executive Director, Catholic Immigration Bureau (Toronto).

From the Department of Employment and Immigration:
Mr. Raphaël Girard, Coordinator, Refugee Task Force;
Mr. John Butt, Project Leader, Legislative Development, Refugee Task Force.

Tuesday, October 6, 1987: (Issue no. 30)

From the Criminal Lawyers' Association:
Mr. Paul D. Copeland, Vice-President.

Wednesday, October 7, 1987: (Issue no. 31)

From the Coalition for a Just Refugee and Immigration Policy:
Mr. Lorne Waldman.

Thursday, October 8, 1987: (Issue no. 32)

From Osgoode Hall Law School:
Professor James Hathaway;
Professor William H. Angus.

Tuesday, October 13, 1987: (Issue no. 33)

From the University of Toronto:
Professor David Beatty.

From York University:
Professor Marc Gold.

From the University of Manitoba:
Professor Dale Gibson.

From Dalhousie University:
Professor Wayne McKay.

Thursday, October 15, 1987: (Issue no. 34)

From the Office of the United Nations High Commissioner for Refugees:
Mrs. Fiorella Badiani;
Mr. Job Van der Veen.

Tuesday, October 20, 1987: (Issue no. 35)

From the Canadian Civil Liberties Association:
Mr. Alan Borovoy, General Counsel.

Wednesday, October 21, 1987: (Issue no. 36)

From the International Air Transport Association:
Mr. Rodney Wallis, Director, Facilitation and Security;
Mr. Eric Vincendon, Manager, Facilitation.
From the Air Transport Association of Canada:
Mr. E. David Giles, Vice-President, Airport Operations.

Thursday, October 22, 1987: (Issue no. 37)

From the Refugee Status Advisory Committee:
Mr. J.B. Stern, Chairman;
Mr. Sergio Poggione, Acting Director of Operations;
Mr. James Trottier, Legal Advisor, Liaison Officer, Department of External Affairs.

Tuesday, October 27, 1987: (Issue no. 38)

From the Montreal Coalition:
Ms. Rivka Augenfeld, President, "Table de concertation des organismes de Montréal au service des réfugiés";
Mr. Denis Racicot, Association of Immigration Lawyers;
Reverend Fay Wakeling, Committee to Aid Refugees, United Church of Canada;
Mr. Pierre Gouldberger, Committee to Aid Refugees.

Wednesday, October 28, 1987: (Issue no. 39)

From Holy Blossom Temple:
Rabbi W. Gunther Plaut.

Thursday, October 29, 1987: (Issue no. 40)

From the Canadian Jewish Congress:
Ms. Dorothy Reitman, National President;
Mr. Ian Kagedan, Assistant National Executive Director;
Mr. Herb Abrams, National Executive Director, Jewish Immigrant Aid Services of Canada;
Professor Fred Zemans, Chairman, Law and Social Action Committee.

Tuesday, November 3, 1987: (Issue no. 41)

From Amnesty International:
Mr. Michael Schelew, Spokesperson, Refugee Affairs;
Mr. Michael Bossin, Member, Refugee Co-ordination Group.

Thursday, November 5, 1987: (Issue no. 42)

From B'nai Brith:
Mr. David Matas, Senior Legal Counsel.

Thursday, November 19, 1987: (Issue no. 43)

From the Department of Employment and Immigration:
Mr. Raphaël Girard, Coordinator, Refugee Task Force;
Mr. John Butt, Project Leader, Legislative Development, Refugee Task Force.

Tuesday, December 8, 1987: (Issue no. 44)

The Honourable Benoît Bouchard, P.C., M.P., Minister of Employment and Immigration.

From the Department of Employment and Immigration:
Mr. Raphaël Girard, Coordinator, Refugee Task Force;
Mr. John Butt, Project Leader, Legislative Development, Refugee Task Force.

MEMBERSHIP OF THE COMMITTEE

The Honourable Joan Neiman, *Chairman*
The Honourable Nathan Nurgitz, *Deputy Chairman*

and

The Honourable Senators:

Buckwold	Lewis
Doyle	*MacEachen, P.C. (or Frith)
Fairbairn	*Murray, P.C. (or Doody)
Flynn, P.C.	Robertson
Grafstein	Spivak
Hébert	Stanbury

* *ex officio* Members

Note: The Honourable Senators Bielish, Cochrane, Cogger, Gigantès, Haidasz, P.C., Hays, Hicks, Langlois, MacDonald *(Halifax)*, Marchand, P.C., Marshall, Rossiter, Simard, Stollery, Tremblay and Wood also served on the Committee at various stages.

Research Staff:

From the Research Branch, Library of Parliament:
Ms. Katharine Dunkley, Research Officer, Law and Government Division;
Ms. Margaret Young, Research Officer, Law and Government Division.

Andrew N. Johnson

Clerk of the Committee

APPENDIX "B"

(*See p. 2380*)

INCOME TAX ACT

BILL TO AMEND — REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

TUESDAY, December 15, 1987

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-FIRST REPORT

1. Your Committee, to which was referred the Bill C-64, An Act to amend the *Income Tax Act*, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971, has, in obedience to the Order of Reference of Wednesday, 9th December 1987, examined the said Bill and now reports the same without amendment, but with the following observations:

2. The Committee heard evidence from representatives of the Canadian Insolvency Association, the Canadian Bar Association and the Canadian Bankers' Association and from Department of Finance officials. We also received a submission from the Canadian Construction Association (see Appendices).

3. Bill C-64 will implement amendments to the *Income Tax Act* contained in the Ways and Means Motion tabled by the Honourable Thomas Hockin on 5th June 1987. The amendments include measures announced in the budget of 18th February 1987, measures announced through press releases on other occasions and measures announced for the first time in the Ways and Means Motion of 5th June. Most of these are technical amendments, intended to clarify existing income tax provisions or to modify their meaning in generally unobjectionable ways. Significant expressions of concern and opposition were caused by two clauses of the Bill: clause 10, providing for the establishment of tax-exempt "international banking centres" (IBCs); and clause 66, vesting the Crown with priority over other claimants for the receivables of a tax debtor.

International Banking Centres

4. Clause 10 of the Bill will amend the *Income Tax Act* to provide tax-exempt status to profits generated by designated IBCs from activities involving loans to and deposits from non-residents. To qualify for tax exemption, no less than 90 percent of an IBC's revenues from loans must be derived from "eligible loans"

(loans to non-residents or deposits in prescribed financial institutions) in respect of which employees of the IBC "actively participated" in its "solicitation, negotiation, analysis or management." Full exemption would be available if "eligible deposits" (deposits from non-residents or other IBCs) constitute at least 96 percent of outstanding loans every day of the tax year. Where eligible deposits fall short of this amount, the exemption would be reduced by a proportion equal to the ratio of the shortfall to the 96 percent loan level.

5. Any member of the Canadian Payments Association (which in addition to all chartered banks includes most major trust companies and credit union centrals) will be permitted to establish an IBC. However, only the metropolitan areas of Montreal and Vancouver would qualify as eligible locations for such centres. It is this aspect of the proposal that has raised the greatest opposition, particularly from Toronto and other excluded metropolitan regions of Canada.

6. According to the testimony of Finance officials, the reason for undertaking the IBC proposal was to broaden trade and business interests in Europe and the Pacific Rim. Tax incentives are confined to Montreal and Vancouver because these cities are strategically located to do business with these areas and in order to help them enhance their role in international commerce.

7. Within the free world, most countries have developed a single dominant financial centre. In Canada at this time, that centre is Toronto. While not including Toronto within the designated centres in this circumstance could be regarded as unusual, it probably will not materially affect Toronto's interests.

8. The IBC proposal was designed with two principles in mind: to attract activities from offshore through the prospect of tax incentives and to avoid displacing existing activities or employment in Canada. These principles account for the decision to exclude from the proposed IBCs such international banking activities as foreign exchange transactions and letters of credit, which might have resulted in a shift of existing activities from one region of Canada to another.

9. The activities to which IBCs are confined – loans to and deposits from non-residents – do not generate any tax revenues in Canada. Accordingly, Finance expects that the IBCs will generate no revenue losses to the federal treasury. At the same time, however, the direct effects of IBCs on employment and business activity are also expected to be minimal.

Priority of Crown Claims

10. Amendments sought under clause 66 of the Bill will permit the Minister of National Revenue to garnishee the receivables of a tax debtor which have been assigned to a secured creditor. The monies garnisheed will be applied against the debtor's liability for unremitted source deductions for employee income taxes, and unemployment insurance and Canada Pension Plan contributions. In effect, these provisions confer a priority on the Crown over the rights of other claimants that hold assignments of accounts receivable.

11. The provisions under clause 66 are related to amendments to the *Income Tax Act* enacted through clause 118 of Bill C-84 on 13th February 1986. In response to interventions, clause 118 as initially proposed was amended to stipulate that it would come into effect on proclamation, rather than on Royal Assent. To this day, clause 118 has not been proclaimed.

12. In their appearance before your Committee, representatives of the Canadian Bankers' Association, the Canadian Bar Association and the Canadian Insolvency Association argued that clause 66 seeks to implement the 1986 clause 118 amendments by other means. Indeed, in their view, the clause 66 provisions are more far reaching than the 1986 amendments in at least two respects. First, the 1986 provisions limited the Crown's claim to arrears accrued within a 90 day period, whereas under clause 66 the Crown's claim is unlimited. In addition, clause 66 gives the Crown priority over all security interests, whereas the 1986 amendments preserved the priority of purchase money obligations held by the original seller or lessor.

13. The same witnesses also argued that clause 66 as currently drafted interferes seriously with property rights, because of the way it applies when a secured creditor takes steps to enforce his security. In the words of Mr. Alan Driver, President of the Canadian Insolvency Association: "any secured creditor, in dealing with a security, unless he is taking a mortgage foreclosure, has to sell it. When he sells it, he gives rise to an accounts receivable which falls within the wording of this clause and is subject to garnishment."

14. Finance officials, on the other hand, emphasized that under the proposed amendments garnishment action would be permitted only where, as a result of an assignment of property or other security interest, payments that would be made to a tax debtor are redirected to a secured creditor of the tax debtor. These provisions therefore would not apply in cases where a secured creditor sells the property in order to realize upon his security, because the proceeds from such a sale would not have been payable to the debtor.

15. Finance officials also argued that the proposed amendments under clause 66 are much narrower than the 1986 amendments. Specifically, the recourse powers provided to the Crown under clause 66 are confined to garnishment action, whereas the 1986 amendments vested the Crown with a charge upon all property of the debtor, and that charge was to have priority over all other claims and security interests. Implementation of this provision would have required establishing a registry so that taxpayers would be aware of charges being made by Revenue Canada with respect to unremitted source deductions. It was this supercharge provision, Finance officials claimed, that raised the greatest opposition to the 1986 amendments. Clause 66, in their view, simply seeks to restore the garnishment powers of the Minister of National Revenue to recover funds for secure deductions. Recent court cases have weakened those powers by pushing the claims of Revenue Canada behind those of employees and secured creditors.

16. It is apparent from the foregoing that much of the controversy over clause 66 is the product of diverse interpretations of the provisions being proposed. Interested parties have already brought their concerns to the attention of Finance.

Consultations now under way between these parties and departmental officials should lead to a resolution of these interpretative disputes. If it turns out that the drafting of clause 66 is not consistent with the drafters' intentions, as outlined to us by officials of Finance, we would expect the Government to introduce amendments rectifying the inconsistency at the earliest opportunity.

17. We also note that the issue of Crown priority for unremitted source deductions is an insolvency matter which should properly be addressed within the review of bankruptcy and insolvency legislation currently underway at the Department of Consumer and Corporate Affairs. In our report on Bill C-84, dated 4th February 1986, we had questioned whether it is proper to introduce the amendments contained in clause 118 respecting Crown priority while amendments to the *Bankruptcy Act* are pending. We remain of the same opinion.

APPENDIX A

List of Witnesses

Thursday, December 10, 1987: (Issue 49)

From the Canadian Insolvency Association:
Mr. Alan G. Driver, C.A., President;
Mr. R. Gordon Marantz, Q.C., National Chairman, Canadian Bankers' Association, Insolvency Section; Counsel, Canadian Insolvency Association.

From the Canadian Bar Association:
Mr. R. Gordon Marantz, Q.C., Osler, Hoskin & Harcourt.

From the Canadian Bankers' Association:
Mr. David E. Phillips, Vice-President and Director, Legal Affairs.

From the Department of Finance - Tax Policy and Legislation Branch:
Mr. Len Farber, Director, Tax Policy and Legislation;
Ms. Carol Muirhead, Senior Tax Policy Officer;
Mr. Brian Ernewein, Tax Policy Officer;
Mr. Marc Cuerrier, Senior Counsel, Tax Counsel Division.

APPENDIX B

The Committee received written material (briefs and letters) from the following groups:

Canadian Bankers' Association
Toronto, Ontario

Canadian Construction Association
Ottawa, Ontario

Osler, Hoskin & Harcourt
Toronto, Ontario

Respectfully submitted,

IAN SINCLAIR
Chairman

MEMBERSHIP OF THE COMMITTEE

The Honourable Ian Sinclair, *Chairman*
The Honourable Finlay MacDonald (*Halifax*), *Deputy Chairman*

and

The Honourable Senators:

Anderson	* MacEachen, P.C. (or Frith)
Buckwold	* Murray, P.C. (or Doody)
Cogger	Olson, P.C.
Flynn, P.C	Perrault, P.C.
Kelly.	Riel, P.C.
Kirby	Roblin, P.C.

* *ex officio* Members

Research Staff:

From the Research Branch, Library of Parliament:
Mr. Basil Zafiriou, Senior Analyst;
Mr. Anthony Chapman, Research Officer, Economics Division.

Timothy Ross Wilson

Clerk of the Committee

APPENDIX "C"

(*See p. 2384*)

APPROPRIATION BILL NO. 4, 1987-88

ESTIMATES TABLED TO DATE FOR 1987-88
SUPPLY TO DATE FOR 1987-88

ESTIMATES TABLED TO DATE FOR 1987-88

	TO BE VOTED	STATUTORY (in thousands of dollars)	TOTAL
Main Estimates			
Budgetary	$37,826,901	$72,314,176	$110,141,077
Non-Budgetary	59,184	(128,545)	(69,361)
	$37,886,085	$72,185,631	$110,071,716
Supplementary Estimates (A)			
Budgetary	$ 700,000	-	$ 700,000
Non-Budgetary	-	-	-
	$ 700,000	-	$ 700,000
Supply to date	$38,586,085*	$72,185,631	$110,771,716
Supplementary Estimates (B)			
Budgetary	$ 583,110	-	$ 583,110
Non-Budgetary	110,000	-	110,000
	$ 693,110	-	$ 693,110
Supplementary Estimates (C)			
Budgetary	$ 1,871,808	$ 999,557	$ 2,871,365
Non-Budgetary	8,889	14,500	23,389
	$ 1,880,697	$ 1,014,057	$ 2,894,754
TOTAL ESTIMATES TABLED			
Budgetary	$40,981,819	$73,313,733	$114,295,552
Non-Budgetary	178,073	(114,045)	64,028
	$41,159,892	$73,199,688	$114,359,580

*Does not agree with "Supply to Date for 1987-88" statement due to rounding.

SUPPLY TO DATE FOR 1987-88

Three Appropriation Acts have been approved in respect of Estimates for 1987-88:

Supply Approved to Date:

Appropriation Act No. 1, 1987-88 which granted Interim Supply for April, May and June including 31 additional proportions, based on the Main Estimates for 1987-88	$10,458,957,258.08
Appropriation Act No. 2, 1987-88	
The whole of Supplementary Estimates (A), 1987-88	$ 700,000,000.00
Appropriation Act No. 3, 1987-88	
Supply for the balance of Main Estimates for 1987-88	$27,427,132,310.92
	$38,586,089,569.00
Awaiting Approval	
Supply for the whole of Supplementary Estimates (B) for 1987-88.	$ 693,110,000.00
Supply for the whole of Supplementary Estimates (C) for 1987-88.	$ 1,880,696,428.00
TOTAL	$41,159,895,997.00

THE SENATE

Wednesday, December 16, 1987

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE SENATE

DELAY IN PRODUCTION OF *DEBATES*

Hon. Eymard G. Corbin: Honourable senators, I should like to raise a point of order. I wanted to check yesterday's record and I am informed that *Hansard* has not yet been delivered. Is there any reason for that delay?

Senator Argue: That question is for the deputy leader. Perhaps we should adjourn, since we do not have yesterday's *Hansard*!

Senator Corbin: I suppose that we will again have to wait for an answer from Internal Economy. Thanks for the information.

Hon. C. William Doody (Deputy Leader of the Government): Was the question addressed to me, honourable senators?

Senator Olson: Yes. Senator Corbin does not have yesterday's *Hansard*.

Senator Doody: I, too, do not have a copy of yesterday's *Hansard*. I wished to raise a question concerning what might have been a misprint of something that I am reported to have said yesterday, but unfortunately *Hansard* is not yet here. I saw the blues this morning and made a correction. Perhaps that is what is holding up *Hansard*. Perhaps they are trying to correct *Hansard* to fit my interpretation of what I said yesterday. In any event, I, too, am incommoded and I would like to make a complaint to whoever looks after the printing in this place.

Senator Argue: It is the Christmas spirit!

The Hon. the Speaker: Honourable senators, I am advised by the officials that there are two reasons for the delay, one being that the Senate sat until 6.30 yesterday evening—which, I agree, is not much of a reason; and the second being that there was a massive tax reform report by the Minister of Finance in the other place which necessitated the use of most of the facilities of the Printing Bureau. This is purely a preliminary answer to Senator Corbin's question.

Hon. Gildas L. Molgat: Honourable senators, the point raised by Senator Corbin is an important one as far as the Senate is concerned and one that has arisen before. I believe it is reasonable to ask the question: Is a report of the House of Commons—from the Department of Finance or elsewhere—one that should interfere with the *Debates* of either house? It seems to me that we had this discussion in the Senate before and it was agreed that the *Debates* of both houses must take precedence. Are we now faced with the same problem? I realize that Mr. Speaker may not be in a position to answer right now, but I think that insofar as the privileges of this house are concerned it is extremely important that the matter be settled.

The Hon. the Speaker: Honourable senators, I have just been told by officials that the delay was not caused by a priority of the House of Commons, but because of the appendices attached to our *Debates* we overtaxed the facilities. That is a very preliminary report.

Senator Doody: Honourable senators, may I add a word? I am delighted that Senator Corbin and Senator Molgat have raised this matter. On the two or three previous occasions this matter was raised on the floor of this place, I took it upon myself to try to find out what was going on and to try to get the problem corrected. Obviously I have been unsuccessful. I am delighted to see that the chamber itself has decided to take this issue on as a priority and as a responsibility. I shall certainly do everything that I can to facilitate the request for equity and justice under the system that runs the two chambers.

Senator Argue: Give it to the Internal Economy Committee.

Senator Frith: It is Mr. Speaker's problem!

QUESTION PERIOD

[*English*]

AGRICULTURE

PRINCE RUPERT GRAIN HANDLERS' STRIKE—CURRENT SITUATION

Hon. Hazen Argue: Honourable senators, I wonder if I might ask the Leader of the Government in the Senate whether the parties in the grain handler's dispute at Prince Rupert have met yet. If they have not met, when will the first meeting take place?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I regret I have no additional information to that which I furnished the house yesterday. The Minister of Labour has sent a telegram to the parties concerned. My information is that the mediator, Mr. Collins, is presently endeavouring to schedule meeting dates with the parties. I trust that that will be done very shortly.

Senator Argue: Honourable senators, is Mr. Collins in Prince Rupert?

Senator Murray: Honourable senators, I do not know the answer to that question.

Senator Argue: Honourable senators, I wonder if the minister would look into the question. I will ask a similar question tomorrow, and we will see if there is anything further to report.

Senator Murray: Honourable senators, I shall attempt to provide a daily progress report on this matter.

APPROPRIATION BILL No. 4, 1987-88

THIRD READING

Hon. Orville H. Phillips moved the third reading of Bill C-95, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending March 31, 1988.

Motion agreed to and bill read third time and passed.

INCOME TAX ACT

BILL TO AMEND—THIRD READING

Hon. Duff Roblin moved the third reading of Bill C-64, to amend the Income Tax Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971.

Motion agreed to and bill read third time and passed.

• (1410)

CUSTOMS TARIFF BILL

SECOND READING

• (1410)

On the Order:

> Resuming the debate on the motion of the Honourable Senator Robertson, seconded by the Honourable Senator MacDonald (*Halifax*), for the second reading of the Bill C-87, An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.—(*Honourable Senator Hicks*).

Hon. Henry D. Hicks: Honourable senators, Bill C-87, as its highly-descriptive title informs us, is a bill to give effect to the International Convention on the Harmonized Commodity Description and Coding System, and to do certain other things in relation thereto or in consequence thereof. As Senator Robertson, the mover of the second reading of the bill, informed us yesterday, this bill will also incorporate the Customs Tariff and the Duties Relief Act into one statute. Senator Robertson reminded us of the importance of trade to Canada and of the need to update, simplify and make more readily available the data relating to our tariffs and our duties.

There is undoubtedly a desirability of harmonizing our system—or HS, as the technicians have come to refer to it—with that of other countries of the world, especially, of course, with the U.S.A., the European Economic Community and Japan. However, this will also apply to many other countries, some of whom have already signed this international convention. It is hoped eventually to bring into line the practices of some 60 countries, or perhaps even many more. It should bring our customs tariff system into the computer age.

It was stated by the mover of second reading that this bill would provide a simplification and, indeed, that was referred to in the other place when the bill was discussed there. Perhaps it will. In any event, it increases the number of tariff items from approximately 3,500 to 8,000. Whether this effects a simplification or not I do not know, but it is hoped—and indeed so stated by the departmental officials—that most of this increase in tariff items results largely from a subdivision of items and, presumably, makes it easier to identify with precision the particular item concerning which tariff rate is desired to be set or to be discovered by the importer or the exporter, as the case may be.

As I say, it is hoped that this bill will clarify our system and make much more accurate and more readily available our trade data. By putting that data into a computerized system, the statistics relating to trade, tariff, and so on, ought to be much more complete and available more quickly than they have been in the past.

I think that these are all desirable objects. Indeed, all of the objectives of the bill referred to above are laudable and hopefully will improve, even if they do not simplify our tariff system.

Yesterday I intimated that I could see very little difficulty with this bill. I cannot say that I am going to refer to difficulties now, but on reading the bill more carefully, which I did last night, a number of things occurred to me which had not occurred to me when I spoke yesterday. I now have certain reservations about the extent of ministerial and Governor-in-Council authority to make regulations without reference to Parliament, which is provided by many clauses of this bill, and indeed, in some instances—perhaps in many instances—without the necessity of informing Parliament of what has been done. Some of these regulations could actually be used to set tariff levels—to increase or decrease them or to exempt tariff levies without reference to Parliament and, as I have said, without reporting to Parliament. For this reason, honourable senators, I am now somewhat more anxious than I was yesterday to have a chance to question the minister about these clauses.

So that you will have some idea of the clauses that are of concern to me, I shall list them. However, I believe arrangements will be made for us to hear the minister either in a standing Senate committee or in a Committee of the Whole. Therefore, I shall not elaborate now on any of the clauses, but it might be useful if the minister knew which ones concerned me so that he could be prepared to comment on them.

The following clauses are of concern to me. Clause 9, in a rather peculiar way, enables the Governor-in-Council, by proclamation, to restrict the extent of territorial sea or our internal waters. I had to refer to the original Customs Act to try to understand this. I am not sure that I understand it now.

Subclause 12(1) and subclause 12(2) refer to goods that are "produced in Canada in substantial quantities," and give what seems to me to be a very extensive discretion to the Governor-in-Council to determine what the term "substantial quantities" means. This could be very important to a person who is importing goods into this country.

Clauses 23 and 25 give very wide powers to the Governor-in-Council. Clauses 27 and 28 do the same, as do some of the following clauses, especially clauses 43 and 44. However, the powers given by clauses 43 and 44 are due to expire on June 30, 1994, according to a following clause. It makes one think that there is something not precarious but something a little bit more than arbitrary in granting these powers for a limited time to the Governor-in-Council. I shall be pleased to hear the explanation that is given for this. The previous clauses that I have referred to that give this discretion to the Governor-in-Council, sometimes on the recommendation of a minister—usually on the recommendation of a minister—do not require the decisions to be tabled before Parliament. Clauses 59 and 60 do give the same kind of authority to the Governor-in-Council, but in these cases the order must be tabled in Parliament within 15 sitting days. This is provided by clause 61 of the bill.

Clause 95 gives authority to make regulations with no requirement that these regulations must be laid before Parliament. It may very well be that another omnibus statute requires that they have to be, in any event, but in the time which I had to check this I was unable to find this out for certain.

Penultimately, clauses 101 and 102 give the Governor-in-Council and the minister wide discretion in the remission and relief of duties and tariffs. Here again, no report to Parliament is prescribed.

Finally, subclause 133(1) allows the Governor-in-Council to make regulations which have the effect of amending other acts in order to conform to this act. This power is granted to them for a limited period—a period of 18 months—after the coming into force of this act. That means that it may be very difficult for parliamentarians or general users of the legislation to find out exactly what the state of the law is during this 18-month transition period when the Governor-in-Council has such wide powers.

[Senator Hicks.]

Those are some of the points, honourable senators, that I should like the minister's views on before we give final approval to this legislation. On the whole, this legislation is certainly a desirable step to bring Canada's practices into conformity with those of many other countries, including most of the developed countries of the world. On the understanding that this bill will be referred to Committee of the Whole I indicate my support for second reading at this time.

● (1420)

Hon. Brenda M. Robertson: Honourable senators—

The Hon. the Speaker: Honourable senators, if Senator Robertson speaks now, her speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Robertson: —if no one else wishes to speak on this bill, I shall advise the Senate that arrangements are being made for the minister to appear before the Committee of the Whole tomorrow morning. Senator Hicks will be able to put his questions to the minister at that time. I am sure he will receive favourable responses.

I have nothing further to add. I am sure that the Deputy Leader of the Government will have more to say about the Committee of the Whole later.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robertson, bill referred to Committee of the Whole at the next sitting of the Senate.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this might be an appropriate time to bring our colleagues up to date on what we have discussed in terms of the scheduling of business in this place over the next few days.

Because this afternoon has been allocated to Committee of the Whole on the Meech Lake Accord, we had some concerns about moving government business along. In that light we had talked about the possibility of sitting this evening at 8 o'clock to continue with government business. However, we have found it possible to arrange for the Senate to sit tomorrow morning rather than this evening. I think that will find favour with many senators.

To that end, we have arranged for the Committee of the Whole to hear the minister, the Honourable Tom Hockin, on Bill C-87, and if other ministers are required on other bills that can also be arranged.

I should like to thank honourable senators at this time for their cooperation in this regard, and tell them that with any kind of luck at all we should find a way to handle most of the order paper, at least the government side of the order paper, tomorrow morning. Tomorrow afternoon we can, if necessary,

or if we wish, deal with other items that are on the order paper such as Motions and Inquiries and, if all goes well, look forward to Royal Assent some time late tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Marsden is our spokesperson on the next order, which is debate at second reading on Bill C-97. She has advised that she does not see any reason for committee study of the bill.

The next order deals with Hudson Bay Mining and Smelting Co., Limited. Senator Molgat may have some questions for the minister responsible for that bill. It might be necessary to refer that bill to Committee of the Whole.

I understand that Senators Hays, Olson and Cochrane have some interventions to make on other subjects. We will enjoy those interventions tomorrow. I support the schedule Senator Doody has outlined.

Senator Doody: If I can crave the indulgence of my colleagues for just one more moment, I omitted to mention, but should have, that there is another Excise Tax bill in transit somewhere that deals with a rebate on fuel taxes for farmers. It is in the other place and should be here this afternoon. If it is the wish of the chamber, we could try to deal with that as well tomorrow. I am not familiar with the exact detail and urgency of the bill, but I would not want senators to think that I will be springing that one on them. We have known of its imminence for some time, but it appears at long last to be in transit. Perhaps we will look at it more closely when we get it.

Senator Frith: Excuse me. You are speaking of rebates of excise tax on fuel for farmers and fishermen?

Senator Doody: The fuel rebate for farmers.

Senator Frith: That is true; we discussed that last week.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, with respect to Bill C-97, I take it there would be no objection to having it go through a regular committee procedure—whether it is a standing committee or a Committee of the Whole—because I take the view that that part of the process should be fulfilled, even if it were a brief session.

Senator Doody: There is no problem with that. The minister has been alerted and has agreed to make himself available at our convenience. When we come to that part of our proceedings tomorrow, the minister will be delighted to present himself.

[*Translation*]

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator David, seconded by the Honourable Senator Simard, for the second reading of Bill C-97, an Act to amend the Canada Labour Code.—(*Honourable Senator Marsden*).

Hon. Paul David: Honourable senators, with the permission of Senator Marsden, I would like to respond to the questions I was asked about this bill yesterday by a number of senators in this house.

The answer to Senator Corbin's question is that the Canada Labour Code covers about 600,000 employees. About 1,000 employees, the vast majority of whom are women, are directly affected by this bill.

The answer to the second question is that total expenditures incurred will amount to about $800,000. I believe that yesterday I mentioned this would be $600,000. I therefore want to correct this figure.

The third question concerned the Senate's unionized employees. They do not come under the jurisdiction of the Canada Labour Code and are therefore not affected by this bill.

Regarding Senator Frith's question about the urgency of this legislation, I am told that employees, most of whom are women, are now paying twice the normal contribution to retain their benefit rights while on sick leave or maternity leave. The present situation is therefore unfair to these people. The situation will cease to exist, however, as soon as the Senate has approved the bill and Royal Assent has been given, which is why, according to the Minister of Labour, Mr. Pierre Cadieux, it is absolutely necessary to pass this legislation as soon as possible, which means today or tomorrow.

I imagine that with their usual gallantry, members of the Senate, especially the male majority, will make haste to rectify a situation that is unfair to the female majority of the employees concerned; hence the social and compassionate grounds for the urgency of this bill.

Hon. Eymard G. Corbin: Honourable senators, I have a question for Senator David. Did I understand correctly? Did he say that 1,000 women are affected by this bill? You did say 1,000?

Senator David: That is the figure I was given, Senator Corbin.

[*English*]

Hon. Lorna Marsden: Honourable senators, the case in favour of Bill C-97 seems clear to us.

I regret that I was not in the chamber yesterday to hear the remarks made by Senator David, and in the absence of *Hansard* I have not been able to read his remarks. It does seem to us that the necessity for workers to build good benefits has been well understood for a long time in this country, and, of course, it requires that contributions be made. What this bill does, as all honourable senators know, is require that employers as well as employees continue contributions to the building of benefits while people are absent on maternity or sick leave. As Senator David has said, for the most part that affects women, who are, of course, the people who are away on maternity leave. This bill therefore restores some justice and equity in this important area.

• (1430)

The bill was universally supported in the other place, and it will be our pleasure to support it in this chamber when it comes forward for third reading.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

[*Translation*]

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker: When shall this bill be read the third time?

Senator David: At the next sitting of the Senate.

Hon. Royce Frith (Deputy Leader of the Opposition): It has to be referred to the Committee of the Whole.

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Senator Marsden said that it did not require to be sent to Committee of the Whole.

Senator Frith: But you will remember that Senator MacEachen asked that we follow the usual procedure.

[*Translation*]

Senator David: Does this mean that we are no longer talking about third reading?

[*English*]

Senator Doody: We can move that it be referred to Committee of the Whole at the next sitting.

The Hon. the Speaker: It is moved by the Honourable Senator David, seconded by the Honourable Senator Simard, that the bill be referred to Committee of the Whole at the next sitting of the Senate.

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

Hon. Senators: Agreed.

Motion agreed to and bill referred to Committee of the Whole at the next sitting of the Senate.

[*Translation*]

HUDSON BAY MINING AND SMELTING CO., LIMITED ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator David, for the second reading of the Bill C-98, to amend an Act respecting the Hudson Bay Mining and Smelting Co. Limited.—(*Honourable Senator Molgat*).

Hon. Gildas L. Molgat: Honourable senators, first I should like to thank Senator Simard, the sponsor of this bill, for sending me yesterday the notes he had to prepare the debate on this bill. But as honourable senators would know—as I should have known for having been in the Senate for some time—when one asks for information one must be prepared for an avalanche. So much so that I must admit that this morning I got another document, the famous black book containing additional information. I now have all the information I need. Again I thank Senator Simard because I got his notes much sooner.

[*English*]

This bill, which deals with a very important element of industry in Canada, namely, the health and safety of workers—and in this particular case the workers in a mining enterprise which, as we all know, has some major risks—is an important one in its general terms, but it is of particular importance to my province and to that region.

The Hudson Bay Mining and Smelting Co., Limited and the mine at Flin Flon has a rather interesting background. The mine originally opened in 1927, which means that as of this year it has been open for 60 years. In the mining industry it is somewhat of a record for a mine to be open that long. As we all know, normally in the mining business you have a certain number of years of productivity and then the mine runs out. That is inevitable. However, in Flin Flon, through continued research and exploration, they have been constantly able to find additional mines. Regions considered to have been beyond hope and to have been totally explored—in some cases within sight of the head frame itself—and that were thoroughly covered in recent years, have been found to be mineralized regions, and the mine has continued. But it has the odd attribute whereby, although some of the shafts are on the Manitoban side of the border, some of the mines extend beneath the ground into Saskatchewan. As a result, there has been a constant problem with respect to jurisdiction, in terms of which province was responsible. This bill will solve some of the problems with respect to health and safety.

Honourable senators, I think it is rather unusual that we find before us a bill with which no one disagrees. The union is in agreement; the company is in agreement; the workers have, through the unions, expressed their views, but have not expressed any separate views as individuals; the Manitoba government is in agreement; the Saskatchewan government is in agreement; and here we find the federal government in agreement.

Senator Doody: Let's vote against it!

Senator Molgat: I think it is a rather notable occasion, and this bill should easily receive support from the Senate.

It might be wondered, then, why it is that I would request the minister to appear tomorrow to answer some questions. My reason for doing so is the rather broad question of health and safety of workers. We have to recognize that, by and large, Canadian mining companies do not always operate in just one province; they operate in different parts of Canada. Their workers are very mobile and move from one province to another. With this bill I think we ought to go a further step, and that is to have in place a uniform code across the country. If we want to take care of the health and safety of mine workers, we would be far better off to have one uniform code.

That is what I think the minister should discuss with us when he appears tomorrow. As to the bill itself, I have no objections to it and am prepared to proceed with second reading.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Simard, bill referred to Committee of the Whole.

THE CONSTITUTION

FIRST MINISTERS' ACCORD AND AGREED TEXTS— CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, the Honourable Gildas L. Molgat in the Chair.

● (1440)

The Chairman: Honourable senators, we are ten minutes ahead of our normal schedule. We now await the arrival of the first witness, who I understand is downstairs and will be with us in a moment.

Senator MacDonald (Halifax): Where are the cameras?

Senator Frith: I don't know, but I thank the honourable senator for asking.

The Chairman: Honourable senators, I am now advised that the first witness was driving to his appointment at the Senate, but because of weather is experiencing some delay. He has not yet arrived. Is it the wish of honourable senators that I report progress and ask for leave to sit again?

Senator Flynn: What about the second group of witnesses?

The Chairman: The second group were to be here at 4 p.m. They are not here yet, but we will contact them by telephone to see whether we can move their appearance forward. Is it agreed that I report progress and ask for leave to sit again at 4 p.m.—

Senator Haidasz: Later this day.

The Chairman: —or later this day? Senator MacEachen, would it be your wish that the committee rise, report progress, and ask for leave to sit again later this day?

Senator MacEachen: I so move.

The Chairman: Senator MacEachen has moved that the committee rise, report progress, and ask for leave to sit again later this day. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: Honourable senators, I am now advised that the witness has arrived. Is it agreed that Senator MacEachen's motion be withdrawn?

Hon. Senators: Agreed.

Motion withdrawn.

Senator Flynn: You need the agreement of two-thirds of the Senate to change your mind!

Senator Frith: Honourable senators, I think we should take notice of the fact that it is now "later this day."

Senator MacDonald (Halifax): Honourable senators, I should like to ask Senator Frith a question. I was the only senator on this side of the house who supported the motion in favour of televising these proceedings, and that has caused me some problems with my caucus, who feel that there has been a certain act of disloyalty. Considering the hopes that we had with regard to televising the debate on this important matter, may I ask what has happened? There are no lights, no cameras, no action. Can the honourable senator give us an explanation of why there is this sudden lack of interest in this matter when he and I went to the wall in order to bring the cameras into this chamber?

Senator Frith: Honourable senators, not necessarily for the purpose of relieving Senator MacDonald's probably well earned and well deserved trouble with his caucus, I remind honourable senators that we had always made it clear that we agreed to give access to the television cameras—and that was all we were giving, namely, access. I believe some senators accepted the motion and voted for it knowing that we were not insisting that cameras always be here. Therefore, it seems to me that things have unfolded—as the universe often does—as they should, and sometimes we have had cameras here and at times we have not. I am sure we will have them again.

Senator MacDonald (Halifax): So you would now say that the views expressed by Senator Corbin with respect to the various ways in which they were going to "shoot" senators in the matter of electronic *Hansard* were not really realistic?

Senator Corbin: Mr. Chairman, I should like to add—and I would wish all honourable senators to note—that there is not a journalist, so far as I can see, anywhere in their assigned gallery.

Senator Argue: That's not new.

Senator Perrault: They are listening on their earphones.

The Chairman: Honourable senators, if we are ready to proceed, our first witness has arrived. He is Professor Blair Williams of the Department of Political Science, Concordia University.

Pursuant to order adopted on June 18, 1987, Professor Blair Williams was escorted to a seat in the Senate chamber.

The Chairman: Dr. Williams has provided us with copies of his brief in both languages, and they were distributed to honourable senators yesterday.

Dr. Williams, is it your intention to read the brief or to summarize it?

Professor Blair Williams, Department of Political Science, Concordia University: Mr. Chairman, my plan is to make a few remarks lasting approximately 15 minutes, to allude briefly to what is in my submission, to add a couple of things to that, and then to hear from honourable senators as to what is right or wrong about my thoughts—if that is satisfactory.

The Chairman: Then we will proceed with your presentation and then have questions. Dr. Williams, I welcome you to the Senate. We are very pleased that you have taken the time to discuss with us your views on this most important Canadian matter. I will now ask you to proceed.

Dr. Williams: Thank you, Mr. Chairman. It is my pleasure to be here. I do indeed regard this as a very important and under-discussed issue.

At the outset I wish to say a few things about what my particular perspective is on the Meech Lake Accord. I want to review quickly what is in the submission, which I understand was distributed to honourable senators, to give you the highlights, and then to make a couple of additional points before we discuss whatever is of interest to you in my presentation.

My first concern is with perspective. I have been concerned about the Meech Lake Accord—from the very day that the accord was agreed upon—mainly with the perspective of those people who had brought it to fruition. I am concerned about the short-term perspective in the sense of expediency that surrounded that particular accord, and my concern about the perspective of this accord, the atmosphere, has not abated at all in the intervening weeks and months.

When the accord was agreed to, one saw the Prime Minister and the premiers basically talking about current realities, talking about how this accord sort of adheres to the present political circumstances, to the present political climate. Added to that, of course, were many positive statements about the fact that we had moved from a spirit of confrontation to a spirit of accommodation.

I think that this narrow perspective, this sort of being captured by the present, was also apparent in the joint committee's report and in its deliberations.

It is my view that the Meech Lake Accord was formulated, signed, sealed and delivered very much in an atmosphere that was still dominated by the previous régime, by the Trudeau years; and to too great an extent the Meech Lake Accord is a reaction to that régime, a reaction to the political environment of the previous almost two decades—and, of course, many people, both in the provinces and nationally, found that environment to be offensive.

My problem, therefore, in terms of perspective, of where this accord came from, is that this is the proper perspective, I think, for politicians on the hustings; this is the proper perspective for people who want to change the government; this is the proper perspective for people who want to change the way that things are done. But it is not the perspective of statesmen; it is not the perspective of those who take a long-range view of what our country is and what our country needs—and that has caused me problems with this accord right from the beginning. I have felt that we have been too much imprisoned by the immediate political environment, that it has been written too much by short-term politicians.

[The Chairman.]

My perspective in the document I wrote is somewhat longer-term and tends to look ahead at the long-term consequences. I put this document together in later summer, though I understand that you received it just recently. In the document I put my finger on what I think are two long-term consequences, and I would like to review them briefly with you now. First, I believe that the effect of the accord will render Canada a less tolerant and less accommodating nation in the long term. Second, in the long term I think that this accord will foreclose the possibility of meaningful political reform in this country.

● (1450)

Senator Frith: Mr. Chairman, I appreciate the fact that the witness is giving us, in effect, the structure of this document rather than the detail, but I wonder if he would let us know at what page in the document the point is made so that we may underline it?

Dr. Williams: If I can, I shall try to give the page number as I go along.

My first point deals with Canadian values. It is my belief that over the long term this accord will erode common values and will contribute to forces of disintegration and intolerance in the country. I make the point that one of the pre-eminent problems—and I think many people would argue that it is their pre-eminent problem—and a flashpoint of considerable conflict and violent activity in the world today involves sectarian violence and ethnic violence within the borders of states. In the document I mention a number of situations—Lebanon, Sri Lanka, Fiji, Northern Ireland, South Africa, and on it goes. The major problem that I foresee in these kinds of situations is a lack of common values, a lack of shared traditions, and a lack of mutual understanding. Therefore, there exists an inability to create an atmosphere of tolerance. I believe that the Meech Lake Accord signals to Canadians that the pursuit of common attitudes and common values, such as biculturalism and bilingualism, is less important than the pursuit of, for example, regional concerns. It seems to be saying that it is okay to look inward on a regional basis, and that we no longer have to pay the price or make the effort, if you like, to share Canadian values. Concerns of parochialism, provincialism and regionalism will tend to override the steady move toward national values.

My argument on this point is that if we are going to develop as a truly civil society in which all segments of this multifarious society can get along and genuinely tolerate each other over time, particularly the French and English segments of society, we must have an inspired and far-reaching Constitution that will allow this to happen. We must have as a Constitution something other than a negotiated deal. We must have a Constitution that does something other than simply capture the present. It must be a Constitution that calls for

courage and commitment on the part of Canadians, not simple contentment with their own particular parochial views.

Senator, I am going through these points rather quickly, and it is difficult for me to pick them out in the text.

Senator Frith: That is fine. I am following along.

Dr. Williams: My second point, which I am sure has been stated by many others, involves political reform. I believe that the accord, with its unanimity provision and with its provision for greater powers to the provinces, effectively thwarts meaningful political reform. As a national institution, the House of Commons has come quite a way in recent decades, but, quite honestly, in terms of fulfilling a serious representative role, a serious legislative role, and as a serious check on government, the House of Commons itself has a long way to go. I reckon that this accord will do very little to encourage that kind of reform.

I do not believe that the Senate will be reformed, for reasons I am sure you have heard a hundred times, under this accord. I have read some of the testimony of witnesses from the North, particularly the Yukon, and I know what was said there—that unanimity will prevent reform of the Senate, that we will never see serious reform of the Senate. In my view, what will happen is that eventually there will be sufficient concern, perhaps revulsion and frustration, on the part of the government, and the Senate will end up being abolished, and a great possibility for a serious, legitimate representative institution will be lost. Another reason why I do not think we will have Senate reform under this accord is that Senate reform will steadily be seen by provincial premiers as not being in their best interests. Increasingly, premiers will see that they, more than anyone else, can portray themselves as legitimate articulators and representatives of regional concerns in this country, and they will not want to see that challenged by a truly viable Senate—challenged, incidentally, in ways akin to the fairly admirable fashion that the Senate has been behaving in recent weeks.

The accord further confirms the pre-eminence of provincial politicians over national institutions in its proposal to entrench the third level of government—that is, the First Ministers' conference. I think it is time to take a hard look at what this process means to the Canadian federation. I argue in this paper that executive federalism in this country has gone too far, that this *ad hoc* process we have developed out of classical federalism and cooperative federalism to what we now call executive federalism, where executives get together and have secret meetings and decide what is good for the country, has gone too far. I argue that we have taken a classic Canadian route here and allowed ourselves to be sort of dragged along by "ad hocery" in our institutional development rather than showing wilful reform and rather than trying to create the kinds of national institutions that do what we assume is being done in First Ministers' conferences—that is, harmonizing the various aspects and needs of the nation.

Taking a long-term perspective, I believe that our steady progress as a nation toward a more viable and avowedly democratic nation is impeded by this accord. We are all democrats. Everybody in this room is a democrat. Those of us who think and talk about politics in the Canadian context are democrats. When we are democrats we believe in certain fundamental tenets. It has something to do with political equality and with democratic individual rights. It is sometimes oversimplified to describe a democracy in terms of government by the people, because we all know that government by the people is impossible, that it never has been possible. So what we strive for in Canada and what we try to achieve in every civil western society is a working representative form of democratic government. Surely that is what we are all striving for. What we forget is that as we move toward a more democratic society, or entrenched, meaningful, wholesome, democratic values in a representative sense, it implies that the population has to be more enlightened, more engaged, more involved and more aware. I reckon this accord works against that effort. I think that our progress toward a more worthy representative democracy is affected by this accord.

I think that this accord—and I know that certain people have argued this point—tends to underline elitist trends in Canadian society. I think it tends to stress certain elements, such as executive government, such as the downplaying of legislative assemblies, and such as decison-making in secret, all of which fundamentally work against the flowering of Canadian democracy. Therefore, in general terms, as we try to move in that direction, I think this accord should be judged very harshly by the Canadian people and by this institution. In those terms I see this accord as a step backward.

• (1500)

As a democrat, then, I believe that the people are losers by this accord, and I find that the spirit and the intent of the accord, in democratic terms, is offensive. Rather than taking a bold step forward that involves the people and that opens up new vistas for Canadian democracy, we have taken a step backward.

That brings me to my final point, Mr. Chairman, which again is somewhat beyond what I had to say in my brief, and it concerns western Canada. Although we will, I think, be poorer as a country and poorer as a democracy, I think in patriotic terms we will be poorer as a nation under this accord. On a more pragmatic level, I believe another result of this accord will be that the far-flung regions of this country—and I am thinking specifically of western Canada, which is the region I know best—will lose out. Many people, including westerners, politicians and academics, have been saying that the West will lose because they will not be able to have a reformed Senate; the West will lose because western aspirations will not be articulated through a new and possibly elected Senate. Many of us know and believe these things, but that is not the only reason why I think the West will lose. I think that what will happen under this accord is that increasingly the region of western Canada will not have a place at the national table; that increasingly far-flung regions—and particularly the West—will not have a leadership role to play. What will happen in this situation is that increasingly the signal of the accord and the specifics of the accord are such that westerners

will be encouraged to look inward. They will be encouraged to look at their own concerns. I think they will be encouraged to channel their talents towards their own particular regions and their own particular provinces.

More specifically, I do not think westerners will be encouraged to become full participants in understanding this country. I do not think this accord will encourage the steady emergence, for example, in western Canada of an elite that really understands Quebec. I do not think this accord will encourage the emergence of an elite that will be able to communicate in Quebec or, indeed, communicate with our other founding culture. I believe that this accord will effectively eliminate emerging capable westerners from sitting at the table in major leadership positions.

In my opinion, we have reached a position here in this country where serious leaders in the public sector, in the private sector, in the interest group sector, and so on, who have a sort of pan-national role—an all-Canadian role, if you like—must now be able to accommodate themselves particularly to both of the founding cultures. Under this accord I really do not believe that that will happen in western Canada.

I know a lot of people in western Canada and have spoken to them on this issue. I was there in October and spoke to university students and to a couple of public affairs institutes. First, I find that not many people are talking to them about this matter. I find that not many people are saying to them that under these circumstances there will not any longer be the will—and ultimately, probably, the resources, certainly on the part of provincial governments—to maintain strong programs for student exchanges, for bilingual education, and on and on, which will allow their children and their children's children to be truly part of the national elite in this country and to truly participate in a leadership role in this country. I find that westerners, when they are spoken to about the Meech Lake Accord, really do come to believe that it is not in their interests; that the basics of this accord are not in their fundamental long-term interests as Canadians. When I was there in western Canada, I found that the major objections to what I was saying came from people who believed that, fundamentally, we have already had too much of that anyway; that we have already had a bit too much bilingualism, and have already had a bit too much concern with eastern fish, Quebec problems, and so on and so forth.

My general conclusion, as a westerner born and bred, is that this region will lose under this accord. This region will forever look, perhaps, to the French Canadian elite in Quebec or the English Canadian elite in Quebec or elsewhere for its national leaders if this accord comes to fruition.

In conclusion, Mr. Chairman, this brings me right back to where I started. Fundamentally, I believe that if this country is to thrive, survive and fulfil the role which many of us perceive for it for the twenty-first century it has to build on common values, it has to build a set of shared attitudes, but I believe that everything in this accord points in the opposite direction. Those who would have us turn inward, those who would choose to focus on parochial concerns, in my view, come out the winner with this particular accord.

Mr. Chairman, I will stop there. Thank you.

The Chairman: Thank you very much, Dr. Williams. I have a number of names on my list. First is Senator Marsden, followed by Senator Le Moyne.

Senator Marsden: Thank you, Professor Williams, for your brief, which seems to me to raise a number of questions that we have heard about previously, but which in your brief are posed from a different and very welcome perspective. As a westerner myself, I am in entire agreement with your analysis of the impact this agreement will have on some parts of the community in western Canada.

I would like to ask you one very brief question and then a slightly more substantial one, if I may. On page 6 of your brief, you say:

> The Meech Lake Accord says, in effect, that fundamental rights, guaranteed in the Charter, may be overridden by other provisions which grant powers to regional governments.

There is a large community in Canada concerned about the rights of women. I wonder if you would comment on that, since you do not mention women specifically in your brief.

Dr. Williams: No, senator, you are right. I do not mention them specifically. However, when I wrote that—and again, as I say, this was written in August—I was thinking specifically of the concerns of women and aboriginal people, and so on. I think it is a genuine concern. I have chosen not to focus on a specific sort of juridical analysis and not to approach this as something I am not, which is a constitutional authority or a lawyer. However, I picked up on that point and I regard it as a perfectly valid point. I think those people who are arguing that, with respect to this accord, the Charter should be safeguarded above all else with respect to all of the other provisions in the accord are absolutely right. The fact that they have chosen not to do so in a number of areas is a very disturbing thing.

Senator Marsden: I would like to ask you, from your viewpoint as a professor of political science, to expand somewhat on your views on executive federalism, which you quite clearly oppose. You have been in print a very harsh critic of the Senate at times, and of what goes on within the Senate. Under the current conditions of executive federalism as it operated at Meech Lake—and promises to operate forever after if this accord goes through—if it were possible to bring in Senate reform along the lines on which you would like to see it reformed, would you then be in favour of this accord, or is your opposition to this form of constitution-making so profound that you would even object to it if it reformed the Senate?

Dr. Williams: I have a concern about wanting to reform the Senate, which I also apply to the House of Commons in terms of its representative role. I think there is a big problem in the House of Commons to the extent that it is dominated by the

government and the mythology of responsible government that exists there. However, I will not get into that now.

My concern about the Senate is that if the Senate could be transformed and given the degree of legitimacy that many of us would like to see—getting around the appointments problem and all of that—that is to say transformed into an institution which really did reflect the aspirations and the hopes and the needs of the various regions, this would seriously devalue, if you like, or cause a serious decline in the need for, the extremes of executive federalism. In a sense, executive federalism has tended to fill a void that has not been filled by our national institutions.

What I am saying is that if, in fact, national institutions could become representative in the sense that I see them being representative, if they could become forums for brokering national concerns and for building coalitions that people look to as being legitimate in their own eyes, that would go a long way to dealing with the problems of executive federalism.

Senator Marsden: We knew what Premier Bourassa was asking for when he went into the first Meech Lake conference. We had no idea what the other premiers asked for or, indeed, what they got in the process of that. Is that what you have in mind when you say that this executive federalism has gone too far, or are there other features of it that you think are worse?

Dr. Williams: Remember what I said about democracy. Executive federalism runs against my grain in pure democratic terms. In the extremes of executive federalism that we have today, I do not see normal democratic dialogue. I do not see anything that approaches a normal debate—a progressive and intelligent debate. I see deals being made behind closed doors, and I see leaders who are entrenched in the regional and national level making their play in front of the cameras. I think that is a large part of that problem.

Senator Marsden: It is not a question of the degree. It is a dislike of executive federalism, period, with respect to constitution making.

Dr. Williams: With respect to constitution making, it is not entirely a question of degree. As I say, a good deal of this could be deflected by more credible national institutions.

Senator Marsden: As a political scientist, how do you explain the lack of an outcry among Canadians at the present time about the accord if it is going to do to our country what you and many other people have said it will do?

Dr. Williams: Senator, it is widely said that constitutions are not something that cause people to be inflamed. I was driving to Ottawa this morning with my wife, and she said that one of the problems is that this issue has been totally overrun with free trade. How on earth is it going to be kept alive? That is a problem.

The greatest problem of all has been an abdication of responsibility on the part of our national leaders. The national leaders are the NDP, the Liberals and the Conservatives. Serious people who are in political life in order to lead opinion and in order to stimulate debate have abdicated their responsibility concerning this particular issue. I am involved in a coalition. I am also involved in a peripheral way with a group who are politically involved in trying to keep this issue alive. As you know, many academics are also involved in it. It is very difficult to keep it alive if it is not part of the normal political dialogue in this country. This has not been part of that normal political debate.

I am sure that those of you who are as concerned as I am about this particular accord despair at what the result may be.

The Chairman: Before I call on Senator Le Moyne, I would like to advise that I have six names on my list. Judging from the normal flow of things, I shall cut the list off at this point. I ask honourable senators to keep within the time limit, if they would. Senator LeMoyne will be followed by Senator MacDonald (Halifax).

[*Translation*]

Senator Le Moyne: Mr. Williams, it is a pleasure to welcome you and recall earlier days elsewhere.

Senator Flynn: Better days?

Senator Le Moyne: I am assuming that the bill concerning multiculturalism has been adopted. Do you envisage harmful consequences with respect to the Meech Lake Accord?

[*English*]

Dr. Williams: I am sorry, Senator LeMoyne, I did not hear the first part of your question.

Senator Le Moyne: Let us suppose that the bill on multiculturalism has been adopted and becomes law. If that were to occur, do you see some difficult consequences in the parameters of the accord?

Dr. Williams: Which bill are you referring to in particular? Are you referring to the refugee bill?

Senator Le Moyne: No. I am referring to the bill on multiculturalism.

Dr. Williams: I really do not know how to respond to that. I had not thought of it.

Senator Le Moyne: We may find ourselves with three or four official languages, and this will be a holy mess. That is all that I wanted to say.

Dr. Williams: I had not really thought about that bill vis-à-vis the accord.

Senator Le Moyne: Perhaps my question was premature, but it was a shot in the dark. Thank you.

The Chairman: Thank you, Senator LeMoyne. Senator MacDonald (Halifax) will be followed by Senator Olson.

Senator MacDonald (Halifax): Professor Williams, I know of you by reputation. You were a very distinguished national director of the Liberal Party of Canada. Senator Macquarrie has pointed out to me the bane of an academic's existence is having something quoted back to him.

Throughout your entire discourse the word "elitism" comes through. I do not know where it is that you are coming from. I

would like to refer to your oral testimony, and not your written document. You referred to the reaction to the political environment of the previous regime, underlying the elitist trend in Canadian government. Are you saying that the elitist trend in Canadian government is good or is bad? I missed the whole thrust of that particular point.

Dr. Williams: Senator MacDonald, basically, from my perspective I am saying that it is bad. I believe—and most political scientists will share this view—that Canada tends to be a very elitist country. We tend to leave things to our elites. We tend to defer to our elites and let them make decisions, whether it is in the private sector, the interest group sector or the public sector. In some respects that has caused some of the problems that I see with Canadian democracy and Canadian development. That kind of elitism—that kind of deference to authority—has exacerbated some of the major problems in this country.

I mentioned previously that I come from western Canada. Following the "quiet revolution" I know what a horrible shock the Province of Quebec had. There was an extension of that revolution in the 1970s. So many westerners really did not know what the problem was. This had never been part of the normal Canadian dialogue.

In fact, so much of the government has been left to elites. This goes back to what I was saying to Senator Marsden. We have not had national institutions which accommodated the gut-wrenching feelings, desires and aspirations of all of the regions. We have preferred, rather, to leave that to governments.

● (1520)

What I am saying here is that this Meech Lake Accord is a further extension of that elitism. Fundamentally, I am a populist. Fundamentally, I would like to see less of that. Fundamentally, I would like to see open assemblies where, as I said, we build coalitions, broker our differences, rebuild alliances, and bring our country together with more common values.

My further point is that as we come to understand ourselves as a nation we have to have people who understand and are comfortable with the two founding cultures of this country at the very highest reaches of Canadian government. This accord further restricts the nature of the national political elite. I do not think there is any way on God's green earth that a John Diefenbaker could become Prime Minister today. I do not think that would happen. What worries me—and this gets back to my western Canadian point—is that the route we are going under Meech Lake, and the route we are going with the parochialization of politics, will mean that areas like western Canada will not create the kinds of people who really can lead this nation and be comfortable with the nation in its entirety. Mr. Trudeau made an excellent point on that. He said that the real brains, those with the real ability, will prefer to look inward at their own regions and at their own provinces.

What I am saying is that elitism has been a problem for me right from the beginning. I do not think we have dealt with it as a country. I do not think we have a strong tradition of consulting the people directly. I think the Meech Lake Accord makes it worse; it further entrenches that kind of trend.

Senator MacDonald (Halifax): I believe in April of 1983 you wrote a feature article on the Op-Ed page of the *Globe and Mail* entitled: "Joe Clark—Eager Victim of Politics." Do you remember that particular article?

Dr. Williams: Yes, I do.

Senator MacDonald (Halifax): In that particular article you made reference to careerism in politics. You said that you were an informal adviser to a group of senior bureaucrats between the ages of 55 and 65 who would not offer themselves for politics because they felt that the public, the media and the political parties would not accept them. You bemoaned that fact. I suppose you can reconcile those views you had with regard to the need for elitist candidates?

Dr. Williams: No, senator. What—

Senator MacDonald (Halifax): Improve the quality of the members of the House of Commons. That is what you were advising your group on. You were encouraging them to stand for election because they had something to offer, something above that which was manifested in the elected members of the House of Commons at that time.

Dr. Williams: Yes. I do not think that is at all inconsistent. What I was dealing with then was indeed a group that was far removed from politics. They were somewhat cynical about politics. I do not apologize for that.

One of the things I am sure we all strive to do is encourage able people to go into political life. There is nothing inconsistent in doing that—quite the contrary I would think—and in observing that we tend to have an elitist political culture and that we ought to be working to break down those kinds of barriers. My inclination is to work primarily through national institutions. I do not see anything inconsistent in that.

To say that we want a less elitist society, to say that we want, if you like, a more populist society, is not to say that we do not want to encourage the best and the brightest to go into politics. Surely we do. In fact, I think, if I am right—and I think I am—about the closed nature of Canadian society, about the elitist nature of Canadian society, that that, in itself, is detrimental to that kind of participation.

Political parties, to the extent that they do not encourage people to stand for election, ought to be called to task as well. There are many members of the major parties who are concerned about that and who are trying to do something about that.

Senator MacDonald (Halifax): This may jog Senator Frith's memory, because we dealt with this subject recently, but there is a theory that the elitist candidates will not come forward, because the Canadian public have such a low view of politics that they will not allow a candidate, however qualified he or she may be, to enter Canadian politics without going through a mud bath, or some form of a trial by degradation, which tends to scare off the so-called elitist candidates.

Senator Frith: How did I get into this?

Senator Olson: Where did that definition come from?

Senator MacDonald (Halifax): Mr. Chairman, I have one final question.

Senator Frith: I think that answers my question!

Senator MacDonald (Halifax): There have been rumours recently to the effect that the Liberal caucus of the Senate had come to an agreement—which they were going to check out with the Leader of the Opposition in the other place—by which they were going to recommend the elimination of a veto for this place to be replaced by a six-month suspensive veto on everything. That would be similar to the 1911 House of Lords custom.

As things stand now, there will be nothing done about Senate reform until after Meech Lake and the First Ministers' conference. Nothing will be done. The best ideas in the world will not come forward.

Suppose that the Liberal caucus in the Senate were to adopt that as a matter of policy, as a *modus operandi*, what would you think of that idea? What effect would it have on the management of the other place, knowing that anything that was sent to the Senate would, at worst, be passed in six months?

I should say that this was suggested as an interim measure of improvement.

Dr. Williams: Let me back up a little. I would support a reformed Senate, what I will call a more legitimate Senate in the eyes of Canadians, because that would bring about reform of the House of Commons. In fact, I think we need a bicameral system that really works.

This is a roundabout way of getting back to your question, but in all of that we need a system or a method of preventing deadlock, of getting the House of Commons to respond, and we are really not talking about the House of Commons, we are talking about the government.

We are getting off the subject, but I viewed the Senate's kicking up its heels in recent times as being positive. I think the government has been silly in not reacting more positively to some of the things that have taken place here. I can see in the future—and it may not be through this six-month provision you are talking about, I do not know—a reformed Senate having a positive impact on the House of Commons and its procedures. What we may see for the first time in this country is governments actually changing things because of elected politicians, ordinary trench-warfare politicians, wanting things changed. What we will have, in fact, is a House of Commons that, itself, demands that a government soften its position or that the government change its policies as opposed to the way things are done now. Debate does not happen now, as you well know. Effective debate does not happen in the House of Commons. That is a huge shell game. Policy is made outside the House of Commons, and it is made by the government under normal conditions, which is a majority government.

One of the things the Senate will do in the long term, particularly if it is effectively reformed, is cause a great many people to rethink the House of Commons. Whether the proposal you are suggesting, or which you say is around, will actually do that, I do not know, but I will tell you something else—I think that people, particularly government people, ought not to kid themselves about the Senate and the extent to which people are upset about the Senate on recent issues. I do not think that is the case at all. This gets back a little to our argument about elitism. I do not think people feel that they are engaged.

● (1530)

I do not believe they feel that they are involved, nor do I believe, in this day and age of electronic media, and so forth, that they feel there is a realistic debate on many issues going on in this country. In my experience—having travelled recently in the West and teaching a lot of students—that has hit a fairly responsive chord in this country. I would not suggest that any of these kinds of proposals be rejected out of hand, but if this is a short-term tactic, which means that everything will be delayed for six months, that could be silly.

That was probably not an answer to your question; I wandered all over the map. I have not heard about this plan.

Senator MacDonald (Halifax): It was a fact in the last election. The pollsters agreed—concerning all parties—that in politics in Canada, as of September 1984, there was no such thing as a matter involving solutions to problems or someone getting up and saying, "Here is the solution to the particular problem," because solutions were things which did not work and the Canadian people were tired of them. The entire emphasis was placed on process. Both major leaders ran on process. That was the entire emphasis on which they fought their campaign, if you remember.

The Chairman: The next questioner is Senator Olson, followed by Senator Stewart.

Senator Olson: Mr. Chairman, I have to comment at the outset that Senator MacDonald's hypothesis raising what he knows about the rumours of what the Liberal caucus in the Senate's *modus operandi* might be is really hypothetical. He will have to take responsibility for that, because I have been a member of the caucus for some time and I have never heard of the nonsense that he put forward.

Senator MacDonald (Halifax): It was a *Financial Times* article, and it happened.

Senator Olson: Well, whoever wrote it will have to take the responsibility for it.

Dr. Williams, I would like to refer to page 10 of your written brief. I will not read it all, but down near the centre of the page you say that the Meech Lake Accord will perhaps stand in the way of reform of the Senate to perform with real authority many of the functions that were intended for it from the outset.

I would like to hear you say what you think those are, but I want to say at the outset that there is more to my question

than just to articulate what those functions might be, because in your whole brief you have complained—and I agree with you to some extent—about this "executive federalism" which exists. Further down on page 10 you talk about a "cowered House of Commons" and "an eviscerated Senate," but that the real government and the real policy is set up by the dictates of party disclipline in secret and highly personalized executive meetings.

Bearing in mind what you might say concerning the many functions that were intended from the outset for the Senate, would you also give us an indication of how those functions would deal with the problem that you raised concerning party discipline overriding all of these functions?

Dr. Williams: I think there is something to the sober second thought thesis which has survived over the years.

As I recall from my history, the Senate was intended to offset some fears on the part of the Fathers of Confederation about the extremes of a popularly elected assembly. The Senate was seen to have a role representing various sectors of the community beyond that. Particularly, in those days it was intended to represent property sectors—sectors which were successful, and so on—but in addition, regional concerns. I think these things have lived over time.

Senator Olson: I take it that you are not particularly impressed with the way the Senate has carried out those functions?

Dr. Williams: As an institution, that is right. In my view, the Senate—and as someone here has commented, I have written a lot of times about the Senate in a critical way—as an institution has never been able to live up to those expectations or fulfil what I think is the collective potential of the people in it. I am not just saying that because I am sitting here with all of you. I think that everyone in this institution has the capacity to contribute to this country seriously curtailed by the inherent weaknesses in the Senate in its appointment procedure and, therefore, in its legitimacy in the country in the sense of the legitimacy that people accord to this particular institution. So, you are absolutely right; I am one who stands on that side.

In terms of doing what the Senate should be doing for this country, I think the best thing that was done was the joint committee report in the early 1980s, which was co-chaired by Senator Molgat, and made a whole series of recommendations about the Senate. There is barely a thing in there that I would disagree with in terms of putting the Senate where it should be in terms of a functioning bicameral system.

Senator Olson: I have heard your arguments as well as those of several others that this matter of legitimacy and real authority would be enhanced if we were elected. If we are going down this road toward requiring unanimity, say, for constitutional amendment in the future, the possibility of that happening is diminished to some extent. I think you argued that point in your paper.

The point I am getting at is: Do you believe the Senate could do what was contained in that particular set of recommendations and all of the other aspirations? We could do it now if we just had the will to do it, could we not? We do not really need any constitutional reform if we all wanted to correct the problems that you have raised here.

Dr. Williams: No; but the problem people have put their finger on in terms of doing it now is the right problem, and that is the appointments procedure. That goes to the root of the difficulty of the Senate's actually doing that, and doing it well over time.

Nevertheless, as I said in response to Senator MacDonald, in the last couple of years we have seen more activism out of this institution than we have seen for a long time. I have never seen the Senate so much in the news and, contrary to what Harvie Andre and some other people seem to think, I do not think people are upset about that.

Senator Olson: They support it.

Dr. Williams: In a way, Senator Olson—to get back to where I was before; and this comes around, in a way, to my argument about party discipline—what people are reacting to here is the sudden realization that although the Senate is an appointed body, and may be a sort of authoritarian institution, and may lack democratic legitimacy, and so on, a lot of those attributes can be applied to a government which, after all, does not have to follow the will of the House of Commons.

Let me expand on that point. When we are talking about the Senate, I think that Canadians are not buying the argument right now that this is a contest between an authoritarian, appointed Senate and a populist, elected assembly House of Commons when the Senate does what you are suggesting they could do. I think that Canadians are past that. They no longer see it that way. I think that what they have seen in recent months is a contest between an appointed Senate, which is all those things that they think it is, and a stubborn government, which dominates the House of Commons—a government which is not facilitating very much national debate on such things as the Meech Lake Accord, free trade, and so on and so forth.

• (1540)

I really think that the old argument about the tension and about the Senate's lacking legitimacy in the face of this popular assembly called the House of Commons has come to be questioned by a number of people. That is why I do not think there has been a major rebellion about what has been happening in the Senate lately.

Nonetheless, that does not mean that what you said, in my opinion, is true. I do not think that over the long term the Senate can, through an act of will, become the kind of balanced institution, the kind of offsetting assembly of democratic dialogue, that we would like it to be. You cannot do that just through simple will. There have to be some serious reforms of the way this institution is formulated.

Senator Olson: My problem is that we might have to wait another generation or two if the Meech Lake Accord gets in the way of what you have termed "meaningful Senate reform." Perhaps the evolution that we witnessed, and that you have just described in the last while—and I think it has been

going on for several years—may be second best. Perhaps it is all we can get for a while. It is a case of evolution rather than revolution.

Dr. Williams: You may well be right. I share your view and I have said that here. I do not think we are going to see serious Senate reform under the Meech Lake Accord for all the reasons I mentioned.

I must say—and I assume the people who represent this point of view have met with senators—that there is a view in western Canada, for example, that through what they regard as evolution we may well end up with an elected Senate, which, as you know, is a big issue in western Canada.

I know that when the Meech Lake Accord was first agreed to—and a number of us were trying to get organized to have some sort of a national response to it—I spoke to people like David Elton from Canada West and to colleagues and friends in the West and they said, "Ultimately what we are going to see here—and Don Getty wasn't really as shellac as everyone thought—is provincial premiers asking that their nominees be elected on a provincial basis. Therefore, we will go the route of the American Senate." Through evolution and through convention we will end up having people coming to this place who are elected within the provinces.

What we cannot do as an act of wilful reform will be done in that backhanded way. Lo and behold, in October, when I was in Calgary, there in the *Calgary Herald* was a huge article saying that Ralph Klein, Nick Taylor and Laurence Decore of Alberta were all going to run for the Senate. I do not think that is going to happen. I do not think Robert Bourassa and David Peterson are going to allow that to happen in Quebec and Ontario, but people have these theories, and perhaps stranger things do happen.

Senator Olson: Mr. Chairman, I have many more questions, but I think I have used up my time.

The Chairman: We have seven minutes and three questioners left, so I ask the questioners to limit themselves, and, Professor Williams, I ask you to limit yourself in your replies.

We will now hear from Senator Stewart, followed by Senator Frith.

Senator Stewart (Antigonish-Guysborough): Dr. Williams, you have made a general criticism of elitism, and you mentioned the Meech Lake Accord in that context. From that I understand that you are opposed to closed constitutions secretly contrived, and I can understand that, but I am having difficulty when you say that everything in this accord is likely to promote what I will call—and you did not use the term—"western alienation." Are you saying that the inclusion of the "distinct society" provision in the accord means that bilingualism from coast to coast is likely to be played down, that westerners, and perhaps people from Nova Scotia, will say, "Well, the francophones in Quebec are happy. They can speak French within their own boundaries. We can be happy in Nova Scotia or Alberta speaking English." Is this what you mean, or is this only part of what you mean?

Dr. Williams: Yes, essentially that is what I mean. Essentially I think that the combination of things that are included in this accord have that effect.

In a way, constitutional documents send out a signal to people. They set a context within which we live. I think the context within which this document has been written and is being discussed and promoted out in the countryside is a context which tends to devalue national values; which tends to depreciate the need for a bilingual education; and which tends to reassure us that we need not make sacrifices to understand, for example, in terms of those of us who are English Canadians, how Quebec really works, and that those people who live in the hinterland of Quebec do not really need to understand the rest of the country. I think that there are a host of things which conspire to do that if the "distinct society" is part of that in the eyes of westerners in particular, and I think it is. I think the general assumption, and the generally agreed upon assumption, that this grants much more power to provincial politicians contributes to that as well.

I think that those segments, those elements, in society which fundamentally think it is time to pull back on these things, that we have had too much centrism, and that we have had too much concern with these kinds of policies, are getting some comfort from this particular document.

I think that those people who believe that we need to go further in certain respects, for example, in education policy—that is, those who really believe that we need a national educational policy—find that in many of its elements this document works against their purposes and that they cannot make any headway.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, although I have other questions, I will stop there.

The Chairman: Senator Frith, followed by Senator Hays.

Senator Frith: I will ask just one question. In your presentation I thought I heard a *non sequitur* when you said that this rigid amending formula would make Senate reform difficult, probably impossible, but then to say that it would therefore lead to abolition, it seems to me that abolition would be very difficult for the same reasons as reform would be, namely, that the provincial premiers would never unanimously agree to it, especially under the Meech Lake Accord where they have what amounts to appointing powers.

Dr. Williams: What I am thinking of in that regard, Senator Frith, is that politicians are still primarily responsive to rampaging public opinion. My point is that the concern about reforming the Senate and the evident impossibility of doing that will lead to a degree of frustration which will be fanned by a frustrated government, which may be putting up with a Senate that is starting to show the kind of will that Senator Olson was talking about, to the point that it will become clear across the country—as it has become clear in the provinces before in terms of second houses—that they may say, "Let's be done with it. We cannot agree to reform it." Provincial politicians will never accept it, because they have got it all going their own way, and there is not the will to fight a

national campaign on this. What we will find is—and this is my concern in the long term—that public opinion will support that in virtually every region.

I can see many more reasons why you could achieve unanimity among the premiers to get rid of the Senate rather than to reform it. I guess it would be the accumulated frustration. I think it would be a terrible loss, a lost opportunity.

Senator Frith: Frustration and disillusionment.

Dr. Williams: Yes.

The Chairman: Senator Hays will be the last questioner.

Senator Hays: I will ask only one question. My question is prompted by a comment made last week in Montreal at the Energy Options Conference to the effect that we needed the Free Trade Agreement in its present form to protect western Canada from, in effect, the colonial attitude of central Canada.

As a fellow westerner, I think you will probably appreciate that that feeling is widely held, at least in my province of Alberta. I think that could be addressed by parliamentary reform involving the Senate, which you have talked about, with which I am generally in agreement. Do you see anything short of that? I ask the question because, with the Meech Lake Accord, there is a strong possibility, if not a probability, that this may be what is thrust upon us. Do you see any way of ameliorating that problem, short of parliamentary reform?

• (1550)

I often use as an example earlier times, during King's prime ministership, for example, when that was a reality, but I do not think it was as aggravated then as it now is.

Dr. Williams: In the overall scheme of things, and particularly germane to the Meech Lake Accord, I do not see anything in particular that will ameliorate that. We can obviously elect over time wilful governments and wilful leaders who really take these things into account and deal on a pragmatic basis with some of the problems you have talked about. As I say, however, one of my concerns about the accord is that we are not likely to do that in western Canada—we are not likely to create national leaders to an increasing extent over the generations in western Canada.

The other thing that happens, and is happening now, is that political movements are created. A reform party has been created in western Canada. I must tell senators that I do not know whether it is going to come to very much, but, on some of the issues, I think a lot of westerners will find their position fairly attractive in terms of free trade, Meech Lake, and a number of other things. But these are not long-term kinds of solutions. These are not constitutional solutions. These are not things that, in a sense, offset a basic law which is, I think, fundamentally flawed and which fundamentally works to the detriment of the far-flung regions of the country. I despair at whether those solutions are actually there right now.

The Chairman: Thank you, Dr. Williams. This will conclude our hearing with you this afternoon. On behalf of the committee, I thank you for coming here and sharing your views with us. Of course, I thank you personally because of a long contact with you, indicated by our colleague, Senator MacDonald. I know I will have a difficult time convincing certain senators that your presence here today was absolutely none of my doing. It came strictly through the staff system—

[Dr. Williams.]

Senator Doody: A likely story!

The Chairman: —but I know I will have difficulty convincing them of that.

Senator Frith: I am convinced.

Pursuant to Order adopted on June 18, 1987, Mr. Ernie Daniels and Ms. Anne Chalmers were escorted to seats in the Senate chamber.

The Chairman: Our next witnesses this afternoon are from the Prairie Treaty Nations' Alliance. Appearing as the interim president of that group is Mr. Ernie Daniels. With him is Anne Chalmers, the Coordinator for the Ottawa office of the Prairie Treaty Nations' Alliance. On behalf of all honourable senators, I welcome both of them this afternoon. They have supplied us with a brief, which has been distributed to all members of the committee. I understand that it is their intention to read the brief, after which we will proceed to questions. I now turn it over to you, Mr. Daniels. Please proceed.

Mr. Ernie Daniels, Interim President, Prairie Treaty Nations' Alliance: Thank you, Mr. Chairman and honourable senators. I am from Manitoba and was appointed Interim President of the PTNA just recently, so in terms of some of the comments I would like to make later on I am the new kid on the block. I would like to inform the Senate that our main politicians and technicians, who were supposed to be here today, could not make it because of the Air Canada strike. I apologize on behalf of those people. I will try my best to answer any of the senators' questions, and, if I cannot, Anne Chalmers, our coordinator, will take those questions and answer them in written form.

First, as to the background of the Prairie Treaty Nations' Alliance, it was formed in November 1983 by the chiefs and councils of the 128 bands from the West. I am now talking of the reserves from Manitoba, Saskatchewan, Alberta and northeast British Columbia.

The Prairie Treaty Nations' Alliance represents those peoples who are the direct heirs of the Indian parties to the treaties entered into between their nations and Her Majesty the Queen. Specifically, we represent Indian nations who are adherents to Treaties Nos. 1, 4, 5, 6, 7, 8 and 10. We are a 128-band alliance of Indian nations from across the prairie provinces and from northeastern British Columbia.

The constitutional position of the Prairie Treaty Nations' Alliance was tabled on our behalf at the First Ministers' Conference on Aboriginal Constitutional Affairs held earlier this year. The alliance was denied direct access to that forum, even though it was, and is, the only organization mandated to speak jointly on behalf of the Treaty Indian Nations in most of western Canada.

As we reminded the First Ministers, the Crown has a history of recognizing and acknowledging our inherent and treaty rights. The Royal Proclamation of 1763 is a primary constitutional document that protects our rights. In it King George III confirmed Indian ownership of Indian lands, and stipulated that these could be acquired only by the Crown, and then only with the consent of the Indian tribes affected. The instruments chosen by the Crown to acquire Indian lands were designated as "treaties" rather than as "contracts" or "agreements." Thereby the Crown recognized the capacity of Indian nations to enter treaties.

Treaty-making based on Indian consent was to be the required and sole procedure for the Crown and its agents in dealing with the Indian nations over land or political matters. This process is itself a right, which was denied to us by the very nature of that constitutional forum which had the capacity to impose its views on us without our consent.

The process of treaty negotiations was, and is, that of mutually recognized sovereign nations coming together to establish an on-going relationship. That process and protocol is bilateral in nature between the Crown and the Indian nations, and must be utilized if treaties are to be affected in any way.

The Crown's responsibilities now lie with the Government of Canada, which has assumed exclusively all obligations contained in the treaty relationship. These cannot be delegated to third parties such as the provinces.

Furthermore, the Government of Canada bears trusteeship obligations towards treaty Indian nations, which obligations the federal government has the task of fulfilling. These include measures to ensure the maintenance and development of our societies, cultures and resources. In the past most of the intended legislative and administrative protections for Indian nations have proven to be impotent in addressing our political status, land claims, land entitlements, resource development, property and territorial jurisdiction, treaty enforcement, and the Crown's trusteeship responsibilities.

Before discussing specific effects of the terms of the proposed accord upon these fundamentals of Crown-treaty Indian relations in Canada, we would like to comment upon the role of constitutions in general and upon the division of powers in Canada.

All societies, if they are to continue to exist and progress, require certain basic rules and laws which are universal and equally applicable to citizens and to all institutions of government. Over time these rules and laws have been formalized into carefully worded documents known as constitutions. One function of a constitution is to ensure and preserve the rights of individuals and groups within the state and, on occasion, from the state.

● (1600)

A second function is to limit the power and authority of governments and their institutions so as to ensure that only those powers granted by the people to their government can be exercised. Limitation of powers also serves as a protective mechanism in the event that a government in power attempts to act in a manner detrimental to the interests of the individual, the collectivity or the state. The Meech Lake Accord stands on its head this concept of the limitation of powers. Instead of ensuring that actions of governments are automatically limited to prevent abuses of power, the accord operates from the principle that people of good will in government will ensure the proper operation of the Constitution.

While it may be that at present we have 11 First Ministers of good will, a constitution should necessarily be designed to operate on a long-term basis. Can the Prime Minister and the ten provincial premiers ensure that the elective process in Canada will, over a period measured in generations, always select persons of good will to hold the reins of power in this country? It is, of course, not possible for anyone to give such an assurance. That is why the Constitution must operate from the principle of limitation of powers.

A second general matter on which the Prairie Treaty Nations' Alliance has concern is the division of powers in Canada between the federal government, the various provincial governments, and our First Nations governments. The pre-Meech Lake Accord Constitution ensured that federal responsibility for "Indians and lands reserved for the Indians," set out in section 91(24) of the British North America Act, remained intact and in place. The separation of powers in sections 91 and 92 of the Constitution also ensured that the federal government acted in the national interest and had sole jurisdiction to do so.

We are concerned that the accord impairs this ability of the federal government to act in the national interest. The relationship between the Treaty Indian Nations and Canada flow through the federal government, while historically our interests and those of the provinces have been in conflict. Such continues to be the case. Two examples of this are the failure of the constitutional negotiations on inherent and treaty rights, and the lack of progress on matters such as treaty land entitlements in the prairie provinces. A strong federal government is necessary to protect our interests and rights.

The proposed Meech Lake Accord is contrary to these fundamental principles, and we would like to emphasize three points in the present submission: first, the federal government's being the sole repository of the Crown's obligations under treaty and the trust it entails; second, the exclusively bilateral character of any acceptable process dealing with our relations with the Canadian polity; and, third, the need for our free consent to any measures affecting us. We protest that these principles are not adhered to in the accord or in the process which created it.

The federal government denied Treaty Indian and other First Nations the opportunity of taking part in the federal-provincial meeting on constitutional affairs held at Meech Lake on April 30 last. The accord reached there—subsequently refined, and the subject of your hearing—has serious and adverse implications for the inherent and treaty rights of bands in the Prairie Treaty Nations' Alliance.

Even so, we do appreciate positive aspects of the accord, including its recognition of the rights of distinctive peoples within Canadian federalism and its confirmation of the need for ongoing constitutional discussions.

As did other First Nations in Canada, we called for full participation in this ongoing constitutional process. The request was refused. We therefore appreciate this opportunity to voice in public before this committee our opposition to the major aspects of this closed-door agreement, to the way it has been achieved, and to the long-term negative implications it has for Treaty Indians in Canada.

We would remind you of our past experience of agreements reached in this exclusive way. One example from many is the Natural Resources Transfer Agreements of 1930, which are part of Canada's Constitution. They turned over public lands in the prairie provinces to the provincial governments. There was no Treaty Indian involvement whatsoever in the agreements' creation, enactment or implementation. They have entrenched severe limitations on our treaty rights to wildlife resources and have occasioned extremely serious obstacles to the fulfilment of our treaty land entitlements. Imprecision and ambiguity in the agreements have contributed to the denial to our nations of some 2.5 million acres still owed under treaty. We want no repetition of this kind of federal-provincial decision-making.

This committee is respectfully reminded that Canada's First Nations have gone through four conferences on aboriginal constitutional affairs, beginning in 1983. The interpretation given these events in the report of the Special Joint Committee on the 1987 Constitutional Accord is an unconvincing attempt to whitewash the pitiable performance of the Government of Canada as it tries to blame its incapacity and lack of will on the First Nations themselves. Among other things, we received repeated refusals at those meetings to deal with our rights on the pretext that they are obscure and need definition.

None of this problem with "obscurity" appears to have worried the premiers as they gave speedy assent to constitutional recognition of Quebec's distinctiveness in Canada, or when they spoke of the French- and English-speaking peoples as together comprising "a fundamental characteristic of Canada." Such special pleading and narrowness can only work against Treaty Indian Nations' legal and political rights. It is firmly rejected.

As with much else in the accord, we are dismayed at the conclusions on this matter reached in the special joint committee's report. The document states that:

> There is no comparison . . . between the task set for themselves by Canada's aboriginal peoples—namely, creation of a third order of government—and constitutional recognition in an interpretation clause of Quebec's "distinct society". Among other differences, Quebec already has its governmental powers and jurisdiction spelled out in the Constitution Act, 1867.

Our Nations' governments certainly exercised their powers and jurisdiction at that date, and those were untouched in treaties we made with the Crown. Full documentation was placed before the ministers on this. We place responsibility wholly on the Government of Canada for failing to implement our rights within the political structure of this country.

The Government of Canada has extensive treaty obligations to our Indian Nations, and we are fully conscious that any shift of political or financial power to the provinces brings with it threats to our very existence. The destruction of Indian Nations in the United States through termination of federal responsibilities in the 1950s is a constant reminder to us of the effects of such action and of the irrevocable destruction which it brings.

Along with all of the other attempts to bring us and our land under provincial jurisdiction, we see the accord as being one more stage in the path to assimilation, with implicit denial of our inherent and treaty rights. Those rights must be effectively protected legally and institutionally, otherwise Canada's obligations to us under the Constitution Act, 1982 will be diminished.

In this regard, we are vitally concerned with federal and provincial arrangements in relation to social and economic programs. The federal government used the implementation of medicare to attempt to transfer jurisdiction over Indian services to the provincial governments. Under the present accord, should a province opt out of national programs in areas of its own jurisdiction, there is no guarantee that we would continue to have access to federal programs. That is a major threat to our health, education and other rights.

The Prairie Treaty Nations' Alliance is convinced that provincial governments will use this clause to deny programs and services which are guaranteed to us by treaty. Amendments of this character may allow the provinces to expand their jurisdiction into areas of federal or Indian interest. The programs and services are funded by the federal government, although delivery is through the provinces. Arbitrary action by provincial governments will lead to extremely adverse effects on Indian people.

What would prevent provinces from diverting any of the "reasonable compensation" they would receive from Ottawa away from federally-defined goals? Again, there must be adequate protection of our rights, and it is the federal government's responsibility to provide it. Any discussion of federal-provincial roles in relation to federally-funded programs must be preceded by a resolution of the issues of treaty rights to health, education, social services, and economic development. The present federal government has avoided discussion with us of those issues.

We will, however, continue to demand a direct presence at future First Ministers' conferences. The results of the Meech Lake meeting clearly show that such conferences have a direct impact on our inherent and treaty rights, and that only by our full involvement in this process can they be protected in a satisfactory way. However, we are concerned that the accord's provision concerning unanimous consent will make it virtually

impossible to pass constitutional amendments to enhance our rights in the Constitution.

• (1610)

In keeping with the bilateral nature of the Canada-First Nations relationship, a meeting must immediately be convened between the Prime Minister and the Treaty Indian Nations to discuss our treaty rights, and their place within the Canadian Constitution, including the Constitutional Amendment, 1987. The objective must be clear constitutional recognition of ourselves as distinct societies with distinct identities in Canada. The Prairie Treaty Nations' Alliance affirms that all Treaty Indian Nations must be recognized in this way. They are unique politically, economically, socially and culturally. The Prime Minister called the accord an historic agreement which completed Canada as a nation through the inclusion of Quebec. He conveniently forgot the whole question of inherent and treaty rights. Until our rights are properly recognized and entrenched in the Constitution, and until they are implemented, Canada will be incomplete. The nonderogation clause in section 2(4) of the proposed amendment must be expanded to include the powers, rights and privileges of Treaty Indian governments, and not only those "of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

On the matter of the appointment of Supreme Court judges from lists provided by the provinces, we note that hostile provincial governments will not be able to stack future Supreme Courts with judges who would be inclined to give provincial interests preference over our inherent and treaty rights. Further, our participation must be guaranteed in the annual conferences on the economy and other matters, and in the constitutional conferences. These are of major significance to us. Senate reform and fisheries are on the agenda for the latter conferences. The two topics are particularly important to the First Nations.

The Senate has always had a regional character, and most proposals for reforming it aim at strengthening its role as representative of regions or groups. Prime Minister Diefenbaker appointed the first Indian senator, James Gladstone, because of a concern about the lack of Indian representation in Canada's central institutions. Since that time there has been a conventional practice of having First Nations represented in the Senate, and, as you know, there are currently three First Nations' senators. There have, over the years, been frequent discussions on the idea of special representation for First Nations in the Senate and the House of Commons.

Fisheries is clearly a subject of direct concern to the treaty nations. The western treaties all protect hunting and fishing rights. The Sparrow decision of the British Columbia Court of Appeal of December 1986 indicated that certain aboriginal rights to fish remained in existence and were protected by section 35 of the Constitution Act, 1982. That decision clearly requires a reform of fisheries management which will involve the First Nations and the federal and provincial governments.

While this amendment regarding annual conferences may allow for future constitutional conferences on inherent and treaty rights, it would be immensely improved were a clause added to require that these conferences be held. We agree with the special joint committee that a timetable and serious work plan should be established "to prepare for a further Constitutional Conference (or conferences) on Aboriginal Self-Government."

The proposed bilateral meeting with the Prime Minister, for which we request your support, must have on its agenda the appointment of a treaty commissioner. This officer would have a mandate to hold hearings and report on the federal government's performance on our inherent and treaty rights, and on what redress should be forthcoming where those rights have not been upheld, whether in constitutional or other areas. This would include a review of the government's claims policies and the development of proposals for their reform in a fair and just fashion. An agreement on such an office would issue from the bilateral treaty process, an existing process to which the federal government should demonstrate its proper commitment. The constitutional amendments of 1982 and 1983 equated "land claims agreements" with treaties, and so explicitly recognized the continuing amenability of our rights to consensual modification or clarification.

The Parliament and Government of Canada, through responding to our submissions, would be recognizing this fact, that the treaty process has never been terminated in Canada. Thank you.

The Chairman: Does Ms. Chalmers have anything to add?

Ms. Anne Chalmers, Co-ordinator, Ottawa Office, Prairie Treaty Nations' Alliance: No, thank you.

Senator Stewart (Antigonish-Guysborough): As I understand it, a major thrust of your presentation is that matters relating to Indians, such as lands reserved for Indians, and matters which come under the treaty rights of Indians could be eroded. One way this could happen is by what I call an indirect transfer to provincial governments. You refer to this kind of transfer on page 10 of your brief where you talk about health programs, education programs, and the like. I think you make a very good point there. What I would like to know is: Are you fearful that there will be an attempt to make a direct transfer of matters relating to Indians and their lands to provincial governments, and, if so, do you have some evidence that this action is contemplated or planned? Could you give us something specific so that we would know the kind of thing of which you are afraid?

Mr. Daniels: First, let me give you some background. Those people who were around the Senate and the House of Commons in 1969 will know about the white paper on Indian people presented by the then minister to the government. Indian people have fought tooth and nail against that white paper. Under the current government the Honourable Erik Nielsen took on the task of the "buffalo jump," as we call it. We see the buffalo "jumping" by virtue of the fact that some deputy ministers have been meeting with provincial govern-

ments—particularly with the Government of Manitoba—to discuss such areas as education, housing, and social services. I do not have any documentation to support this exchange, but we know that it is happening.

Senator Stewart (Antigonish-Guysborough): To ask you a more general question, I have heard the argument made that in 1987 Canada is not nearly as strong an economic country as it was 20 or 30 years ago because of changes in the world economic order. If Canada is going to compete effectively in the world of 1988 and 1989, we have to change our ways and our expectations. For example, we have to make a trade arrangement with the United States, and we will have to get rid of a lot of the impedimenta, the weights that make it difficult for us to run fast. One of these weights, for example, that I have heard mentioned is unemployment insurance for fishermen. I am told that another of the weights we would have to abandon is regional economic development, and yet another one is the special requirements on the Canadian government, and therefore on the Canadian taxpayer, with regard to the Indian people.

The argument is made that, one way or another, we have to lighten our runners' load so that they can compete in the world economy. Is that an argument that you have heard, and is it an argument, insofar as it applies to your people, to which you would give any weight at all, or do you simply say, "These are our rights, and we do not care what the long-term application of fulfilling these rights will be for Canada competing in the world of 1987 and 1988"?

● (1620)

Mr. Daniels: Senator, that is a good question. First of all, we do care about Canada. We do care about the people of Canada. However, we have always maintained that in our treaty and inherent rights we never gave up our natural resources. We have also made statements to the Government of Canada in terms of telling the taxpayers of this country to keep their tax dollars. Simply give us our fair share of the revenue emanating from the natural resources of this country. In that way you will recognize our treaty rights. In that way we will not be a burden on the taxpayers of this country.

The Chairman: Before I go to the next questioner, who is Senator Fairbairn, I wonder if I might ask you a question, Mr. Daniels. You indicated that you were fairly new in your position. Were you involved in the aboriginal conference that took place last March with the federal government?

Mr. Daniels: Senator, the answer is no, I was not involved.

The Chairman: Very well, I will not proceed with further questioning in that regard. I will then call upon Senator Fairbairn, who will be followed by Senator Marsden.

Senator Fairbairn: Mr. Daniels, in your brief you make the point that responsibilities for native people cannot be delegated to third parties; that means that that responsibility cannot be delegated to the provinces. In your opinion, does the Meech Lake Accord, with its unanimity provision, in effect, delegate responsibility for native people to provincial authorities, in view of the fact that, as I understand it, from now on, in order to discuss your future there will need to be unanimous consent from all of the provinces and the federal government?

Mr. Daniels: Senator, we have always maintained that the relationship of the Treaty Indian Nations is with the federal government, and that no rights in dealing with us should ever be affected by provincial consent. That is the stand of the Prairie Treaty Nations' Alliance, and we see the Meech Lake Accord as doing that against our will and without our participation.

Senator Fairbairn: Mr. Daniels, at the very beginning of your brief you note that the Prairie Treaty Nations' Alliance was not permitted at the table at the First Ministers' Conference on Aboriginal Constitutional Affairs held in March. How does your association deal with the federal government? Do you deal directly with the Minister of Indian Affairs and Northern Development, or do you deal with the Prime Minister through his office? In other words, how does your communication with the federal government work?

Mr. Daniels: Senator, in 1985 the Prairie Treaty Nations' Alliance had a meeting with the Prime Minister in which we set out our demands for recognition and, hopefully, implementation of the bilateral process between the Treaty Indian Nations and the Prime Minister. However, as you and I know, the trust obligation, or the trusteeship of the Indian people, rests with the minister's office of the Department of Indian Affairs, and that is who we have mainly been dealing with in communications between the Prime Minister and ourselves to date.

Senator Fairbairn: In other words, you deal through the minister's office.

Mr. Daniels: Yes, and I don't know why, but the Prairie Treaty Nations' Alliance has been experiencing difficulty. The minister appears to ignore requests for meetings. To date, he has ignored the funding of PTNA. We have been on our own since 1984 with no government funding whatsoever.

Senator Fairbairn: That leads, then, to my next question, which you may have already answered. Has anyone from the government sat down with you or any of the membership of your association to discuss the Meech Lake Accord since it was signed in June? In other words, has anyone communicated with you to explain the accord or discuss it or to make suggestions to you?

Mr. Daniels: Senator, the answer is no. However, that has been the history of the government in the FMC process, and that has also applied on the Meech Lake Accord. Also, I do not think we were consulted on the aspects of the Free Trade Agreement which will affect us.

Senator Fairbairn: I have a final question, Mr. Chairman.

Mr. Daniels, in terms of future constitutional discussions on aboriginal rights and on aboriginal self-government, we have been told that the federal government is not really interested in further conferences such as those that have been held since 1983 unless it knows in advance that there will be some kind of agreement. There has been a suggestion that that level of

discussion, perhaps, is not needed; that there are other ways of talking to the leadership of the native people on these issues. Do you accept that? Do you feel that your march towards understanding and acceptance of some kind of self-government that will be entrenched in the Constitution can be conducted at a lower level than a constitutional forum?

Mr. Daniels: Senator, I cannot speak for the Inuit or the Metis or for AFN. I can only speak for the PTNA. I do not know what has been happening in this regard; I do not know if any progress has been made toward another First Ministers' conference. However, our treaty position has always been that there is a process currently in place, which is a bilateral process, as a result of our treaties with the Crown and with Canada. That is a process in which we believe and a process that we want to follow.

Also, in relation to the issue of self-government, we have always stated that we never gave that up; that it was an inherent right. Therefore, for the government to now entrench the right of Treaty Indian Nations to self-government is superfluous. We already have that. We are saying to the government: "Just give us the recognition and the revenue to go along with it, and we will implement our governments."

Senator Fairbairn: However, as I understand it from you, that bilateral process has not been working too well, if at all.

Mr. Daniels: Senator, that is true.

The Chairman: Senator Marsden?

Senator Marsden: I would like to begin by saying to our witnesses that this is a most interesting brief, and I would like to thank you very much for it. You have raised a great number of new points which we have not heard before, and your brief is very helpful indeed.

I wonder if you would be willing to elaborate on a question which your brief raises in my mind in relation to the more general concerns of Meech Lake. By that I mean not only the concerns which you have as representatives of native people. On page 4 of your brief you talk about constitutions serving the function of ensuring and preserving rights of individuals and groups within the state. On page 7 you say that the positive aspect of the Meech Lake Accord is the recognition of rights of distinctive peoples within Canadian federalism.

I understand both of those points separately one from the other. As you know, a great many people within Canada—women in particular—fear that the "distinct society" clause in the Meech Lake Accord will override their rights as individuals under the Charter. With respect to native people, how do you see the situation? Would you expand on that point?

Mr. Daniels: Thank you for the compliment respecting our brief. We worked many hours in preparing this document for the Senate, because this is the first time that we have addressed this forum.

I would have to take that question back to the more experienced politicians in the association. At this time I cannot intelligently give you an answer.

Senator Marsden: I would be interested in anything you had to say on that, either in writing or by phone.

I would like to ask one final question. You talked about the potential movement of health and education with respect to native people from the federal domain to the provincial domain. Do you have anything to add in terms of the child-care proposals? The new child-care proposals are being negotiated under what some people call the Meech Lake "spirit". I would be interested in your comments on that.

Mr. Daniels: Child care is something that is very close to me. The people from the reserves that the alliance represents have talked about this in one form or another. We had asked the Minister of National Health and Welfare, Jake Epp, to ensure that native people be recognized. I was very happy to hear from his staff that there is a provision for programming and for dollars in terms of child care. That is the first time that this has happened since I have been involved in politics. This is a significant step towards having native children taken care of by their own people.

The Chairman: The next senator on my list is Senator Watt. Senator Fairbairn has indicated she would like to ask further questions in a second round.

Senator Watt: I would like to welcome you to the Senate. I would like to ask a question that is related to a question that was asked a few minutes ago. My question relates to the passing of the trusteeship of self-government to the aboriginal people. From my reading of the Meech Lake Accord, even the placing of such an item on the agenda of a First Ministers' conference requires provincial input. If the Meech Lake Accord is proclaimed in its present form, the unanimity provision in that accord will apply, and therefore the ten provinces will be involved before any bilateral process begins to take place. Do you not agree that that would endanger the status of the aboriginal people in this country today? In other words, the Government of Canada, through the Meech Lake Accord, has relinquished its responsibility for the aboriginal people. Is this your interpretation, or am I wrong?

Mr. Daniels: Senator Watt, it is a pleasure to meet you today. We have stated in our brief that we are opposed to having the provinces involved in issues that affect our lives politically and culturally. That is why we are making the strong statement urging that the Prime Minister undertake a conference with the Prairie Treaty Nations' Alliance in the West to ensure that the bilateral process is alive and well. That is the opinion of the chiefs I represent.

Senator Watt: My next question relates to the fact of aboriginal people being completely left out in this process. In my opinion, that is unjust. I think the government is misleading the general public of Canada, and, as an aboriginal person, I strongly sympathize with you.

The native people were the first people in this country, and it seems as though the government constantly wants to keep pulling the rug out from under their feet. It was perceived by the general public and by the First Ministers that it was very important for Quebec to be brought into Confederation. Are

we not in the same predicament today that Quebec was in at that time? At present aboriginal people are left out in the dark and have to be brought into Confederation. Do you agree with that?

Mr. Daniels: Senator, I cannot speak for the Métis or Inuit people of this country. However, I agree that they have been left out. The aboriginal people were at the First Ministers' conferences by invitation only. They have to be given full participation—full voting privileges and veto power—in issues that affect their lives. The Prairie Treaty Nations' Alliance is requesting that the Government of Canada protect and enhance the treaties that were signed by our chiefs and councils in the 1870s. Again, the aboriginal people are outside looking in, as you have stated.

The Chairman: Before I call on Senator Fairbairn, Senator LeBlanc (Beauséjour) has some questions.

Senator LeBlanc (Beauséjour): I read with considerable interest what you had to say. On page 13 you say that one of the eventual conferences, assuming that the Meech Lake Accord is approved, would be a constitutional conference on fisheries. You say that fisheries and Senate reform are important, but who will advise you on fisheries? The management of the fishery on the prairies, particularly on the northern prairies, is handled by the provinces. There is a delegated arrangement by the federal government, as is the case in northern Ontario and Quebec, which, of course, are important areas for native people. Who will speak for you when the issue of fisheries is discussed, because they will not discuss quotas or sanitation, but jurisdiction? They will not discuss delegated jurisdiction, I assume, but permanent jurisdiction. Who will speak for you in that case?

● (1640)

Mr. Daniels: That is a good question. If I were a lawyer I could answer that question. I will have to take that question to my elders and my chiefs. I will get back to the Senate on that.

I would say that the responsibility for the trust relationship was given to the Minister of Indian Affairs and Northern Development on our behalf. I hope he would speak on our behalf. If not, we will speak for ourselves in whatever forum, but we will not have the provinces speaking on our behalf in that area.

The Chairman: Senator Fairbairn on a second round.

Senator Fairbairn: Thank you, Mr. Chairman, for allowing me a second round, because I left out a question regarding a very important part of the brief.

At page 14 you talk about the appointment of a treaty commissioner being part of any ongoing bilateral discussions with the Prime Minister. That is an interesting thought. Is this a new concept, or has this been discussed in the past? Is this something that will be on the agenda if you do get invited to a meeting?

Mr. Daniels: That is a very good question. It has been part of our discussions for a number of years. We asked the Prime Minister to consider the proposal. He had instructed the Minister of Indian Affairs and Northern Development and the Minister of Justice at that time—which was in 1985—to get on with that work, but no follow up has been done by the other side. In that regard, I am talking about the government of the day.

Senator Fairbairn: There has been no response to that proposal over the past two years.

Mr. Daniels: Right.

Senator Fairbairn: I should like to make one observation. Many of us in this chamber have been discussing over the past year and a half—and we will try to follow up those discussions with action—setting up a committee of the Senate that would deal exclusively with native issues. I hope that can be moved ahead in the near future.

Mr. Daniels: Thank you, senator. We have been told by the Standing Committee on Indian Affairs that a special committee should be set up to monitor Indian issues in this country. Your opinion will be received positively by the people I work for.

The Chairman: Thank you, Senator Fairbairn. I have no other names on the list of questioners. I thank Mr. Daniels and Ms. Chalmers for appearing before the committee.

I note that in your introduction, Mr. Daniels, you properly pointed out that you are from Manitoba. I wish you a special welcome in that regard. I am sure my colleagues would agree.

Some Hon. Senators: Hear, hear!

The Chairman: Honourable senators, while awaiting the next group of witnesses, I have an announcement to make. The Standing Senate Committee on Internal Economy, Budgets and Administration will meet tomorrow morning at 9 o'clock, not 8 o'clock. A notice will be circulated, but for those honourable senators who are concerned about that meeting this gives some advance notice.

Senator Doody: I did not think we were allowed to conduct Senate business during Committee of the Whole.

The Chairman: That is not Senate business, simply—

Senator Doody: It was an unpaid commercial!

The Chairman: —a casual notice at no charge.

Senator Frith: And a filler!

Pursuant to Order adopted on June 18, 1987, Mr. M. Gordon and Mr. S. Silverstone were escorted to seats in the Senate chamber.

The Chairman: The next witness this afternoon is Mr. Mark Gordon, President, Makivik Corporation. I welcome Mr. Gordon to the Senate. Mr. Gordon has kindly submitted a brief in both official languages. We have had that brief distributed to all senators.

In view of the length of the brief, I presume you intend to summarize it so that we will have time for questions. We have one hour at our disposal for this portion of the meeting.

I notice that you have someone accompanying you. Would you mind introducing your colleague, please.

Mr. Mark Gordon, President, Makivik Corporation: Mr. Chairman, accompanying me this afternoon is Mr. Sam Silverstone, the attorney for Makivik Corporation.

The Chairman: Would you please proceed, Mr. Gordon?

Mr. Gordon: Thank you, Mr. Chairman and honourable senators. I am not going to go through the brief in detail, because I believe it stands on its own. I will highlight some areas of the brief and simply summarize it. I will also try to explain for the benefit of the Senate what sense of urgency the native people have over the Meech Lake Accord, and also explain to honourable senators that our issues are not being adequately dealt with at the present.

First of all, I should like to make some general comments about the development of human rights. Human rights, up to now, have been based primarily on the protection of individual rights.

Senator Frith: Would the witness please tell us again who he is and whom he represents?

Mr. Gordon: My name is Mark Gordon, and I am from the northern Quebec region. I represent the Inuit of northern Quebec.

Senator Frith: What is the Makivik Corporation?

Mr. Gordon: That is an entity that was established to administer the heritage funds we gained through the James Bay Agreement. This corporation has the dual role of being the caretaker of the heritage fund and being legally responsible for the protection of the rights of our membership.

Senator Frith: Do you represent one group? Do you represent the Cree?

Mr. Gordon: I represent all of the Inuit of northern Quebec.

Senator Frith: Thank you, Mr. Chairman.

• (1650)

The Chairman: And none of the Inuit groups in northern Quebec is outside of your group. You represent all of them.

Mr. Gordon: Yes.

Senator Frith: All of the ones who were involved in the James Bay settlement?

Mr. Gordon: Yes.

The human rights development has been based primarily on the protection of individual rights. Canada has been one of the leaders in that development in the world, along with some other major western countries.

We believe that there is a natural extension of the development of human rights beyond merely protecting individuals—which is an important element. Protection of human rights must lead to the next logical step of protecting the rights of small minorities, of which we are one. The area of human rights has to evolve to a point where it protects the rights of small minorities in larger collectivities. This development is going on not only in Canada but also elsewhere in the world. Conferences have been convened in Geneva by the United Nations to deal with this issue, and in Canada there has been some development of aboriginal rights, which is a part of this process, where small societies would receive protection in larger countries through constitutional and other means. Canada could be an important leader in this development in other areas of the world as it was with the protection of individual rights.

When we talk more precisely about the Meech Lake Accord, the native people not being placed on the agenda, and the fact that the government presently has put us low on their list of priorities of issues that have to be dealt with, I would like to point out to senators that we have been put into a sort of legal twilight zone when we are dealing with our basic rights. I would like to cite a few examples of this.

Because the constitutional process stopped without resolving these issues we are left in a twilight zone when it deals with some of the basic legal rights of individuals within our societies. Some areas are being left open to interpretation, or with absolutely no legal protection for our rights. First is the area of family law. In this area many of our normal practices in family law are considered to be nothing more than customs, and do not have the full protection of the law. There are now instances where native people in the area of customary adoptions are running into legal snags, because we have not been dealt with in the laws of this country merely because of the different cultural context that our customs come from.

In the area of adoption, we often do pre-arranged adoptions within the extended family. In one instance a person was taking a child from one of his relatives in Labrador to Quebec. Because our customs are not protected under law, the poor gentleman who was transporting this child on behalf of some relatives—he was bringing the child to another group of relatives in Quebec—was stopped at the airport by the police, who asked him where he was taking this child, and why he was taking the child out of the province, when it was perfectly accepted by both families that this child was to be given to the other family, according to our customs. The customary practice is accepted in Newfoundland, Labrador and northern Quebec, but the mere fact that he crossed the provincial boundary left him stranded and open to be questioned by the police as to what he was doing with that child. It took some time for that incident to be settled.

Other areas that are left in ambiguity are such things as property law. Under native rights as they are now accepted, much of the land is held collectively. In the case of the Indian people, it is held in reserve by the federal government. But the notion of collective rights is strong—even the way the federal government administers it. In the case of the Inuit from northern Quebec, we hold those lands collectively through a village corporation which administers those lands for the collectivity.

Here is the problem with that. Now that we have the protected right of collective ownership to land in the Constitution, what happens to the individual who happens to build a

cottage or a small building on that property? Does the community have the right to expropriate the property of that individual with no compensation? As the law now stands the individual would not have any right to compensation, because the lands are held collectively by the village. So, even within our own society we are left with many ambiguities such as this, which will create many incidences of injustice in the future as well as those that are beginning to happen now.

In the area of criminal law, in many instances our culture is forced to export its community problems to have them solved by another society. By having this situation people are no longer accountable to the elders in their own community as they should traditionally be. They do not feel that they are being punished for their crime in their own communities. The questions of whether someone committed a crime and what kind of punishment would fit that crime are determined externally from the community entirely. Native people do not feel that they are being allowed to be responsible for their actions in the community. This extends to areas of civil law and at the municipal level, but I also believe that this principle should be extended to areas of criminal law. This area has not been dealt with in any fashion whatsoever at this point.

In culture, education and language we are left at the mercy of the provinces and the federal government. Even though the vast majority of the people in my area are unilingual Inuit—and today we can conduct most of our business activities entirely in our own language; we have computer programs that are also in our own language—we have no rights to exercise our language. This is the case even in communities where over 95 per cent of the population is Inuit, and well over half of them are unilingual Inuit. Under the laws put forward in this country we are forced to conduct our business, in many instances, in languages other than our own. Therefore, the leaders of our communities—who are the elders in most instances—have no way of being a part of it. Only those who have attended the white schools and had some education, such as myself, have an opportunity to participate in this country at the local, regional and municipal level. This situation has improved somewhat in the last few years—especially in northern Quebec since the James Bay Agreement. However, we need to be able to regulate, control and make laws in those areas that are vital to our survival as a distinct group in this country. Those areas are in culture, education, and language rights.

I was part of the constitutional process from the beginning, until it ended recently. First, we started to talk about the idea of a charter of aboriginal rights. "Aboriginal rights" did not mean one right, the right to self-government. That was one very important right on a list of many other important rights.

● (1700)

Even if we were given the right to self-government, we would need constitutional protection for the individuals within our own society in the Constitution. You cannot simply apply the Charter of Rights and Freedoms and say, "There, the individuals in your society are protected." We have to develop a charter that will protect not only collectivity in the Constitution but also individuals within those collectivities, with their own particular nuances and those that are particular to our culture.

Those are the many areas where we are left in what I would call a legal twilight zone, because we no longer have a process to deal with them. We no longer have a way to begin to deal with the governments and to clearly articulate what our rights are.

If tomorrow someone were to sue the Band Council, because their private property that their family had built two generations ago was to be expropriated, they would have no right to legal recourse. They would be expropriated without compensation.

These are some of the rights that are not dealt with. These issues will very quickly arise within the native community of Canada. We need a process to help us articulate these concerns and to have them recognized in law. Some rights can be achieved through legislative means, but we will always be left with the problem of having to take our ideas to another government and hope that they accept them. We have to be given the right to legislate in some of these areas.

Other areas must be beyond legislative authority of even our own self-governments, because they will also deal with the protection of the individual or small collectivities within our own society. Those protections could also be clearly entrenched in the Constitution in the same way as individual rights have been entrenched in the Constitution to protect the rights of individuals from governments. We require the same kind of protections from our governments in aboriginal communities. We need a process which deals with these two levels.

In terms of non-constitutional items, we need a forum where we can begin discussing the laws and regulations that we need, and to clearly articulate what rights we need to have protected in the Constitution.

The Chairman: Thank you very much. So far one senator has indicated that he wishes to put questions to the witness, Senator Stewart.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman. My question is one which seeks to clarify your legal or constitutional position. As I understand it, you are Inuit who live within the boundaries of the province of Quebec; that is to say, the boundaries which Quebec has had since 1912. We know that under section 91 of the Constitution Act, 1867 there is a specific provision which says that Indians and lands reserved for Indians come under the legislative jurisdiction of the Parliament of Canada. Will you tell us what constitutional provision applies in the case of the members of your group?

Mr. Gordon: As I understand it, this issue, in particular in Quebec, was settled in 1939 between the federal and provincial governments. Sometime before 1939 the Inuit in northern Quebec were starving and dying off in great numbers. The Hudson's Bay Company, which was the only entity around at that time, gave food to the Inuit people in northern Quebec, and because of that they went back to the governments and

said, "Who is going to pay this bill?" I think it was a little over $2,000. Because the two governments could not agree as to who should pay, they went to court. The court finally came out with a judgment in 1939, which is referred to as "Re Eskimo." This judgment stated that we were not Indians, but, for the purposes of the Constitution, we were Indians and that we were clearly covered under section 91.24 of the Constitution Act, and therefore we would fall under the fold of the federal trusteeship.

Senator Stewart (Antigonish-Guysborough): Are there clearly defined territories or lands which are reserved for your people and which, consequently, would come under section 91 of the Constitution Act?

Mr. Gordon: The Inuit would like to think that any place that is too cold for anybody else is ours, but, having said that, what we identified in northern Quebec, through the James Bay Agreement, were areas that are clearly marked out. They have been selected, they have been the subject of legislation, and they have been set aside for ownership by the Inuit. Each village owns a block of 243 square miles plus an additional amount of land on which they have exclusive hunting rights.

We opted for provincial jurisdiction over the land so long as those lands could not be sold, alienated or expropriated, except to the province if they were to be sold, alienated or expropriated.

We do have land, but we do not have the reserve system which Indians have. We own the lands ourselves through the corporate entity that represents the entire community.

Senator Stewart (Antigonish-Guysborough): If I have understood you correctly, then the situation is a mixed one. On the one hand, as a consequence of the Re Eskimo case, the people come under section 91 of the Constitution Act and, thus, under federal jurisdiction, and, on the other hand, the land, according to what you have said just now, comes under provincial jurisdiction except insofar as that is modified by the terms of the agreement to which you now referred, is that correct?

Mr. Gordon: Yes. The James Bay Agreement made it clear that the lands would come under provincial jurisdiction. We had the option of negotiating for lands under federal jurisdiction or lands under provincial jurisdiction. We negotiated for extra protection for that land and opted for provincial jurisdiction, because the province could give us more square miles.

If we had opted for federal lands, they would have given us a smaller piece of land. We ensured that we were given the same kinds of protection that are given to federal reserve lands, but we put a provincial label on it so that we could get more real estate.

Senator Stewart (Antigonish-Guysborough): The previous witnesses, who represented a group of Indians, are concerned that certain matters such as education, health care, and housing, which are now dealt with strictly by the Government of Canada, may, under the Meech Lake Accord, gradually be passed over to provincial jurisdiction. Does that kind of concern arise in your case? If not, why not?

• (1710)

Mr. Gordon: In our case the James Bay Agreement settled many of these areas of concern dealing with basic services such as health, education, housing, and other services in northern Quebec. This predated the constitutional amendments dealing with aboriginal rights. We ended up with an education system which is, for the most part, under the provincial government, but which is funded at the rate of 25 per cent by the federal government. We have a health system which is almost entirely under the provincial government, but to which I understand the federal government contributes a substantial amount by payments to the province anyway. I believe that the housing system is one under which a 25 per cent share is paid by the federal government and a 75 per cent share is paid by the provincial government. All of this is administered through a regional government and other boards that have been established through the James Bay Agreement, which gave us autonomy.

The other Indian and native groups would be very nervous, because they have not been given the opportunity to establish administrative structures by which to exercise autonomy. The federal government has not given them autonomy, and is now planning to give control over their lives to another government entity, which they will have to spend the next 50 years educating. Our case was quite different. We got the local control and the regional control—not quite to the extent to which we wanted it, but we did get some control. Because we got that it was much easier for us to accept the notion of having those services provided by the provincial government. When it came to the point of delivering them at our level we had control over it.

Senator Stewart (Antigonish-Guysborough): Thank you. I have another question or two, Mr. Chairman, but I will yield the floor to another senator.

Senator Doody: My question is more for clarification. Earlier on the witness indicated that his group represented the Inuit of northern Quebec. Subsequently Labrador entered into the question. Does your group represent the Inuit of Labrador as well, or is that a separate group?

Mr. Gordon: No, senator, we do not represent those people. The Inuit of Labrador have their own associations and are presently negotiating land claims with their own provincial government.

Senator LeBlanc (Beauséjour): Mr. Chairman, one of the joys of listening to briefs and to witnesses is the discovery that we can learn a great deal about our own country and how it works. I have a number of questions, one of which is very simple. I apologize for asking it, but do your people pay the normal provincial taxes to the Government of Quebec?

Mr. Gordon: Do we ever! We pay taxes to both governments, like any other Canadian citizen.

Senator LeBlanc (Beauséjour): That brings me to my second question. I read the debate that took place in the provincial legislature, the National Assembly, as it is called. I saw that according to Mr. Remillard, Mr. Bourassa and

others, the claim of the Province of Quebec to a distinct society was based on history, culture, language—very heavily on language—et cetera. I have listened to your presentation and to the arguments you have made, and what surprises me is that you seem not to be given the distinctness that your differences would certainly justify. I add to that the example that you provided of the child adoption customs of your people. Even in the distinct society that Quebec claims for itself the adoption laws are generally those that are in force in most provinces of Canada. For that reason I want to express some surprise that you are not given the approval and tolerance for your distinctness that that province is claiming for itself from the rest of the country.

Mr. Gordon: I have often wondered about that myself, senator. That may be because the difference is so minor that you have to write it down to assure yourself that there is a difference. That is the only reason I can see why anyone would say that the French and English were that distinct one from another. To my eyes, they are the same. The French and the English are of European origin. In fact, over the last 500 or so years that they have been at war with one another, and conquering each other, the languages have blended a tremendous amount. The cultures are almost indistinguishable from one another.

There are slight differences in the cultural milieu of the French and the English. As to the language, yes, there is a bigger difference in that regard, but the base of the languages is the same, and there are similar words in both languages. In my view, these two societies are of one basic stock. Their differences are less than those differences between the Inuit and the Cree. Our cultural differences are more distinct, as groups. I am not even referring to the distinctness between the Inuit and those people who came to this country later on, the French and the English. Our differences are very big, like night and day.

We believe that our distinctness should be recognized. We have very distinct languages, customs and traditions—these are completely and entirely different from those of people of European origin. Those differences must be articulated so that our societies do not keep bumping into each other in the dark, as it were. When you make your laws dealing with our particular problems in this society, they are often applied to us with no modifications so that we end up with a negative impact of the good intention you had down here.

A classic example of that, I would like to point out, is dealing, again, with adoptions. In our society it is a rule that is followed, it is a custom that a child who is going to be adopted, or is adopted, will, as soon as he can conceive of the notion, be told who his real parents are so that as he grows older he will not have problems about the fact that he was adopted. Under the white man's law it is entirely the opposite. It is illegal to tell that child who its natural parents are, and this is done with the same intention—so that the child will not have problems as it grows up about the fact that it was adopted. These are entirely opposite solutions for the same problem. I would not hesitate to say that our adoption system and customs are working far better than those of the adoption centres you have down here, which are looking desperately for parents. No child is unwanted in the North. If there is a child to be adopted, it is adopted into its family, into its larger family.

The notion of our distinctness must be recognized. We talk of this country as a cultural mosaic. This mosaic, in our view, has too much white in it. We have to put some more colour into it.

Senator LeBlanc (Beauséjour): You mentioned at one point that you opted for more real estate that is of provincial jurisdiction. Do you think that your distinctness might have been better protected with less real estate but with federal jurisdiction?

Mr. Gordon: Not necessarily. The Inuit are not only in the province of Quebec but are also in the Northwest Territories and in Newfoundland, in the case of the Labrador Inuit. Not only that, the Inuit are present in four countries: Canada, Alaska or the United States, Greenland, and the Soviet Union.

• (1720)

I will deal only with the question of the Inuit in Canada. Even though we may opt for provincial jurisdiction for land, there are certain cultural rights, certain protections, which could be better served and better dealt with at the federal level—because they must be able to transcend provincial boundaries. Land, real estate, in my view, could be done under provincial jurisdiction—it is possible. However, such things as traditions, customs, and language must be able to transcend the boundaries of the provinces and the territories, and therefore would be better served under federal jurisdiction. It is not impossible under the existing provisions of the Constitution. We could use section 91(24) and the new section 35 to accomplish those things.

The Chairman: We now have Senator Marsden, followed by Senator Fairbairn.

Senator Marsden: Mr. Gordon, I would like to come back to the comments you were making in reply to Senator LeBlanc (Beauséjour) in which you pointed out—very well, I must say—that there is less dissimilarity between French and English in Canada than there is, for example, between the Inuit and Cree people. But of course the phrase "distinct society" is not about French-English differences, because, after all, there are French people all over Canada, and what we are talking about is really a distinct state, is it not? In effect, "distinct society" is a land claim.

Mr. Gordon: First, there have been so many different interpretations of the term "distinct society" that I am not even sure about it. If you take a certain set of interpretations you can come out with different arguments. If the notion of the province of Quebec being the homeland of the French is a theory that we are accepting, then, fine, the Inuit have a very distinctive geographical area which we could easily declare as being the Inuit homeland and an area where we could be a "distinct society." If the theory of a "distinct society" is that it is a distinct state, and that it is not necessarily a cultural thing, then that distinctiveness is applicable to us. Not only the

cultural distinctiveness but also the geographical and state distinctiveness could apply equally to us. There is a government in the Northwest Territories which is primarily native. The Inuit in that area are talking about dividing off and creating a new territory. I believe it is possible to have a distinctiveness recognized through that.

Senator Marsden: Perhaps I could go on to another question. You put those differences so well that it raises these issues. In your main presentation this afternoon you described the great complexity of individual and collective rights and how they operate in the concerns which you are specifically addressing, and also in connection with majority and minority rights. Would you comment on the concern about those rights—both majority and minority, and also individual and collective rights—from the point of view of women. As you know, a great many women's groups have raised objections to the current accord, because it is feared that collective rights of a "distinct society" will take precedence over the individual rights won by women in the Charter.

Mr. Gordon: I find some difficulty in dealing with this question, because, to use the Inuit as an example, in terms of women's rights, the Inuit, in practice, have demonstrated quite clearly that it is not really that much of an issue to us. For instance, my predecessor, the president for the region, was a woman; and we now have one ministerial council in our villages which is comprised entirely of women. I am sorry, there is a token male on that council. That is the practice in our communities; but, yes, it is theoretically possible, in my view, that through the existing provisions an aboriginal society could discriminate against women. It is possible, but there are new provisions that could provide protection against that. But because section 35 is over and above the Charter, I believe there is the possibility of that coming; but there were some amendments which attempted to correct that.

Senator Marsden: I understand that. So are you telling us—please correct me if I am wrong—that you do not believe that the Charter should have precedence over the "distinct society" clause?

Mr. Gordon: The Charter should have precedence over a "distinct society" clause, in my view.

Senator Marsden: Thank you very much; you have been very helpful.

Senator Fairbairn: Mr. Gordon, in your brief you state that you feel that the Inuit in northern Quebec may have their rights and interests severely compromised by restrictions on the federal spending power that flow from the Meech Lake Accord. You mention the James Bay and Northern Quebec Agreement. Do you fear that provisions of the Meech Lake Accord in this area could affect that agreement as it currently stands, or affect programs that may evolve in the future?

Mr. Gordon: Both. When we signed the James Bay Agreement, the only degree of protection that we could gain at that time—because the Canadian Constitution had not been patriated—was to have concurring legislation between the federal and provincial governments. We felt that that would at least give us a certain degree of protection. After we had the James Bay Agreement, what we fought long and hard for was constitutional protection of those kinds of rights, because we felt that concurring legislation was not adequate protection, that we needed protection that was higher than that—the Constitution of the country.

The Meech Lake Accord will mean that in certain areas we would end up dealing with all of the provinces in connection with any changes that were in contradiction of the Meech Lake Accord. If governments were to begin bargaining back and forth with programs, then those guarantees that we have achieved through the James Bay Agreement, through the new constitutional arrangement could be eroded, because there are certain things that we have been assured that we would get from either the provincial or federal governments. If they were applying national standards, some of the benefits that we were supposed to get could easily be eroded, because they would no longer apply to us the actual program to which we were entitled through the James Bay Agreement, directly from the federal government. We want to have access to the federal programs.

To give you a concrete example, in the area of secondary education, under the James Bay Agreement we were given the right to be able to attend schools anywhere in the country at the expense of the federal government; and, according to the James Bay Agreement, that was to continue—and the James Bay Agreement is protected by section 35. However, if national standards are being applied, the money that we could receive directly from the federal government to administer that program would now have to go through the province, and we would be denied access outside of the province, because we would be conforming to the national standards but applied by the province, which would allow us to go only to schools within the province.

In our society we are just beginning to get into the education system, and we need to have access to some of the best schools in this country in order to get caught up with the rest of Canada.

Senator Fairbairn: In terms of future national programs—in which, for instance, Quebec might wish to go on its own and receive so-called reasonable compensation—can you envisage that that might impinge on your programs, and that such compensation might be directed elsewhere rather than to your communities in northern Quebec?

• (1730)

Mr. Gordon: Yes, that could happen. There are also certain programs we may want to establish with the rest of the Inuit in Canada, but we would be cut off from them. We would end up having to deal with the province, and not being able to work on central programs for all Inuit in Canada. I refer to such programs as developing a curriculum for our schools, centralizing health services to concentrate trained personnel who can speak our language, and special training programs. These programs would be denied us, because we would no longer have direct access to federal funds to conduct them. Rather, we would have to go through a province, which would require

that we split from the rest of the Inuit. Because the number of Inuit in Canada is so limited, it makes a great deal of sense to make things central for all Inuit in Canada. So, potentially, such a change could have a negative effect. The Inuit people of northern Quebec see themselves as being torn apart more and more from other Inuit in Canada. That is our biggest fear, that we would no longer be allowed to develop our society amongst ourselves, and would have to go through a series of intermediaries such as federal governments, provincial governments and territorial governments to accomplish anything.

Senator Fairbairn: You have acknowledged that although the constitutional process on aboriginal issues set up in 1983 did not reach a satisfactory conclusion in March of this year, nonetheless, a great amount of progress, both in dealing with other levels of government and also in public education, was achieved. In the end, it was not lack of agreement on principle but rather on definitions of terms that sank the potential agreement in March. Now that there is no longer a constitutional process for aboriginal people, do you see these outstanding issues coming to successful solutions in discussions that will take place in fora other than the constitutional forum?

Mr. Gordon: First, there were some differences in principle in the discussions you mentioned, particularly with provincial governments, on constitutional issues. There is no forum now to deal with these very urgent problems. The constitutional forum sprouted many roots which enabled the native people to deal with their provincial governments or with other areas of the federal government. With the loss of the constitutional process for aboriginal people there is no longer a need or an immediacy for the government to deal with these matters. Also as a result of the constitutional process, native peoples were given funds to formulate and to articulate their ideas. All this is gone, because there is no longer the constitutional process.

So, even if leadership in northern Canada is thinking of ways to solve their problems, there is no means of getting together to present to the government proposed solutions to our problems. We are not trying to lay our problems out for you to solve them. We are asking for a means to solve our problems. It is important that there be a process, and this process must operate at two levels. You need the constitutional process and you need a process which deals with more mundane things that could be handled at the legislative level. These two processes must run in tandem if we are going to begin to solve some of the real issues in the native community.

We could deal with many of the social problems ourselves. We will need extra help from the government on economic problems for some time yet. This opportunity to appear before the Senate is the last chance we have to make our views known. There is no other place where we can go and say, "Hey, we have a good idea of how to solve this problem with family law or with education." The fora have gone. We now only have the Department of Indian Affairs and provincial governments, whose priorities seem to be elsewhere. The Department of Indian Affairs is more involved in the delivery of services to the reserves, such as erecting houses, constructing roads, and so on. The department does not deal with the real social issues of the communities, and it does not have the means to even begin to deal with the economic needs of the communities. So, we need fora to deal with issues, and we also need resources so that we can formulate our solutions and present them to government.

However, because we could not come to agreement in only four short years I do not think it is reasonable to say, "Since you guys couldn't agree, let's forget it." It took over a hundred years to bring the Constitution to Canada, and the dialogue was between two societies that understood each other relatively well.

Senator Fairbairn: Our Meech Lake task force travelled to various communities in the North, including Iqaluit, where we spoke to Inuit leaders. They indicated that perhaps the Inuit felt more cut off by the ending of this constitutional process than other aboriginal peoples, because they do not have the same direct networks with government that other aboriginal peoples have. I believe it was John Amagoalik who said that if the government wanted to find out what the Inuit people were thinking, it would have to go to the tundra, because there is no way the Inuit could get back into the centre of discussion in Ottawa.

Mr. Gordon: I would agree with John Amagoalik on that point. The Inuit have revered Canada, and they very much want to be part of this country. We are desperately trying to get in the door, but it is continuously slammed in our face. We want to be an active party to this country and to contribute to it, but it seems that every time that we begin to make progress the door is slammed and we are not allowed in, that it is an exclusive club for Americans, not for aboriginal people.

Our contact with the Canadian government is very recent. It was not until after World War II that many of us learned that we were part of Canada. The Inuit people identify strongly with Canada, because the Canadian government helped them out when they were starving and when times were tough. So we have a strong sense of attachment and commitment to Canada. With the loss of the constitutional forum we feel that we are being shut out, and I think that this will begin to taint the way the Inuit feel about this country. The history between the people of Canada and other native populations has been a long and sordid one. The history of the past 100 years is made up largely of war and confrontation. Such is not the case with the Inuit, and this is why the Inuit strongly supported Canada in the areas of Arctic sovereignty, patriation of the Constitution, and other similar issues. Also, the dialogue between the rest of Canada and the Inuit has been cut off, and we need those channels in order to really become an active part of this country.

● (1740)

The Chairman: The last name on my list is Senator Watt. I see Senator Adams also putting up his hand. I have no objection, except I must make this proviso: At 6 o'clock we must rise, which means that we have 11 minutes left. Therefore, perhaps we could keep within that timeframe.

Senator Watt: Mr. Gordon, first, I would like to welcome you to the Senate. I am quite familiar with your face since we see each other practically every day, and since you succeeded me as president of the Makivik Corporation.

Mr. Gordon, I know you have participated in many different processes dealing with aboriginal people. In fact, your participation goes back a good 15 years. In your earlier remarks you were saying that you did achieve some rights under the convention, which is the James Bay Northern Quebec Agreement. However, there were certain rights under the James Bay Agreement which were clearly also entrenched under section 35.

Although there are certain rights that you can exercise at the community level, and also at the regional level, there are certain other rights that you have based on subsistence use. By "subsistence use" I mean something that can only be used internally. Can you tell me what is the point of having rights that you cannot exercise or rights that you cannot market? How do you feel about not being able to fully exercise those rights in order to gain some economic advantage? I wonder if you could enlighten us on that.

Mr. Gordon: With respect to the notion of being given rights, what is usually meant by "rights" are hunting rights and the right to resources as have been guaranteed by the James Bay Agreement. However, one of the things that we lack is the right to manage ourselves. What, in fact, happens is that we only have the right of access at the pleasure of the provincial government, which is really what it boils down to. Even though theoretically we have the right of access and the right to go out and hunt, we are not even given the powers to regulate that hunt ourselves. Therefore, we need more than simple right of access to resources. What we need is the right to manage those resources, and that is not included in the James Bay Agreement.

Senator Watt: Then it is quite clear why it is so important to have self-government entrenched in the Constitution, so that you would be able to begin to exercise the rights that you have acquired through the negotiations.

Mr. Gordon: I think the important principle is this: If we have the right to be different, we should have the right to govern our difference and also to protect that difference, and we should be given the means and the tools to administer it. Our society is growing, it is moving forward, and we need to have those rights of self-government; we need to be able to govern ourselves and to govern that difference. We cannot have another society guessing at what those differences are and trying to apply their ideas to our affairs.

The Chairman: Senator Adams.

Senator Adams: Mr. Gordon, the answer you gave to Senator Watt's question relates also to my question. I have lived away from the land for many years, but the Inuit used to have their own hunting area in the Northwest Territories and even into northern Quebec. Now I think those people have started losing their rights, and it looks as though in the future we will grow to be like farmers, where you buy a piece of property and then own your own property.

Since I lived in the North the James Bay Agreement has been signed. I know that before that the Inuit had their own land on which they lived, hunting and enjoying their family life. You were telling us some of the stories about people having cottages on their land, but I do not think we will be talking about cottages in the future. Nowadays people usually own their own homes.

Has it been your experience that the people in the North are beginning to realize that they do not own the property in the areas in which they live? Even my own experience in the North has been that sometimes when I want to go hunting, I am a little afraid to go hunting, because, after so many years of using those lands for hunting, the people in those areas have started to lose their rights to that land. Do you agree with me?

Mr. Gordon: We are guaranteed, in theory, the right of access all over that territory that has been handed over through the James Bay Agreement. That is how it is in theory. In reality, family groups generally have areas and, even though one has the right of access and can go and hunt there, it is generally recognized that that territory belongs to that particular family. This is still the practice today.

However, what I was worried about is that even though that family has occupied that area for the past two or three generations, the larger community can decide that that would be a great place to have a tourist camp, and that family can be moved out without being compensated for anything. The government can say that this land belongs to the community and you have no rights as an individual to that area, no matter how long you or your family have been there.

Therefore, this type of problem will come up more and more frequently. The traditional area where my grandfather used to place his nets is the same area that I use for the same purpose every summer. The community could decide that that particular area is a very good place to put a bridge. I cannot do anything about it; I have no right to compensation, and I have no recourse. Therefore, that is one of the problems.

Another problem that we have is because of the way in which the land claims are now structured. You can become a member of the northern Quebec Inuk, but if you were from the Northwest Territories and you moved to northern Quebec, you have no rights as an Inuk in Quebec. By the same token, if I moved to the Northwest Territories, under their land claim settlements I have no rights as an Inuk. I want to remind the government that my culture, my being, does not end at a provincial boundary. I am still an Inuk when I move from Quebec to Labrador to Newfoundland. However, the way the system is being set up under the present land claims policies means that we will end up with the same terrible problem that overtook the Indians: that of being non-status Inuit. This is something that the Inuit have been trying to fight for years, but we have not been able to address that. That is why we would like to have the matter under federal jurisdiction or, better yet, under constitutionally-protected provisions that I,

as an Inuk, have the right to move anywhere in the Inuit homeland and remain an Inuk. I am not asking for the right to be an Inuk in Ottawa. If I live in Ottawa, I will be like any other citizen in Ottawa. However, on the homeland, whether it is in Quebec, the Northwest Territories, or wherever, I should have the right to hunt, to practice my traditional customs, and not lose my status as an Inuk because I cross a boundary. We can be denied these rights under the present system. Because there is no system for us to correct this problem, I will no longer be an Inuk if I should move into the Northwest Territories after their land claims, the same way an Inuk from the Northwest Territories moving to Quebec would be denied rights as an Inuk in Quebec.

Senator Adams: I have a few more questions, but that is all the time we have. Thank you very much, Mr. Gordon.

The Chairman: Senator Adams, thank you for keeping within the time limit. Mr. Gordon, thank you for sharing your views with us this afternoon. This is very important to the process.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which the Meech Lake Accord and texts agreed to were referred, reports progress and asks for leave to sit again.

The Hon. the Speaker: Honourable senators, when shall this committee have leave to sit again?

Senator Molgat: Honourable senators, with leave of the Senate, on January 20, 1988?

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, would it be in order to say at the next Wednesday sitting of the Senate?

Hon. Senators: Agreed.

The Hon. the Speaker: It is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Hicks, that the committee have leave to sit again on the next Wednesday that the Senate will be sitting. Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. Gildas L. Molgat: Honourable senators, on a point of order, might we agree by motion that the clock is not in effect?

Hon. Royce Frith (Deputy Leader of the Opposition): In other words, that the clock be ignored.

Hon. C. William Doody (Deputy Leader of the Government): Does everyone agree?

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Thursday, December 17, 1987, at 10.30 o'clock in the forenoon.

Motion agreed to.

EXCISE TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-101, to amend the Excise Tax Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask that all remaining orders, inquiries and motions stand.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 10.30 a.m.

THE SENATE

Thursday, December 17, 1987

The Senate met at 10.30 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

BUSINESS OF THE SENATE

On Reports of Committees:

Hon. Joan Neiman: Honourable senators, I have three reports to present to the Senate today, the first of which is not quite ready. I ask permission to proceed with the second and third and to revert to Reports of Committees to deal with the first report at a later time.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed?

Hon. Senators: Agreed.

JUDGES ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 17, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

EIGHTEENTH REPORT

Your Committee, to which was referred the Bill C-88, An Act to amend the Judges Act, has, in obedience to the Order of Reference of Wednesday, December 15, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable seantors, when shall this bill be read the third time?

Hon. Michel Cogger, with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

REVISED STATUTES OF CANADA, 1985 BILL

REPORT OF COMMITTEE

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 17, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTEENTH REPORT

Your Committee, to which was referred the Bill C-94, An Act to bring into force the Revised Statutes of Canada, 1985, has, in obedience to the Order of Reference of Thursday, December 10, 1987, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill read the third time now.

Motion agreed to and bill read third time and passed.

[*Translation*]

OFFICIAL LANGUAGES

REPORT OF JOINT COMMITTEE

Hon. Joseph-Philippe Guay, Joint Vice Chairman of the Standing Joint Committee on Official Languages, presented the following report:

Thursday, December 18, 1987

FIFTH REPORT

Pursuant to its Orders of Reference from the Senate and the House of Commons, both dated 15 April 1986, your Committee has become concerned about the disregard for the spirit of the language provisions in the *Canadian Charter of Rights and Freedoms* and the *Official Languages Act* shown in the failure to make provision for Canada-wide French-language television coverage of

an event as important as the Calgary Olympic Winter Games. Following intervention by the Committee, compromise solutions were recently achieved. The Committee wishes to ensure that such a situation will not recur.

For this reason your Committee recommends:

That the Government adopt a policy and issue specific directives to ensure that any popular event of national significance funded with federal contributions shall reflect Canada's linguistic duality in all its aspects, in particular its organization, its administration, its signage, its publicity and its broadcasting.

Respectfully submitted,

JOSEPH-PHILIPPE GUAY
Joint Vice Chairman

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

Senator Guay: Honourable senators, I move that the report be placed on the Orders of the Day for consideration at the next sitting.

Hon. Jean Le Moyne: Honourable senators, may I ask Senator Guay a question?

I have heard that the city of Ottawa, the capital, is divided into two cable TV zones. West of the dividing line the proceedings of the House are broadcast in English and east of the line in French.

Does the committee think this is fair?

Senator Guay: Honourable senators, your question and many questions of a similar nature were given thorough consideration in committee, with Senator Tremblay and others attending these discussions. I can assure you that all these points were considered. The Minister of Communications, the Honourable Flora MacDonald, has given us the assurance that a service would be in place to deal satisfactorily with this problem.

Senator Le Moyne: That is more or less the best we can hope for.

Senator Guay: More or less.

Senator Le Moyne: Thank you.

Hon. Eymard G. Corbin: Honourable senators, it is all very well to move to have this report considered at the next sitting of the Senate. I wonder, however, when that next sitting will be. Would it be before, during or after the Olympic Games?

The Standing Joint Committee on Official Languages, whose report Senator Guay has just presented, has drawn to our attention a question that is of some urgency. What good would it do to consider this question during or after the games?

If I correctly understood the report of the Standing Joint Committee on Official Languages as transmitted by Senator Guay, we are being asked, with some urgency, to consider this question in order to put pressure on the authorities, either the government, the CBC or the responsible authorities to provide a service in French across Canada.

I know that in some parts of my home province of New Brunswick we can get Télémétropole, and there Francophones will be able to watch the Games on a French network. That is not the case, however, for all French-Canadians in this country.

I thought I detected a note of urgency in the report submitted by Senator Guay. I cannot imagine why we should postpone consideration of this question, because if we do, it will probably be too late to reach a decision and get the kind of support that is desirable in this kind of situation. Thank you.

Senator Guay: I appreciate Senator Corbin's remarks. It should be understood that I am presenting this report on behalf of the Standing Joint Committee on Official Languages. This is not what I personally would like to do. By the way, perhaps I should inform you that a telegram has already been sent to the Calgary Olympic Games to inform the authorities of our position. Further discussions have taken place, but I am not in a position to give you a full report at this time.

Senator Corbin: Honourable senators, may I ask Senator Guay another question? Has the Standing Joint Committee on Official Languages been given the assurance that this problem will be dealt with before the Olympic Games take place? Have they given you the assurance that they will do everything they can to televise the games in both official languages across Canada?

Senator Guay: Senator Corbin, that is the assurance we were given, and that is about all I can tell you at this time.

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

• (1040)

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not with us this morning. At this moment he is on government business elsewhere, but he has indicated that he will be here later in the morning. If it is the wish of honourable senators, we can defer Question Period and revert to it later. Alternatively, I can take any questions as notice, if senators so wish. We are at the disposal of the house.

REQUESTS FOR ANSWERS TO ORAL QUESTIONS

Hon. Hazen Argue: Honourable senators, we might defer Question Period, from my point of view, until Senator Murray

arrives. However, he indicated to me yesterday that he would have a further report on the grain handlers' strike situation in Prince Rupert. I would very much like to get that information from him.

Hon. C. William Doody (Deputy Leader of the Government): I have no delayed answers to oral questions.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, to defer Question Period until later today?

Hon. Senators: Agreed.

[*Later:*]

Hon Eymard G. Corbin: Honourable senators, the Deputy Leader of the Government said that he had no delayed answers to questions. Senator Murray is not in the chamber today, and I intended to raise that matter with him. The Leader of the Government promised me some time ago to make available the list of all of the projects, programs, joint agreements, and so on, that were announced in the province of New Brunswick during the last provincial election. He made a commitment to that effect in response to a question I had put to him.

Since this may well be the last day before the Christmas recess, I had intended to refresh his memory about my request and his commitment. Can the Deputy Leader of the Government look into the matter and report back to me at an early date before the end of the year?

Senator Doody: Honourable senators, as I indicated, Senator Murray will be with us later today. In the meantime, if I have an opportunity I will make an inquiry this morning on behalf of Senator Corbin, and if I can obtain the information for him I will certainly make it available.

ANSWER TO ORDER PAPER QUESTION

AUDITOR GENERAL

BUDGET FOR PAST TEN YEARS

Question No. 36 on the Order Paper—**By Hon. Jack Marshall.**

3rd November 1987—What was the budget of the Auditor General for the past ten years?

Reply by the Minister of Finance:

The budget for the Office of the Auditor General of Canada for each of the past ten years was:

1978-79:	$25,616,000
1979-80:	$25,820,000
1980-81:	$28,805,000
1981-82:	$31,886,000
1982-83:	$35,263,000
1983-84:	$38,463,000
1984-85:	$40,604,000
1985-86:	$42,968,000
1986-87:	$44,543,000
1987-88:	$46,686,000

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first order of the day is a motion to resolve the Senate into a Committee of the Whole to study Bill C-87. We also have before us Bill C-101, which has to do with a government excise tax, for which we have leave to introduce second reading today.

If it is convenient to honourable senators, I would like to deal with Bill C-101 first, because the minister who is responsible for that bill is the minister responsible for Bill C-87, who is now waiting in my office to answer any questions senators might have in committee. If we can deal with Bills C-101 and C-87 in Committee of the Whole, obviously it would be a great deal more convenient for the minister, who, like all ministers, has other items on his agenda today.

So, with leave of the Senate, I would ask that we proceed to second reading of Bill C-101, the fourth Order of the Day.

The Hon. the Speaker *pro tempore:* Is it agreed that we proceed to deal with Bill C-101?

Hon. Senators: Agreed.

EXCISE TAX ACT

BILL TO AMEND—SECOND READING

Hon. Finlay MacDonald moved the second reading of Bill C-101, to amend the Excise Tax Act.

He said: Honourable senators, the one cent per litre increase in the excise taxes on motive fuels was part of a limited number of tax increases announced in the February budget to maintain an acceptable rate of progress toward the government's medium-term deficit reduction goals. The tax applies to gasoline, diesel fuel, aviation gasoline, and jet fuel. The increase, which is effective from February 19, 1987, is intended to yield approximately $450 million in the fiscal year 1987-88.

The purpose of the bill is to extend for a further two years the program which was introduced at that time to give some relief to primary producers. This bill, in effect, extends the fuel tax rebate program for primary producers for two years, to December 31, 1989. It also implements proposals announced by the Minister of Finance in his February budget. They include the one cent per litre increase in the excise tax and an equivalent increase in the fuel tax rebates payable to primary producers.

So, the fuel tax rebates to farmers and other primary producers are being increased by an equivalent amount—that is, one cent per litre—to ensure that this tax increase does not increase the cost of production fuels used by primary producers.

Apparently it is necessary to include the excise tax increase in this bill in order to increase the rebates payable to farmers and other primary producers. The rebates to farmers are currently approximately equal to the taxes imposed.

It would be inappropriate to propose any further increase in the level of the rebates without implementing the tax increases on which the higher rebates are based.

The Fuel Tax Rebate Program was introduced in the fall of 1984 in response to financial difficulties being experienced by primary producers. In April 1986 the Prime Minister announced that the amount of the rebate to farmers would be increased to provide additional assistance to farmers, and in particular to grain growers who were under severe price pressure from world competition. The program was also extended at that time to December 31, 1987, for all primary producers. The rebate payable to farmers was increased by an additional one cent per litre when the excise taxes on motive fuels were increased on January 1, 1987. This increase ensured that farmers continued to be fully reimbursed in respect of all taxes on production fuels.

● (1050)

The rebate program is administerered by the Minister of National Revenue under the Excise Tax Act. The act authorizes the minister to pay a fuel tax rebate to primary producers in respect of motive fuels purchased by them for off-highway production puposes. Farmers receive full rebates of all federal sales and excise taxes on such fuels. Other primary producers, including fishermen, loggers, miners, hunters and trappers, receive a rebate of the federal sales tax. All primary producers are also entitled to an excise tax refund of 1.5 cents per litre in respect of gasoline purchased for commercial use.

Primary producers may obtain the rebates through a reduction in the price when they buy fuels from a manufacturer who is required to pay tax under the act, or from a registered vendor who recovers the amount of the rebate directly from the government. In other cases primary producers obtain their rebates by filing a claim with the Minister of National Revenue.

The Fuel Tax Rebate Program is a temporary program that was designed to provide short term assistance to primary producers. As I said before, it is scheduled to expire this December 31. The economic situation has improved for many of our primary producers since this program was introduced. However, many farmers, particularly those in the grains and oil seeds sectors, continue to experience very serious difficulty. The devastating effects of the international subsidy war make additional assistance imperative.

The Prime Minister announced a number of measures at the Agricultural Outlook Conference this week to respond to this need in our agricultural community. Included in this package is extension of the Fuel Tax Rebate Program for two years, to December 31, 1989. The program is an expenditure program. Payments cannot be made to farmers and other primary producers in respect of fuels purchased after the end of this year until this legislation receives Royal Assent. I am sure that all honourable senators will agree that it is important that this bill be given early consideration in order to ensure that rebates can continue to be paid to farmers and other primary producers in respect of fuels purchased after December 31, 1987.

[Senator MacDonald]

Hon. Hazen Argue: Honourable senators, we on this side of the house welcome this measure. As the Honourable Senator MacDonald has said, farmers, and particularly grain farmers, are in continuing difficult circumstances, and this extension of the removal of excise taxes on farm fuels is welcomed.

I think one can read too much into the total package that was announced by the Prime Minister the other day at the Outlook Conference. A deficiency payment of $1.1 billion, up from $1 billion last year, was announced. It is an increase of $100 million. However, the drop in the initial price alone constitutes, I believe, something like a loss of $700 million. So the position of grain producers in Canada, even after the announcements made at the Outlook Conference, is that they are worse off today by a considerable amount than they were one year ago. This, of course, adds to the urgency of continuing this measure.

The steps taken by the government with regard to the western farm situation are not adequate. They do not address in any way the problem of the exodus of farmers from their farms. In no way does this measure slow down or modify the powers that financial institutions have to foreclose on and take possession of farms. The whole situation of eroding and falling land values is still with us.

However, having said that, we are nonetheless pleased that this measure is before the house, and we are pleased to support it. It does extend the current situation whereby grain producers and other producers are not charged federal taxes on farm fuel. Under this bill that situation will be continued for another two years.

Hon. H.A. Olson: Honourable senators, I wonder if I might be permitted to ask Senator MacDonald a couple of questions. The reason is that we now have what is called a program fact sheet that was distributed by the Minister of Agriculture respecting the Farm Fuel Tax Rebate Program. What I want to clarify are the effective dates for some of the things that Senator MacDonald mentioned. For example, there was an increase in the excise tax early in 1987, and from his explanation I think the increase in the rebate is sufficient to take care of that increase to the primary producers, in this particular case agriculture.

However, this fact sheet also goes on to say, by way of background information, that:

> Initially the program provided for rebates of 4.5¢ per litre for gasoline and 3¢ per litre for diesel fuel.

Then, in the next portion of the fact sheet, it says:

> In line with increasing excise and sales taxes the rebate has been increased to 9¢ per litre for gasoline and 7.5¢ per litre for diesel fuel.

I hasten to say that I fully support this program. I am not criticizing it, but I do not quite understand, and perhaps there is another fact sheet in existence that does give precise information as to whether the effective date called for in Bill C-101 as it relates to the rebate authority corresponds with the date mentioned for the imposition of the additional tax. That is really what I wanted to know. I am reasonably satisfied that it

does provide for that circumstance, but I wondered if there were any gaps between the date of the imposition of the authority to increase the collection of the tax and the authority being asked now to rebate it.

Senator MacDonald: Honourable senators, I do not have the fact sheet to which Senator Olson referred. Even if I did, I would find it difficult to answer your question. However, I believe that Senator Doody has indicated that the minister is available and will be with us in a few moments. Perhaps you could put the question to him.

Hon. C. William Doody (Deputy Leader of the Government): That is quite correct, Senator MacDonald. Mr. Hockin, the Minister of State for Finance, accompanied by Mr. Brian Willis, an officer of the Tax Policy Branch, will be with us shortly, and possibly they could give the senator the information he requires.

Senator Olson: That will be satisfactory.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

On motion of Senator Doody, bill referred to Committee of the Whole later this day.

CUSTOMS TARIFF BILL

CONSIDERED IN COMMITTEE OF THE WHOLE

On the order:

> The Senate in Committee of the Whole on the Bill C-87, An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Rhéal Bélisle in the Chair.

Pursuant to rule 18 of the rules of the Senate, the Honourable Thomas Hockin, Minister of State (Finance), was escorted to a seat in the Senate chamber.

Senator Doody: Honourable senators, may I introduce to you the Honourable Thomas Hockin, Minister of State (Finance), and his officials, Mr. Fraser Laschinger, Chief, Tariffs Division, Department of Finance, and Mr. Joe Loomer, Special Adviser, Department of Finance.

The Chairman: I welcome the witnesses to the Senate. Honourable senators, is it your wish that the minister make an opening statement?

Hon. Senators: Agreed.

Hon. Thomas Hockin, Minister of State (Finance): Honourable senators, I came here last night at 8 o'clock, because I thought there was a committee meeting in progress. There were three members of the cleaning staff here and they said that they would listen to me.

Senator Frith: How did it go?

Mr. Hockin: It went fine. There were also four secretaries who were beautifully dressed because they were going to a Christmas party. They also listened to what I had to say. However, it is very nice to actually have a chance to address the Committee of the Whole.

Senator Frith: Did they at least pass the title of the bill so we do not have to deal with that?

Mr. Hockin: I think they did.

I would like to take this opportunity to thank Senator Robertson, who spoke to this bill on a previous day. I understand that she has taken a great interest in this bill. In fact, this is a very important step internationally. I am happy to be able to address several points on this occasion concerning the timing of this bill. I will not repeat what Senator Robertson has said, but I will deal with several points concerning the timing of the legislation and, something that concerns all of us, the state of readiness of the private sector to adapt itself to a brand new tariff system.

As you know, our tariff system has been somewhat anomalous internationally. We have classified things somewhat differently from the way it is done in other countries, so this is a major change for us. I feel it is important that there be no misunderstanding of the situation concerning the degree to which the government has consulted with the public on these new tariff provisions. The government has never hidden the fact that under the new Customs Tariff there will be changes in rates of duty on some imported goods. There is not just a change in wording, but there are changes in rates. We have attempted to draw this fact to the attention of all concerned in all of our public communications. We have urged importers and businesses to inform themselves of these changes. We recognize that these changes can have an impact on businesses, and we have made every effort to inform commercial interests through trade and industry associations, through seminars which have been sponsored by the Department of National Revenue, through direct mailings, and through the Tariff Board, which has been working with the public on tariff legislation since 1984.

I think it is fair to say that the large companies and importers which transact many importations over the course of a year have taken the necessary steps to be ready for January 1. I have spoken to one, I think the biggest in Canada, which is headquartered in my riding, Livingston, and they are very interested in having this begin and are ready for it. That is just a typical example.

Senator Frith: Is that the auto parts company?

Mr. Hockin: No, that is a freight forwarding and customs broker operation.

These large companies and importers have made representations to the Tariff Board where they have seen that the proposed changes may not be in their interests. They have attended the seminars put on by the Department of National Revenue and the workshops which have been held in regions across Canada. I think it goes without saying, however, that not every importer or business in this country will have informed itself of the changes being proposed in this legislation, despite the efforts made by the government to inform the public. We think almost everybody will be ready, but not everybody. It would be extraordinary if it were otherwise.

First, many importers use brokers. In fact, over 75 per cent of import transactions in this country are handled by brokers. I think we can assume that many importers will probably leave it to their brokers to acquaint themselves with the changes which will come into effect on January 1, 1988.

Other importers may import only infrequently and may have disregarded notices sent to them about the pending tariff changes, and others may not have gotten around to doing anything, thinking that they have ample time to react. So we recognize, therefore, that on January 1 some people will be caught unprepared when trade begins to flow under the new system. In anticipation of this the government is taking steps to ensure that importers or businesses faced with an unexpected tariff change, where there exists valid grounds for reviewing the situation, will have recourse for obtaining adjustments.

My colleague, Elmer MacKay, and I have agreed on new procedures to be established for a limited period which will speed up the decision-making process for reviewing these cases. Once the Department of National Revenue has established that the goods in question are correctly classified, a review committee, chaired by the Department of Finance, will examine the merits of making adjustments. The legislation has the flexibility to make such amendments, and I can assure honourable senators that I will be responsive to legitimate complaints when and if they arise.

There has been a suggestion that the government will not have the necessary regulations required to implement many of the provisions of the tariff ready for January 1, 1988. I want to assure honourable senators that that is not the case. Those regulations are, in fact, in the final stages of preparation. The officials can speak to that. Draft versions of the regulations will be released to the public by the Department of National Revenue in the form of interim administrative guidelines over the next few weeks.

To conclude, then, the Canadian business community, including importers and exporters, is counting on this legislation—they want it. They are not resisting it, they want it. As well, our major trading partners, who are also adopting tariffs based on the harmonized system, are looking to Canada to provide leadership in this important step forward to a more rational and enhanced international trading environment.

[Mr. Hockin.]

Thank you, Mr. Chairman and honourable senators.

• (1110)

The Chairman: Honourable senators, I wish to inform you that before starting with Senator Hicks, the first questioner, I will acknowledge other senators as they raise their hands. Senator Hicks.

Senator Hicks: Thank you, Mr. Minister, for your concise explanation of the objects of this bill, of which I, for one—and I think my colleagues are in the same category—have no criticism at all. Indeed, it is eminently sensible that we should adopt the harmonized system and put ourselves on line with most of the major developed countries of the world, and a good many other countries as well. I welcome this bill as an improvement in our tariff system in making it possible for us to move more fully into the computer age, in the improvement that it will make on the compilation of statistics, and, generally, the assistance it will give to the ease of understanding the situation relating to our customs and duties.

However, I have a number of questions, which I will try to group together, about some clauses of the bill.

First, would you or one of your assistants explain to me exactly the implication of clause 9? I referred to the Customs Act, but was still unable to understand exactly what clause 9 of the bill was trying to accomplish.

Mr. Hockin: Clause 9, the Territorial Sea and Internal Waters section?

Senator Hicks: Yes.

Mr. Hockin: This clause provides that any temporary restrictions by the Governor in Council, under the Customs Act, on the extent of the territorial sea or internal waters apply also to this bill. Any restrictions will also apply to this bill.

Senator Hicks: This bill is on all fours, then, with the Customs Act.

Mr. Hockin: That is right.

Senator Hicks: Could you make it easier for us to understand by giving us an example of what the effect of this would be either under the Customs Act or the Tariff Act? I referred to section 2(2) of the Customs Act, but I am not sure what this means, except there is a statement there somewhere that the involuntary dumping or unloading of a ship because of shallow draft, and so on, shall not be regarded as an illegal entry of goods into Canada.

Mr. Hockin: There is a two-part answer that I should deliver in response to that question.

First, I am not capable of responding to your specific example, but that may be looked after within the department when the Minister of National Revenue puts together the necessary provisions under the Customs Act. Perhaps that point will be spoken to at that time. I cannot define what the answer to the dilemma that you put to me would be from just the reading of the act.

Senator Hicks: I do not regard that as having satisfied my inquiry about the legislation, but I do not want to stay on this

one point unduly, because I have a more important category of questions that I want to ask.

The next clause that my attention was drawn to was clause 12, which gives to the Governor in Council the authority to make certain regulations about goods produced in Canada in "substantial quantities." Subclause (2) of that clause gives the Governor in Council the right to determine what are substantial quantities. This seems to be a wide discretion, and I do not know how an importer of goods will be able to forecast what the ruling will be. Perhaps by practice in the department you already know what rule of thumb is used in determining that goods are or are not manufactured in Canada in "substantial quantities."

Mr. Hockin: This clause provides the authority for the Governor in Council, as you correctly state, to fix the percentage of the Canadian consumption of goods produced in Canada in order for such goods to be considered of a class or kind that are made here. The figure has been set at 10 per cent by order, and will remain the same under the new tariff.

At one time there were numerous tariff items which contained the words "class or kind made" or "class or kind not made," with higher rates for the former category. However, while there are now relatively few such items, the authority delegated to the Governor in Council is still considered to be necessary in order for the government to provide tariff protection quickly for Canadian manufacturers who have an interest in the few remaining tariff items with a "class or kind" proviso. Action is taken only as a result of representations from Canadian manufacturers.

Senator Hicks: You are telling us, then, Mr. Minister, that the present order strikes a figure of 10 per cent, and that unless this is varied this would apply to all categories of goods.

Mr. Hockin: That is right. Of course, that 10 per cent understanding has been in place for many years.

Senator Hicks: I did not know that.

I will try to phrase the rest of my questions all in one item.

When I first became a member of the Nova Scotia legislature 42 years ago, we had an authoritative, arbitrary and highly-intelligent and aggressive man there as Attorney General. He did not like to be circumvented in his departmental administration by the Legislature of Nova Scotia, and was fond of putting into bills phrases such as "the minister may, in his absolute and uncontrollable discretion, do" so and so. I am not suggesting that anything in this bill, Mr. Minister, goes as far as that, but for over 40 years I have been resisting this kind of arbitrary provision in our legislation.

I want to point out to honourable senators that in clauses 23, 25, 27, 28, and some following clauses, this bill gives wide powers to the Governor in Council, and does not provide that there need be any report to Parliament about the exercise of these powers. Clauses 43 and 44 also give the same wide powers, but there is a provision in clause 45 that these powers will expire on June 30, 1994, which I infer to be a kind of admission that the powers are somewhat arbitrary and are only in effect for a temporary period.

In clauses 59 and 60 the same thing is given to the Governor in Council and the minister, but in this case it is provided that the rules must be tabled in Parliament within a stipulated time, or within 15 sitting days.

In clause 95 there is no requirement that the regulations made under that section be laid before Parliament at all. And in clauses 101 and 102, which deal with remissions and relief, there is wide ministerial and Governor-in- Council discretion, and no report to Parliament prescribed.

• (1120)

Finally, honourable senators and Mr. Minister, subclause 133(1) enables the Governor in Council to substitute and amend, by order, other acts. This authority, which is given to amend other acts to bring them into conformity with this act, must be exercised within a period of 18 months from the coming into force of this act. Then, I suppose, this authority in the Governor in Council expires.

Having cited these examples, Mr. Minister, I would like to hear your comments on the necessity for what seems to me to be somewhat arbitrary authority given to the Governor in Council, or to the minister, or to the Governor in Council usually on the advice of the minister, without very careful provisions that such orders must be laid before Parliament within a stipulated time.

Mr. Hockin: These questions do not surprise me, because there is a fair amount of such authority given to the Governor in Council in the bill. Having been someone who was concerned about this sort of thing myself before I was elected, I can see why you ask the question.

In this particular bill, however, all of these provisions, with the exception of one, are in previous legislation dealing with these matters, so there is nothing new about this in this particular bill.

What is new is the provision we have put in place for the transition period, the 18-month period. Clause 133 gives wide power to amend any other acts of Parliament. The reason that was done is that although it has been possible to identify a number of other statutes which will require consequential amendment due to the implementation of this harmonized system, it is not excluded that certain statutes may have been missed. Clause 133 of this bill will allow the government to effect expeditiously these required changes to other legislation during a transition period of up to 18 months.

In my comments at the beginning of my appearance here today I made the point that we have to have that flexibility during the transition period. It is vital that we have it, and that is what clause 133 provides flexibility for.

There is nothing new in the other delegations to Governor in Council. It is the same as has existed for decades, so we have not added to that.

Senator Hicks: I know this practice operates not only in this Parliament but in legislatures in the provinces of Canada, and I still do not think it is good. I still think in relation to the Governor-in-Council authority which is given in this legislation there ought to be a more careful requirement that Governor-

in-Council orders be laid before Parliament within a reasonable time. Certainly in clause 133, where, in effect, you are allowing the Governor in Council to legislate by order in council rather than by going to Parliament, there ought to be a most careful provision so that whatever legislative orders, or orders of a legislative nature, are made under clause 133 must be communicated to Parliament at the earliest possible time.

It may be, Mr. Minister, that I am missing the provisions of some omnibus act which requires regulations of this kind or orders of this kind to be laid before Parliament in any event, but I cannot find the requirement in this bill.

Mr. Hockin: Mr. Chairman, there are two very important points covered by clause 133. First, other statutes are changed only to bring them into conformity with this, and not for other purposes. It is very important that we recognize that limitation.

Second, in terms of the 18-month provision, one is dealing here entirely with situations where one is moving the rates of duty down in order to facilitate a manufacturer or an importer. Therefore, it is difficult to understand how exercise of that authority will be controversial or will be resisted by anyone.

Senator Hicks: Not really, Mr. Minister. You may say that it will mostly be exercised to bring rates down, but it could be exercised to move them up. Even if it is exercised to move them down, it surely leaves the minister open to the criticism that he is moving them down in some cases for reasons which are not covered in the legislation while refraining from moving them down in others.

I agree that you have to have a certain flexibility, and I agree that you ought not to be required to go back to Parliament for every minor change in items like this, but at least there ought to be a definite requirement that reports be made to Parliament within a reasonable time of the administrative action that is taken.

Mr. Hockin: The fact is that in the very infrequent cases when rates are raised there will be publication.

The other point I would make is that the authority given to the Governor in Council with regard to this particular matter is, once again, not any different now from what it will be after the harmonized system. It is still the same. Your concern, Senator Hicks, is that we have not improved on the present system in terms of delegation.

Senator Hicks: You could put it that way. That is the best construction you can put on it. Very well, thank you, Mr. Chairman.

Senator Frith: I have very little to add in terms of specific questions to those posed by Senator Hicks.

However, I do want to say that while I support the scheme of this legislation—I read some time ago material put out by the Department of National Revenue explaining its purpose and scheme—I want you to understand this is not the kind of bill, if there is such a thing, that we like to deal with in what can only be a superficial way, and I urge you to plan your scheduling to give the Senate the opportunity to perform its function, that is, to conduct a much more detailed study of legislation.

Here, for example, I would have been tempted to propose amendments on the subjects raised by Senator Hicks and to have those amendments studied in committee and debated here, because I do not feel that the fact that the executive has had, in effect, legislative powers in previous bills is an answer to why it should have those powers in this bill. Rather, it seems to me an appropriate treatment for this bill for the Senate to put a stop to the practice expressed in previous bills, and to take the opportunity to limit legislative functions given to the executive branch.

I did not want you, Mr. Minister, to be—and I hope you have not been—encouraged by the fact that we have taken a bill of this importance and of such technical complexity and dealt with it in this superficial way as a reason to ask us to do so again.

• (1130)

Mr. Hockin: Senator Frith, I would like to respond to your comments. First, if we had taken this through days of committee meetings and had examined the entire question of the delegation of authority, I feel that parliamentarians would have been driven to the conclusion to which I was reluctantly driven, that in order to have flexibility within the operation of the tariff system in Canada we need the level of authority given to the Governor in Council. But that is an assumption on my part.

In terms of timing, this particular bill was tied up in the House of Commons for a number of weeks by some parliamentarians who really wanted to debate something else. They did not seem to have any objections to the bill, *per se*, but they were using that debate to make some points about something else. That is the impediment to your getting the bill a few weeks ago. I felt confident that if senators had received it weeks ago, they would not have taken days and days with this legislation, because it is not a highly partisan bill; it should not be viewed that way. There is a great international understanding about the system put forward in this bill. It is something that I thought would be dealt with with dispatch, but that did not turn out to be the case. That, unfortunately, deprives senators of the time that I think they would have liked to have.

Senator Frith: I understand, and I know you understand, that what takes place in the House of Commons, either by way of delay or, at the other extreme, by way of a speedy passage through the House, should not affect our duty to give sober second thought and careful study to these bills. I know that you, your officials and your colleagues in cabinet are going to be tempted again. I was about to say "we," but I am sure you know what I mean; a previous government did the same sort of thing, so there is nothing partisan about this observation. You may be tempted to do it again at Easter, and certainly will be tempted to do it again in June. I simply want you to take note of that and to tell your colleagues that they ought not to take for granted that this kind of bill can be expected to be passed this speedily again.

The Chairman: Honourable senators, the Senate is in Committee of the Whole on Bill C-87, respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.

Honourable senators, shall discussion on the title of the bill be postponed?

Hon. Senators: Agreed.

The Chairman: Honourable senators, there are 141 clauses in this bill.

Senator Roblin: Move the bill, Mr. Chairman.

Senator Frith: Yes, all clauses shall carry.

The Chairman: Shall all clauses carry?

Hon. Senators: Carried.

The Chairman: Shall the short title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Honourable senators, on your behalf I should like to thank the minister and his officials for their presentation this afternoon.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Belisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-87, respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof, has examined the said bill and has directed me to report the same to the Senate without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Brenda M. Robertson, with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

EXCISE TAX ACT

BILL TO AMEND—CONSIDERED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole on Bill C-101, to amend the Excise Tax Act.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on Bill C-101, to amend the Excise Tax Act, the Honourable Rhéal Bélisle in the Chair.

Pursuant to rule 18 of the rules of the Senate, the Honourable Thomas Hockin, Minister of State (Finance), was escorted to a seat in the Senate chamber.

The Chairman: Honourable senators, we have before us once again the Honourable Thomas Hockin, Minister of State (Finance).

Honourable senators, the Senate is in Committee of the Whole on Bill C-101, to amend the Excise Tax Act. Shall the discussion of the title be postponed until we hear from the minister?

Hon. Senators: Agreed.

The Honourable Thomas Hockin, Minister of State (Finance): I would like to thank honourable senators for this opportunity to speak on Bill C-101. As Senator MacDonald (Halifax) has already provided a fairly eloquent introduction and background on this bill—

Senator Frith: By his standards it was very eloquent!

Mr. Hockin: —I will not take up your valuable time repeating those same facts.

I would, however, like to address a matter raised by Senator Olson in Question Period yesterday. I heard a comment earlier today that perhaps I could address as well. The senator was concerned about differences between the provincial and federal administration of fuel tax rebates for farmers. Senator Olson suggested that the federal and provincial governments should get together so that farmers who were complying with one set of rules were not in violation of the laws of the other level of government. The example he gave us was Alberta.

• (1140)

There are a number of points that I would like to make in this regard. First, this bill does not change the system that is currently in place. It simply extends the system that has been around since 1984 so that farmers and other primary producers can continue to benefit from the substantial assistance provided.

Second, as senators may be aware, differences often exist between federal and provincial programs. For that matter, there are differences among provinces. Fuel tax exemptions for various users are available in most provinces. For example, some allow farmers to use tax exempt fuels in farm trucks; others limit the exemption very strictly to off-highway production users; and some provinces require exempt fuels to be coloured, to have a colour additive put in.

Given those differences in provincial programs, it simply was not possible to implement a federal program that would provide identical relief in every province. There was too much variation from province to province.

The federal program does not provide relief for fuels used in on-highway vehicles because of the difficulty in providing such assistance in an equitable manner. One could simply say, "Why can't we do that? Find a way to do it." But it is extremely difficult to do it in a fair way.

For example, if the relief were limited to vehicles owned and operated by farmers, you would find, with respect to suppliers of trucking services to farmers on a contract basis, that those farmers who chose to use such trucking services on a contract basis would not receive the same benefit.

Conversely, if all fuels used in the transportation of farm inputs and products were eligible for the rebate, transportation companies which provide services to farmers would have to segregate the fuels used for farm transportation purposes from fuels used in their businesses for other purposes. Such a system would be administratively complex and would likely create many inequities.

We believe that the program established by the federal government is fair and equitable, and while it may not be the same as that used in every province, it is administratively simple and does not, in my view, conflict with the various provincial programs. Perhaps it speaks to the genius of federalism that we can have this variation at the provincial level but still have a fair and equitable program at the federal level.

A comment was made with regard to trying to match up the taxes. With the government's excise tax refund and the fuel tax rebate—the fuel tax rebates and refunds to farmers for gasoline—and I will read this into the record—they are as follows: The federal sales tax rebate is 3.5 cents per litre; the excise tax rebate is another 4 cents per litre; and the excise tax refund is 1.5 cents per litre. That adds up to 9 cents per litre. In fact, the taxes that we are levying amount to a little less than that, to 8.86 cents. So I hope that will clarify the question that was asked this morning.

On diesel fuel, the federal sales tax rebate is 3.5 cents and the excise tax rebate is 4 cents, which total 7.5 cents per litre.

Those rebates are sufficient to ensure that farmers receive a full rebate of all federal taxes—and a little bit more—on gasoline and diesel fuel for production purposes; and farmers have received full rebates of all of those taxes on gasoline and diesel fuel since May 1, 1986. There has been no gap; it has been a full rebate.

I am glad to share this with you. I am sorry if the documentation did not make that as clear as it should have.

The Chairman: Senator Olson will start the questioning.

Senator Olson: Mr. Chairman, I thank the minister for that clarification. I read the bill very carefully—it is not very long; it comprises only three pages—but to try to sort out all of the qualifications and references is nearly impossible. I had asked Senator MacDonald a question, to make sure that there were no gaps when the rebate was applicable. I am now satisfied with the explanation of the minister. Perhaps he will give me the sheet of figures to which he referred so that we can have it incorporated in the record.

[Mr. Hockin.]

The list follows:

Fuel Tax Rebates and Refunds to Farmers

Gasoline	Cents per litre
Federal Sales Tax Rebate	3.5
Excise Tax Rebate	4
Excise Tax Refund	1.5
TOTAL	9
Diesel Fuel:	
Federal Sales Tax Rebate	3.5
Excise Tax Rebate	4
TOTAL	7.5

Senator Olson: I want now to go back to what is defined as "off-road operations." Quite honestly, I can appreciate the difficulty which the federal authority would have with the variations in the provincial rules respecting tax rebate on fuels used for production, particularly this off-road factor.

I want the minister to know that he puts farmers in the impossible position of complying with the law in both jurisdictions, because in Alberta—and I believe it is true also in Saskatchewan—it is quite legal to use dyed gasoline or diesel fuel in one's truck while it is being driven on the highway. There is no doubt about that. One is not in violation of the provincial law, which says that dyed gasoline is for farm purposes. That happened approximately 20 or 25 years ago in Alberta, and has applied for a somewhat lesser period in Saskatchewan. Purple dye is put in the gasoline or diesel fuel so that a police officer can identify it as tax-free fuel. If it is found in a vehicle other than one's farm truck, one is in violation and is charged with using it illegally.

Senator Argue: I thought you had no gasoline tax in Alberta.

Senator Olson: We don't, but that is for farm fuel. They don't have it for others. But the fact of the matter is that it is legal to use that dyed gasoline in one's farm truck while it is on the highway. Ordinarily a farmer will apply for a rebate from the federal government for exactly the same amount of fuel that he bought, but on which he did not pay tax to the provincial authority. But if he drives his truck on the highway he is in violation of the federal law, unless he drains out the tank or keeps track of it.

Senator Argue: They have to pull it over the road.

Senator Olson: I hope that the minister realizes the impossible position in which farmers find themselves. I do not know if there is a simple solution to the problem. Perhaps there is not; but I hope that there will be some administration of the law that will take into account the impossible position in which a farmer who suddenly comes to the highway finds himself. If he drives his truck on to the highway with fuel on which he has claimed a rebate, he is in violation of the federal law—yet, he complies completely with the provincial law. Perhaps we have to live with this kind of thing, but it is difficult.

Mr. Hockin: I think it is important that I clarify the situation. In fact, farmers have been able to live with this perfectly well, and I will tell you why. There is an administrative system now in place at the federal level—we do not have to invent one—which allows farmers not to be caught in this "Catch 22" situation suggested by the honourable senator. Farmers can claim 80 per cent of their farm fuel purchases to be designated for off-highway farm use, and the 20 per cent that is missing is the 20 per cent that allows them to drive on the highway. They will not be able to deduct that. Therefore, there is the presumption that they are following the law when they are on the highway, because they are not receiving that 20 per cent of the deduction. If they wish to get more than 80 per cent, they must keep records.

• (1150)

Senator Olson: So they can get more than 80 per cent?

Mr. Hockin: That is right. I think it is pretty well known in the farm community that to get more than 80 per cent back you must keep a record. It is not necessary to keep records if you want to claim just 80 per cent. That is how the program is handled administratively.

However, in terms of a policeman stopping somebody on the highway and saying, "You have purple gas"—

Senator Olson: The police have a suction device that pumps the gas out, and if it is purple you are arrested.

Mr. Hockin: That is not a violation of a federal act, because I have just given an explanation of how we at the federal level merely wish the farmer well, and have no complaints. We do not care what colour the gas is. The farmer is stopped under provincial jurisdiction to determine the colour of the gas he is using. If the provinces want to do that, it is within their jurisdiction. But we at the federal level have been accommodating to make sure there is not a contradiction as far as we are concerned.

Senator Olson: The minister has described the current procedure. It is not new. I was not aware that a farmer could get more than 80 per cent back if he kept a record. I would be interested to know what kind of records are required.

Senator Argue: It would not be worth it.

Senator Olson: No, it would not be worth it. For example, if a farmer does not have any highway vehicle such as a truck that burns diesel fuel, and he only uses it in his tractor, combine, and so on, then he could not collect over 80 per cent of the rebate without producing some records. That is a bit unfair, because many farmers do not have highway vehicles that burn diesel fuel.

Senator Argue: I think the procedure as described here is more complicated than it is back home.

Senator Olson: In any event, I merely want the minister to know that I know what is being done, but I hope that a lot of farmers are not prosecuted.

Mr. Hockin: In practice, the system seems to be working very well. As a matter of fact, large operators are keeping records and are claiming more than 80 per cent. They do not find it difficult to comply.

Senator Phillips: Honourable senators, in the minister's comments during the introduction of this bill yesterday in the other place he referred to the amount of tax being rebated to farmers. Again, this morning Senator MacDonald in his eloquent explanation referred to the same figures.

Senator Doody: Four times.

Senator Phillips: I believe it was only three. Canada has two coasts, and a very large percentage of our populaton is involved in the fishing industry. May we have the figures on rebates to fishermen?

Mr. Hockin: Mr. Chairman, there is a difference for those who fish in international waters and those who fish in Canadian waters. The fishermen who fish in international waters receive a full rebate. Those who do not fish in international waters receive rebates of 3 cents on federal sales tax and 1 cent on excise tax and a refund of 1.5 cents on the gasoline excise tax. That adds up to 5.5 cents. It is not as much as a farmer receives, but we must remember that the smaller rebate is for fishermen who do not fish in international waters.

Senator Phillips: You have given the figures for gasoline. What are the figures for diesel fuel?

Mr. Hockin: For diesel fuel there is a 3-cent rebate on federal sales tax and a 1-cent rebate on excise tax.

Senator Phillips: What does that add up to per annum for fishermen?

Mr. Hockin: I do not have a breakdown on fishermen, but primary producers other than farmers benefit to the extent of $50 million as a result of these rebates and refunds.

Senator Phillips: Would it be possible at some future time for you to supply me with a breakdown on fishermen?

Mr. Hockin: I do not have it with me today.

Senator Phillips: Sometime in the future would be fine.

Mr. Hockin: Yes.

Senator Argue: Honourable senators, I have a question for Mr. Hockin, the answer to which I think is fairly obvious, but I would like it on the record. It is clear that the measure before us contains no additional help for farmers and others, that it is a continuation of the existing measure for a period of two years. Is there anything new or additional in this measure?

Mr. Hockin: There is nothing new and nothing additional, except the rebates are, as Senator Phillips was perhaps alluding to, full and complete for farmers. That is not the case for other primary producers. However, we recognize that the farm community is in tougher straits than some other primary producers.

Senator Argue: My question is: Will the situation on January 2 be precisely what it is today? In other words, Parliament is extending the provisions of this measure for rebates for an additional two-year period.

Mr. Hockin: That is right, but the cost to the government—

Senator Argue: I understand that, and I am not quibbling about it. But the farmer cannot say, "My fuel will go down 1 cent a litre on January 2, because there is an additional rebate." In other words, it is the continuation of a policy currently in effect for another two years. That is my understanding, but I may be unclear in my thinking. So there is nothing new or nothing additional. Perhaps one could say that there is an addition in the sense that the measure will last for another two years.

Mr. Hockin: That is right. Therefore, there is an ongoing and additional charge to the treasury.

Senator Argue: I realize that you could not give out these rebates without losing something.

I have a question which relates to the administration of this measure. Let me explain how I understand it, and perhaps you can tell me whether or not I am correct. I am from Saskatchewan. We used to have purple gas, but we no longer have dyed fuels. We put in whatever colour of fuel we get from the dealer. In any event, as I understand it, a company in a given community which sells fuel directly to farmers is able to make an arrangement whereby the farmer is not charged, and therefore he does not have to apply for a rebate. This procedure makes things clean and clear, and the administration costs from a farmer's point of view are zero. Is that possible?

• (1200)

Mr. Hockin: It is important to distinguish the three different ways in which primary producers may obtain their rebate. First of all, they can receive it through a reduction in the price where fuel is purchased from a manufacturer who is required to pay tax under the act. That is the first method.

The second way you can get the rebate is through a reduction in price where fuel is purchased from a registered vendor who recovers the amount of the rebate directly from the government.

Senator Argue: Therefore the farmer does not have to pay if the dealer recovers it. Very well.

Mr. Hockin: The third method is where the farmer would have to recover it himself by filing a rebate claim with the Minister of National Revenue.

Senator Argue: Then I would be questioning you about the middle category. In other words, about the dealer who is registered, and who does not charge the farmer but applies for the rebate. Anyway, that is what I think you have said.

Mr. Hockin: Yes.

Senator Argue: How does that 80 per cent factor occur in that situation? If the farmer does not pay the tax in the first place, then where does the 80 per cent factor come in?

Mr. Hockin: I gather the way this works is that the farmer declares to the vendor when he is purchasing the fuel. That is one way.

Senator Argue: Declares what?

[Senator Argue.]

Mr. Hockin: Declares what he is using it for.

Senator Argue: I am sorry, I am not trying to trip you up or anything like that. I am just curious as to how it works. The farmer, then, does not have to indicate that it is 80 per cent use, or the dealer does not have to indicate—is that what you are saying?

Mr. Hockin: As long as the farmer keeps his total purchases at the 80 per cent level, he is all right. Otherwise he will have to keep records.

Senator Argue: I am merely asking you these questions in order to tell the neighbourhood farmers. Let us say, for the sake of example, that a farmer buys all of his farm fuel from a given dealer and therefore does not pay any tax at that point. Supposing also that this farmer—as most farmers do—travels around the province and stops every once in a while at a fuel pump and puts some fuel in his vehicle. I am just asking what the rule is. Is the rule that out of the total amount of fuel that the farmer consumes in a given year he should be getting no more than 80 per cent of it from the dealer where he pays no tax? In other words, the idea is that he gets 80 per cent tax free, and then he has to say to himself: "I am buying 20 per cent away from this dealer who provides me with the fuel at no tax." I am just asking these questions for clarification.

Mr. Hockin: The other way in which it would work—and this is fairly frequent, I gather—is that he buys 80 per cent of his purchases from that particular dealer, and that is all for farm use. He then buys the other 20 per cent at an ordinary gas station, or stations, and that is what he would have to say. Then, if he moved it up to 90/10, he would have to keep records.

Senator Argue: I cannot criticize that system. I think it is pretty practical if it runs as you say it is running, and I do not have any additional information to the contrary.

Mr. Hockin: To be absolutely clear with you, I think it is important for us to note that most large western producers do claim more than 80 per cent, and do keep records.

Senator Argue: I think the 80 per cent is quite reasonable.

The Chairman: Senator Petten.

Senator Petten: Mr. Minister, if I understood you correctly, you said that the deep-water fishermen operating in international waters with trawlers offshore, et cetera, get a full rebate on fuel, the same as the farmers do, at 9 per cent. My home province is Newfoundland. We do not have a large farming community, but we are pretty well dependent on the fishery, particularly on the inshore fishery.

On the northeast coast of Newfoundland, this past two or three years, as we would say at home, it has been a blank; it has been a very bad fishery. I would like to ask for clarification, if you are telling us that these fishermen, who need the benefit of every cent and dollar that they can get, only get 5 per cent compared to the 9 per cent for the other fishermen. Did I understand you correctly?

Mr. Hockin: That is right.

Senator Petten: Can I ask the question: Why?

Mr. Hockin: It seems that I have overstated the dark side here. The fact is that there is a study going on with regard to this matter right now, because, with respect to the inshore fishery, if I could use that term, we do not know how much of their catch is exported. In fact, the reason they have the full rebate in international waters is on the supposition that this material is for export, and we do not want to disadvantage ourselves when it comes to export. Therefore, it is not clear with respect to the inshore fishery how much of the rebate is available.

What happens is that these fuels are often purchased exempt from tax. The inshore fishermen, as well as the deep sea fishermen, purchase these fuels exempt from tax. Therefore, in fact, if they all get the full exemption, the supposition is that it is all being exported. What we are studying is the extent to which that supposition is correct. Therefore, it is not quite as dark a picture as I previously painted.

Senator Petten: Therefore there is really no 4 per cent difference there at all. In other words, the difference between the 9 and the 5 is not really there.

Mr. Hockin: Yes. There is a study now being conducted on the extent to which that inshore industry should be designated export, and therefore would qualify for the full deduction.

Senator Petten: Thank you, Mr. Minister. Perhaps at another time we can go into it more fully.

The Chairman: Senator Bielish.

Senator Bielish: I did not intend to ask a question. I merely wanted to take another look at the farm problem. Farmers live with this system. They know exactly how to operate it, and they are thankful for what they get. When they fill up their tanks it is usually in bulk, and they fill up approximately once a month, depending on how much work they do. Therefore, the accounts are there. The dealers furnish you with receipts that are just the same as those required by the tax department, and so there is no problem as far as figuring out what is used for the farm and what is used elsewhere.

The people who get into trouble actually are those who put purple gas into their car.

Mr. Hockin: This is a report from the real world rather than the hypothetical world.

Senator Argue: That is the Alberta world. We got rid of that coloured gas in Saskatchewan. I suppose we have a different breed of Conservatives in Saskatchewan than they have in Alberta.

Senator LeBlanc (Beauséjour): Mr. Chairman, I wonder if I might be allowed to ask a question even though I am not sitting in my regular seat.

I was very much interested in the minister's answer on the matter of percentages, exports, et cetera. I would be even more interested in receiving a report when the analysis is done, if it is a public document, and of reading what the criteria were. For instance, if you are using the criterion of the offshore as being exported, I think you must look at National Sea's production, which in fact is sold under the category of prepared meals, namely, their "Highliner" product, which is, to their credit, probably the most successful consumer product packaged in Canada. On the other hand, most small fish plants using the inshore fishery turn their produce into cod blocks, which are, in turn, also exported. I would very much like to hear what the officials are using as the criteria and the measuring stick on this issue.

Mr. Hockin: I understand your misunderstanding of what I have said. The fuel, and not the fish, is being exported. Let me explain that. The use of fuel for fishing in international waters is viewed as fuel for international export purposes. An inshore fisherman who ventures into certain sectors will also be considered to be exporting his fuel and therefore will get the full rebate.

Some suggested sectors that the inshore fishermen might move into are the Bay of Fundy and inland lakes. These are two areas where the lower rate of rebate applies. However, there are other areas where the higher rebate level applies.

The system is calculated on where the fuel is consumed rather than on where the product goes. The study deals with the fuel, not the fish.

Senator LeBlanc (Beauséjour): I know that the Department of Finance is the depository of all knowledge, but I hope that at some point they might consult with officials in the Department of Fisheries and Oceans. They may find that the definitions of "offshore" and "regions" used by the Department of Fisheries and Oceans may not correspond to their own.

I would like to ask a theoretical question. Once the waters around St. Pierre and Miquelon are no longer disputed, at what point do they become international and offshore? That is an issue that will be settled by the courts.

Mr. Hockin: I am not very interested in talking about that.

Senator LeBlanc (Beauséjour): The fishermen would be quite interested in knowing what the regulations will eventually be.

Mr. Hockin: Yes, I take your point, senator.

The Chairman: Honourable senators, the Senate is in Committee of the Whole on Bill C-101, to amend the Excise Tax Act.

Shall discussion on the title of the bill be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

Senator Doody: Honourable senators, I would like to take this opportunity to thank the minister for his attendance here today. We hope to see him back from time to time.

Senator Frith: But not at the end of a session or sitting.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Bélisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-101, to amend the Excise Tax Act, has examined the said bill and has directed me to report the same to the Senate without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Finlay MacDonald, with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

[*Translation*]

CANADA LABOUR CODE

BILL TO AMEND—CONSIDERED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole on the Bill C-97, an Act to amend the Canada Labour Code.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Rhéal Bélisle in the Chair.

Pursuant to rule 18 of the rules of the Senate, the Honourable Pierre H. Cadieux, Minister of Labour, was escorted to a seat in the Senate chamber.

The Chairman: Honourable senators, I wish to welcome the Honourable Pierre Cadieux. May I ask him whether he wants to make a statement?

Hon. Pierre H. Cadieux (Minister of Labour): Thank you.

[*English*]

It is a pleasure to be here for the fourth time, but perhaps for the first time to deal with a non-controversial bill or bills.

Senator Frith: Famous last words!

Senator Argue: Tell us about the progress at Prince Rupert.

Mr. Cadieux: If you wish, I could answer that. However, if you do not mind, I will complete my introductory remarks. I will then be at your disposal.

I am here to answer as many questions as possible. I would like to concentrate on this important legislation, but if you have a question with regard to the grain handlers' strike at Prince Rupert I would be pleased to answer it.

Senator Argue: If my colleagues would forgive me, I would ask the minister if he would mind giving us the answer.

Senator Doody: Can we start with the bill?

Senator Argue: Whatever you say. I am not in charge.

Mr. Cadieux: As soon as both bills are completed, I will answer your question, senator.

Senator Frith: That is a matter of timing, not a condition.

The Chairman: Honourable senators, the Senate is in Committee of the Whole on Bill C-97, to amend the Canada Labour Code.

Shall discussion on the title of the bill be postponed?

Hon. Senators: Agreed.

The Chairman: Who would like to begin with questions? Shall clause 1 carry?

Senator Frith: Is the minister not going to give us a statement?

The Chairman: Senator Marsden.

Senator Marsden: I would like to ask some questions of the minister. They relate to several clauses of the bill, and not specifically to clause 1. May I ask them now?

The Chairman: Yes.

Senator Marsden: The minister probably knows that we think this bill fills a gap. There has been a loophole that needed to be closed, and we are glad you are closing it. We are in favour of this bill.

Could you tell us whether there are further loopholes of this nature, on which you intend to move in the near future, affecting employees under the Canada Labour Code?

Mr. Cadieux: As you know, senator, there were some amendments that were brought forward in 1984 which came into effect in 1985. To my knowledge, the only loophole that existed is the one that we are dealing with right now. We are very pleased to move on this particular amendment in order to close that loophole, because that was not the intent of the legislation at the time. We were informed of the loophole. We thought it was unfair, and we have moved as swiftly as possible.

As you know, this bill was passed without difficulty in the other place with the support and recommendations of the other parties. Obviously some unions were consulted in the process of drafting this amendment.

Senator Marsden: You understand, of course, that there is unanimous support, and we are part of that support. However, there are still difficulties for employees who are on maternity leave or who are absent under the provisions of this bill. For example, employees do not receive their full pay in most conditions when they are on such leave. Yet, they have to continue paying benefits or paying their portion of benefits.

Do you have any intention of moving on the pay side of this question so that it is not such a burden for employees after coming back from maternity leave?

Mr. Cadieux: Of course, when we pass legislation of this sort we usually look at the trends in collective bargaining. The legislation is now up to par with the trends in collective bargaining, or what is included in the various collective bargaining contracts.

• (1220)

Therefore, I think it would be premature to follow that now. Through the consultation process that we maintain with the unions and the employers we are keeping the Canada Labour Code as up to date as possible. Obviously, if there are variations, we will look into them, and, if necessary, we will bring forward further amendments.

Senator Marsden: I would be happier if you said that the government wanted to be a model employer and a leader in this, because, as we all know, the collective bargaining process, while good in many respects, does not necessarily mean that employees, especially women employees, make gains. If women had made gains, they would not be earning 60 per cent of the wages earned by men. That is the proportion that most women now earn in the federal domain. So I would urge you to lead rather than follow in that respect.

But let me ask you another question which goes somewhat outside of—

Mr. Cadieux: If I may just add to that, senator. We believe that since we have been in office we have led in many domains. Of course, we have a lot of catching up to do, because we were not around for many years. Nevertheless, senator, I take due notice of that.

Senator Marsden: Thank you, Mr. Cadieux. Perhaps I could ask you another question, which does not come precisely under the provisions of the bill but which deals with a matter of leadership.

If a female worker in your office is pregnant, the provisions of this bill will not apply to her, will they? As I understand it, as an employer you do not pay the contributions of an employee who might be off on maternity leave. Is that correct?

Mr. Cadieux: I am informed that the Canada Labour Code would not apply, or would not affect that particular employee. Nonetheless, Treasury Board has similar regulations. I am informed that that particular employee would receive similar benefits under Treasury Board regulations.

Senator Marsden: That is very interesting. Are you telling us that the Treasury Board, with respect to Parliament Hill employees, is ahead of Labour Canada in bringing in that provision, or will the provision be brought in simultaneously?

Mr. Cadieux: Perhaps there were no loopholes in the Treasury Board regulations, senator. We are dealing with a loophole right now. We are trying to block that loophole.

Senator Marsden: So Treasury Board has always paid the employee's part of the contribution?

Mr. Cadieux: That is what I am told.

Senator Marsden: That is good news.

Senator Frith: Mr. Cadieux, I take it everyone supports this legislation. Why did we not get it sooner?

Mr. Cadieux: I think I touched on that earlier. The amendments which brought about the loophole were passed in June of 1984 and came into effect in March of 1985. Consequently, those provisions have been in force for approximately two years.

We were informed of this particular abuse about four months ago, when a question was raised by the CLC in particular, and subsequently again raised in the House. Immediately after that we looked into the situation and went through the consultation process, which we believe in, in order to find the appropriate wording so we would not create another loophole.

The last meeting I personally had with representatives of the unions was about two weeks ago. The final drafting was completed and the legislation went before the House of Commons last Monday. It is now Thursday, and here we are.

Senator Frith: It received first reading in the House on Monday—

Mr. Cadieux: Yes, and went through all stages.

Senator Frith: It went through all stages on Monday?

Mr. Cadieux: Yes.

Senator Frith: You do understand that because a bill receives all three readings in one day in the House of Commons does not mean that that will happen here, but that does not change the fact that your other explanation is satisfactory.

Mr. Cadieux: I would certainly not want to impose what goes on in the other House on this house, senator, or vice versa.

Senator Frith: That is a good way of holding your popularity in this place.

The Chairman: Honourable senators, shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Bélisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-97, to amend the

Canada Labour Code, has examined the said bill and has directed me to report the same without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Paul D. David, with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

HUDSON BAY MINING AND SMELTING CO., LIMITED ACT

BILL TO AMEND—CONSIDERED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole on Bill C-98, to amend an act respecting the Hudson Bay Mining and Smelting Co., Limited.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Rhéal Bélisle in the Chair.

Pursuant to rule 18 of the rules of the Senate, the Honourable Pierre H. Cadieux, Minister of Labour, was escorted to a seat in the Senate chamber.

The Chairman: Honourable senators, we are now meeting in Committee of the Whole on Bill C-98. I think we should hear from the minister. Does the minister have an opening statement?

Hon. Pierre H. Cadieux (Minister of Labour): Yes, Mr. Chairman. The same comments I made on the other bill apply to this bill. The bill passed all stages in the House on Monday with the full support of the opposition parties. These amendments are brought forward with the full support of a tripartite consultation between the unions involved, the management involved, and the provinces involved, which are Manitoba and Saskatchewan.

• (1230)

These amendments are necessary. They have been a long time in the works. We now have agreement from all parties. I believe this is a great step forward in ensuring good health and safety regulations in the mines in Flin Flon, which obviously, as honourable senators are aware, are dangerous work places. I believe that this is a good piece of legislation.

The Chairman: Thank you, Mr. Cadieux. I now call upon Senator Molgat.

[*Translation*]

Senator Molgat: Thank you, Mr. Chairman.

Mr. Minister, we are delighted to have you here once again. As a matter of fact, you are one of our more regular distinguished visitors. You may be soon considered one of us. The only problem is that you would have to ask the Province of Quebec to appoint you to the Senate.

Mr. Cadieux: If I may interrupt, Senator Molgat. I do not want to reveal any secret, but the last time I was here, Senator Frith volunteered to suggest my appointment.

Senator Molgat: Unfortunately, the Meech Lake Accord will eliminate that posibility.

But let us go back to the bill. First, I would like to congratulate you on introducing a bill which met with astounding unanimous approval.

How are things done right now? Who takes care of inspections in Flin Flon? Is it the federal government under the 1947 act or the Province of Manitoba?

Mr. Cadieux: The Province of Manitoba, senator.

Senator Molgat: How come? In 1947, a bill was introduced and passed to make clear that the federal government would have jurisdiction.

Mr. Cadieux: As you know, the federal government had to get involved in 1947 because the mine was on both sides of the border. Strictly speaking, it was a federal jurisdiction.

Since then, there have been discussions, if I may use that word to describe what went on, among three governments, Manitoba, Saskatchewan and the federal government as to who should do what specifically. This situation gave rise to difficult problems.

For that reason there have been, during the last few years, talks about ways to improve compliance with health and safety regulations.

I have been told that most of the work, at the present time, is being done on the Manitoba side, rather than the Saskatchewan side, even though there is still some activity on this side which might continue for another two years.

I believe this is the reason why the Province of Saskatchewan agreed specifically with the Province of Manitoba that health and safety regulations from that latter province should apply to the whole area.

The use of provincial legislation in areas of federal jurisdiction is not new. In effect, we find the same thing in uranium mines, where provincial regulations apply. We will have the same here where Manitoba regulations will be used.

Senator Molgat: Were inspectors ever sent by the federal government following passage of the act of 1947? Did we have federal inspections?

Mr. Cadieux: Since 1947, inspections have been performed by both the provinces of Manitoba and Saskatchewan.

Senator Molgat: Despite the federal legislation?

Mr. Cadieux: Despite the federal legislation, from what I have been told.

Senator Molgat: In other words, that legislation was never enforced?

Mr. Cadieux: The federal legislation says that federal jurisdiction comes from the fact that the two mines overlap.

That might be called a tacit agreement providing at least the acknowledgment of a *de facto* situation whereby both provinces applied their own regulations in their jurisdiction, which obviously did not make things any easier.

Senator Molgat: Consequently, we could simply have abrogated the 1947 act?

Mr. Cadieux: Respectfully, no, Senator Molgat. Because the mine overlaps the two provinces, it is under federal jurisdiction.

Senator Molgat: But it was not enforced.

Mr. Cadieux: We did not enforce it in practice, if you wish, insofar as federal inspectors were supposed to make the inspections but, in fact, the provincial inspectors made them.

That has indeed caused a problem when, in 1976, the courts determined that Manitoba did not have jurisdiction in a death case on the mine site, and neither did it have then jurisdiction over the implementation of regulations.

Considering thus this overlapping, there was no other solution in order to standardize the regulations applying to the mine, as much for the Manitoba workers as for those from Saskatchewan. Even though they live in Manitoba and normally work in that province, they can find themselves underground in Saskatchewan, and vice versa.

So federal jurisdiction will ensure uniformity with the provincial agreement, and by reference, if you wish, it will apply provincial health regulations at the workplace.

You will note, by the way, Senator Molgat, that Manitoba has recently amended its health and security regulations at the workplace and has now fully adequate ones. Moreover these regulations have the unanimous approval of the trade unions, the employers, the provinces and the federal government.

Senator Molgat: Then, there are no federal inspectors and, consequently, none will be laid off as a result of this bill?

Mr. Cadieux: No, not as far as I know, senator.

Senator Molgat: Now, about the miners themselves—

Mr. Cadieux: Well, if you will permit me, the federal government, I think, will save money.

Senator Molgat: And if we did not have inspections, no money would be saved.

Mr. Cadieux: No, if this bill was not passed, inspections would perhaps be necessary, however, and we might have to hire people to do them.

Senator Molgat: But we do not have inspectors in the mine now and we have had none since 1947?

Mr. Cadieux: Not to my knowledge, Senator Molgat.

Senator Molgat: About the miners, now. Do provincial regulations in Manitoba differ much from those of the federal government? Will miners not be as well protected under the provincial legislation as they would be under federal law?

Mr. Cadieux: Under federal jurisdiction, there are now no specific regulations dealing with professional health and safety in hard rock mining.

But the consensus of Saskatchewan and Manitoba unions, employers as well as the federal government is that the Manitoba regulations that have been developed are adequate considering that specific type of work in hard rock mining.

Senator Molgat: So there are no federal regulations?

Mr. Cadieux: For hard rock mining, no.

Senator Molgat: Are there other circumstances in other provinces or areas of Canada where the same problem as in Flin Flon exists?

Mr. Cadieux: As I said earlier about uranium mines, we also apply the regulations by reference in provinces where those uranium mines are.

Senator Molgat: Each province has the right to have its own regulations in that regard. Considering the problem we have had in Flin Flon—

Mr. Cadieux: If I may interrupt at this point, 90 per cent of all the jurisdiction over mines is strictly provincial. In circumstances such as these where there is overlapping, by definition, federal jurisdiction applies, as it does when we are dealing with uranium mines that come under the Atomic Energy Control Board.

Senator Molgat: This is why we do not have any regulations in the field of hard rock mining.

● (1240)

In the case of large mining corporations, like Inco that operates a mine in Sudbury and another in Thompson, Manitoba — and there are many others — the miners themselves go from mine to mine and from province to province. Did the federal government ever try to make regulations or to reach an agreement applying to all provinces? After all, miners who work in Nova Scotia have the same right to be protected as those who work in Flin Flon. I think the federal governement should try to work out some kind of general agreement. It would ensure that miners are protected and that everyone understands the regulations. I often feel that what happens in the mines is not due to any lack of goodwill but simply to a lack of understanding of the rules. People are not fully aware of the danger involved. Had there been regulations applying all over the country, there would be no reason for concern when a miner travels to another region and there would be no concern that a company trains its workers differently.

Mr. Cadieux: Philosophically, Senator Molgat, I think you are absolutely right. It would often be ideal or extremely practical to have uniform regulations applying all over Canada. However, various factors must be considered. One of them, of course, is that provinces are often very sensitive, and rightly so, about their jurisdiction. The kind of field we have to deal with must also be taken into consideration. I am told — unfortunately I am not an expert in the field of mining exploration — that general regulations governing all Canadian mining operations could often be difficult to apply. They may not be bad *per se,* but they could be impractical. You sometimes have to adapt certain conditions depending on the type

of mine you are dealing with, hard rock versus uranium, for example, and depending also on the site. So it may be easier and simpler than having regulations which are tailor-made for the specific locality involved. This is more or less what happened in the case of Flin Flon where after consultation, maybe since 1947 or a little later, they finally accepted the Manitoba regulations because, in present circumstances, it turns out that these regulations were made to apply to that operation.

Let us get back to the application of general or coast-to-coast regulations, if you will. As I see it, employees must be treated in Victoria just as they would be in Newfoundland.

I want to give you an example of a system we set up recently, WHMIS, which stands for Workplace Hazardous Materials Information System. After four years of consultation between all provincial, territorial and federal governments, the industry and the unions, we did manage to pass legislation where all information dealing with dangerous materials in Canada will be the same everywhere so that a worker, be he in Newfoundland, in Montreal or in Saskatchewan, will have the same kind of protection and be entitled to the same kind of information concerning hazardous products which he may have to handle in Ottawa today and maybe in Toronto tomorrow, if the product has been transported from one locality to another or from one province to another.

In certain cases it may be the ideal solution but in others, unfortunately, it may not be just as practical as we would wish. Perhaps we might be well advised to review the matter, Senator Molgat. I would point out that in this case this option was discarded because of the particular circumstances and because of the special interest of Manitoba in this locality, especially to draft appropriate regulations.

Senator Molgat: Thank you.

Senator Frith: I have only one question for the minister. When answering the questions asked by Senator Molgat, I believe you said twice that, by definition, the existence of mines in both provinces automatically means that federal jurisdiction is involved.

Do you mean that this change in jurisdiction occurs without a declaration under the constitutional provisions regarding the declaratory power? Just in passing, can the mine operate mechanically in a single province? Would it be possible for a part of the mine located in Manitoba, for instance, to operate without machinery exclusively in Manitoba?

Mr. Cadieux: I am certainly not an expert in mining operations, Senator Frith. Unfortunately, I have never even visited a mine. I therefore have no idea whether or not in this specific case the mine could operate in Manitoba without using the Saskatchewan machinery, or vice versa. However, I am told that, maybe in two years, the Saskatchewan operation will come to an end. It therefore seems that, in two years, the entire operation will be in Manitoba.

To come back to your question, and I thank you for asking it as it will allow me to clarify an ambiguity which I may have created, in 1947 there was confusion about who had jurisdiction over a mine which overlapped provincial boundaries. It was decided to put an end to the confusion.

Senator Frith: This was one of the issues which were unclear at the time, and this is why I asked the question.

Mr. Cadieux: It was unclear at the time whether the mine came under strict provincial jurisdiction in one province or the other, or whether it came under federal jurisdiction because there was an overlapping. I believe that an official declaration that it came under federal jurisdiction was made in recognition of the fact that it had to come under federal jurisdiction because there was overlapping and because there was ambiguity.

Senator Frith: It was a declaration under the declatory power.

Mr. Cadieux: It was generally in the interests of Canada.

Senator Frith: Exactly, this is why I asked the question. Otherwise, I am not convinced that such an overlapping alone would create an area of federal jurisdiction, but if it was a declaration, it is quite clear.

Mr. Cadieux: Following the overlapping.

Senator Frith: Yes, agreed.

Mr. Cadieux: Something like in the case of interprovincial transport.

Senator Frith: Quite. It was this situation which provided the basis for the declaration, was it not?

Mr. Cadieux: Yes, senator.

Senator Frith: Thank you, Mr. Cadieux.

[*English*]

The Chairman: Honourable senators, shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Honourable senators, before reporting our progress on this bill to His Honour the Speaker, may I say to all of you how much I have appreciated the honour and pleasure of presiding over your sittings, especially today when the spirit of the Christmas message has already filled your hearts—peace on earth to all men and women of goodwill. May I say to all of you, Merry Christmas and a Happy New Year.

Senator Argue: Mr. Chairman, before you leave the Chair, I wonder if you would pardon me if I asked the Minister of

Labour whether he could report to us on the present situation in the grain handlers' strike in Prince Rupert. Is any progress likely to be made? Can you see a settlement of the strike?

Mr. Cadieux: I will start with the last part of your question. I hope that the end is close by. In fact, I hope that the end will be today. Of course, for some little while that will be in the hands of the parties who, I am informed, will meet tomorrow in Vancouver with mediator Collins, who has already been in touch with the parties since I instructed him to do so and to reconvene the meetings. The last information I have is that they will be meeting tomorrow in Vancouver at 2 p.m. Vancouver time.

Senator Argue: Is Mr. Collins a new person in this situation, or has he been involved in this particular dispute in some other capacity at a previous time?

Mr. Cadieux: If my memory serves me correctly, Mr. Collins was appointed mediator in this particular dispute on March 20, 1986.

The reason, perhaps, why we find ourselves more than a year later with the reactivation of the mediator in this particular case is because the parties—and I do not want to identify either one—have been involved in many court challenges, "court" including the CLRB and, of course, the Federal Court of Canada, which have, unfortunately, delayed the process, which is normally faster, and in many cases much more practical and successful. It is needless to remind you that the Air Canada settlement, which occurred yesterday, came about with the help of a mediator.

• (1250)

Senator Argue: I have one or two other short questions. Does Mr. Collins play the same kind of role within the department as does Bill Kelly? In other words, is he one of the people who are available from time to time, on the instruction of the minister, to endeavour to mediate a situation like the one on the west coast?

Mr. Cadieux: I would not want to say that Mr. Collins occupies the same role as Mr. Kelly, or vice versa, Mr. Kelly being the Associate Deputy Minister of Labour. But Mr. Collins is also an employee of the Department of Labour. He is in our regional office in Vancouver and is called upon by the minister of the day to serve in various capacities.

Senator Argue: To make my question clearer—

Some Hon. Senators: Oh!

Senator Argue: No, honourable senators, I will not be long-winded.

I know that the two men have a different status, and that Bill Kelly is numero uno when it comes to these kinds of things, but do they play the same kind of role? They are there, are they not, for the same purpose? While the names are different for different disputes, they are there to try to bring the parties together, to try to hammer out a settlement, to try to be fair to both sides, and to achieve some success?

Mr. Cadieux: Senator, that is absolutely in accordance with the definition I would give of the mediation process.

Senator Argue: I thank the minister for his comments. Before he rises, I would like to say that the settlement of this dispute is very critical to the industry. Out on the west coast we not only ship a large part of our grain but this commodity commands a premium price. Therefore, for every bushel of grain not moving there at a given time we not only lose the income at that moment—and I am not one to say that because there was a strike for a week or two we will necessarily lose sales; that is another question—but it carries a premium price. So, while any dispute is important, this one is even more important, because the premium price is lost.

The Chairman: Honourable senators, order. This, Senator Argue, has nothing to do with the question we are dealing with.

Senator Argue: But the minister agreed to answer my questions. I think we are doing this by unanimous consent of the Senate. If we are not, we will stop.

Mr. Cadieux: With the permission of honourable senators—

Senator Corbin: Mr. Chairman, I apologize to the minister, who is an excellent witness, but I think this goes beyond what is just between Senator Argue and the minister. This procedure concerns all of us. How long is it going to continue? Can Senator Doody tell me when we can expect the house to resume today? Are we expected to come back on an empty stomach? What is going on?

Senator Doody: Honourable senators, I will try to assuage your hunger pains as quickly as I can. My sense of the situation is that we are reaching a climax and that we are just about ready to go.

Mr. Cadieux: With the permission of honourable senators, as Minister of Labour I personally consider all of the disputes in which I have become involved to be important. I do appreciate the particular importance of and the negative effect that a strike in that specific domain can cause to the economy of Canada in general. I can assure Senator Argue that we are following this process very closely. It is our hope that the parties will also realize the potential damage they can cause to the economy of Canada in general, and to themselves in particular, especially at this time of year.

The Chairman: Thank you, Mr. Minister.

Honourable senators, shall I report the bill without amendment?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Bélisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-98, to amend an act

respecting the Hudson Bay Mining and Smelting Co., Limited, has examined the said bill and has directed me to report the same to the Senate without amendment.

THIRD READING

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill be read the third time?

Hon. Jean-Maurice Simard, with leave of the Senate and notwithstanding rule 45(1)(*b*), moved that the bill be read the third time now.

Motion agreed to and bill read third time and passed.

The Senate adjourned during pleasure.

At 2 p.m. the sitting of the Senate was resumed.

ROYAL ASSENT

NOTICE

The Hon. the Speaker, informed the Senate that he had received the following communication:

RIDEAU HALL

17 December 1987

Sir,

I have the honour to inform you that the Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 17th day of December, 1987, at 4:00 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-SECOND REPORT OF COMMITTEE TABLED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have the honour to table the thirty-second report of the Standing Committee on Internal Economy, Budgets and Administration dealing with the Senate estimates for the fiscal year 1988-89. The estimates are attached in duplicate in both English and French.

[Senator Bélisle.]

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

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

QUESTION PERIOD

[*English*]

Leave having been given to revert to Question Period:

NATIONAL DEFENCE

COMMITTEE STUDY OF CONCERNS OF MILITARY FAMILIES—STATUS OF REPORT AND NATURE OF RECOMMENDATIONS—REQUEST FOR ANSWER

Hon. Lorna Marsden: Honourable senators, I have a question for the Leader of the Government concerning whether the Minister of National Defence is planning to bring to Parliament the report on military families, which he has had in his hands since September.

I had asked whether it would be available before the end of the year. The fact that there is no answer in itself answers my question, namely, that it will not be available for the beginning of next year. I wonder whether the Leader of the Government will then take my question as going forward into the next year; in other words, how soon in 1988 will we get this report, and will it be brought to this chamber?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will take my honourable friend's question as a representation and I will convey it to my colleague, the Honourable Perrin Beatty.

MIDDLE EAST

GAZA STRIP—RECENT INCIDENTS—GOVERNMENT ACTION

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask the Leader of the Government whether the federal government has made any representations to the Government of Israel with respect to the recent incidents which have occurred on the Gaza Strip, and whether the Canadian government has urged the Israeli authorities to exercise restraint in the situation?

• (1410)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the answer to that question is yes, it has been done.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, earlier today Senator Argue

indicated that he had some questions regarding the Prince Rupert situation. Since during Committee of the Whole the honourable senator discussed the matter with the minister, perhaps he will consider the information that he received to be as up-to-date as any information that could possibly be had at this point.

Also, earlier Senator Corbin inquired about an answer that he had been promised in reply to a question concerning economic development in New Brunswick, the fate of federal government projects announced during the provincial election campaign.

I have an answer to Senator Corbin's question, and delayed answers to several others. I will be glad to read the answers to the questions if it is the wish of honourable senators; otherwise I suggest that they be printed as part of today's proceedings.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT COMPENSATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked on October 6, by Senator Grafstein, regarding redress for Canadians of Japanese origin—government compensation.

(*The answer follows:*)

In an effort to find a satisfactory solution, the government has held extensive consultations with the Japanese Canadian community and its largest representative group, the National Association of Japanese Canadians (NAJC).

The first requisite of the NAJC was for an official acknowledgement of the injustices suffered by Japanese Canadians. The Secretary of State, the Hon. D. Crombie, met this demand by promising that the House of Commons would, indeed, offer such an acknowledgement.

The Association also demanded assurances that incidents of this nature would never recur. On June 26, the Minister of National Defence, the Hon. P. Beatty, introduced Bill C-76 in the House of Commons. This legislation, when enacted, will replace the War Measures Act with better options for handling national emergencies.

In addition, the government has offered to establish a $12 million community fund that would be controlled by representatives of the various Japanese Canadian communities across the country. The NAJC has rejected this offer and demanded individual payments to people, regardless of loss or need. Collectively, this would exceed $400 million. The government does not consider this to be an equitable solution, for reasons that have been fully explained to the organization.

HEALTH AND WELFARE

AIDS—AVAILABILITY IN CANADA OF DRUG AZT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on November 19 a question was asked by the Honourable Stanley Haidasz regarding Health and Welfare—AIDS—Availability in Canada of the Drug AZT

(*The answer follows:*)

The drug AZT has been available in Canada for the treatment of patients with AIDS and severely depressed T-4 cell counts since November 4, 1986. This arrangement was facilitated by the federal government, and particularly by the provision of over $1 million for clinical trials of the drug. The federal goverment is also sharing the cost of AZT, some $12,000 per patient per year, with the provinces, under the terms of federal-provincial health and social service funding arrangements.

AZT may not be licensed for unrestricted use. AZT also has serious side effects, and careful patient monitoring is essential. This is best achieved by maintaining the drug in experimental status.

AIR CANADA

LABOUR DISPUTE—CURRENT SITUATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on December 8 a question was asked by the Honourable Hazen Argue regarding the dispute between Air Canada and the International Association of Machinists and Aerospace Workers.

(*The answer follows:*)

Telexes sent by the Minister of Labour on December 7 to Air Canada and the union, urging a resumption of negotiations, were sent on the Minister's initiative without prior discussion with either party. The telexes were sent to the parties within minutes of each other. In the case of the union, their telex was sent Special Delivery as they do not have their own telex machine. However, a copy of the telex was immediately transmitted to the union by facsimile. Any delay in the receipt of the Minister's message would appear to be due to the delivery process.

FISHERIES

MUSSEL INDUSTRY—GOVERNMENT ASSISTANCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on December 8 a question was asked by the Honourable Senator Bonnell regarding Fisheries—Mussel Industry—Government Assistance.

(*The answer follows:*)

The Government is extremely concerned about the economic well-being of those producers in Atlantic Canada affected by the removal of all live Atlantic clams, mussels, oysters and quahaugs from the Canadian retail market. Nevertheless, the health of Canadians remains the government's first priority. Suspect products have now been removed from the marketplace. A new supply of products will re-enter the marketplace within days as

Inspection Services are able to ensure that they fully meet health and safety requirements.

Government officials are currently exploring the impact of the removal of these products from the marketplace and are continuing to make every effort to identify the nature and extent of the toxicity problem. It is, therefore, too early at this point to speculate on the question of compensation.

THE ENVIRONMENT

POLLUTION OF GREAT LAKES—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on December 9 a question was asked by the Honourable Senator Haidasz regarding the Environment—Pollution of Great Lakes—Government Action.

(*The answer follows:*)

The federal government places a high priority on the preservation and improvement of water quality in the Great Lakes.

On November 18, 1987, new provisions to the 1978 Canada-U.S. Great Lakes Water Quality Agreement were signed by the Minister of the Environment and by the Administrator of the U.S. Environmental Protection Agency, Lee Thomas, in Toledo, Ohio.

The new provisions are aimed at addressing all sources of pollution to the lakes including: contaminated groundwater, contaminated sediments, and airborne toxic substances.

In addition, new requirements for improved implementation were agreed to whereby the parties will meet twice a year to coordinate work plans and review progress.

Under the 1987 amendments to the Great Lakes Water Quality Agreement, Ontario and Environment Canada are developing remedial action to address the 17 areas of concern in the Canadian portion of the Great Lakes Basin.

Environment Canada is also providing support to the Ontario Ministry of the Environment's Municipal and Industrial Strategy for Abatement (MISA) Program which will establish stringent pollution abatement requirements for municipalities and all major industrial point source discharges.

In February 1987, Environment Canada, the Province of Ontario, New York State and the U.S. federal government signed the Declaration of Intent relating to the Niagara River Toxics Management Plan. Under the Management Plan, the four jurisdictions committed themselves to achieve a 50 per cent reduction in toxic chemical loadings from sources along the river over the coming decade.

Several federal and provincial government agencies responsible for fisheries, natural resources, health, agriculture, transportation and public works are also involved in studies and programs for Great Lakes water quality protection and enhancement.

Environment Canada will continue working with Ontario, and U.S. federal and state authorities in addressing problems in the Niagara River, Upper Great Lakes Connecting Channels and Lake Ontario.

HEALTH

TAINTED MUSSELS—DATE OF AVAILABILITY OF EVIDENCE AND DATE OF WARNING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on December 10 a question was asked by the Honourable Senator Stewart (Antigonish-Guysborough) regarding Health—Tainted Mussels—Date of Availability of Evidence and Date of Warning.

(*The answer follows:*)

November 29, 1987

The Health Protection Branch, National Health and Welfare, advised two major mussel distributors on Prince Edward Island to cease further distribution of mussels.

December 1, 1987

A joint news release by the Ministers of National Health and Welfare and Fisheries and Oceans was issued to alert the public against consumption of Prince Edward Island mussels.

ECONOMIC DEVELOPMENT

NEW BRUNSWICK—FATE OF FEDERAL GOVERNMENT PROJECTS ANNOUNCED DURING PROVINCIAL ELECTION CAMPAIGN

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on October 14 last, by the Honourable Eymard Corbin, regarding Economic Development—New Brunswick—Fate of Federal Government Projects Announced During Provincial Election Campaign.

(*The answer follows:*)

Listed below are announcements made in New Brunswick that involved the federal government from August 2 to October 13, 1987.

August 30—Approval of construction of New Brunswick Botanical Garden in Saint-Jacques, Madawaska County.

August 31—Expansion of the Hanshaus Bavarian Brewery in the Dieppe Industrial Park, Dieppe.

September 20—New federal program for the creation of community radio stations in official language communities.

September 25—Upgrade of the water distribution system that serves the Sussex Industrial Park, Sussex.

September 25—Expansion of the Grandview Industrial park plant of NovaStran (1986) Ltd., Saint John.

October 5—Contribution towards the project "Carrefour de la Mer" to be built in Caraquet, Gloucester County.

October 6—Contribution towards the restoration of the Lefebvre Monument, Memramcook.

October 9—Contribution towards the establishment of an incubation centre in Fredericton.

October 9—Grant to establish a Wood Sciences and Technology Centre (WATC) at the University of New Brunswick, Fredericton.

October 9—Contribution towards the modernization of Lantic Sugar Ltd., Saint John.

REQUESTS FOR ANSWERS

Hon. John B. Stewart: Honourable senators, I notice that in the list of delayed answers given by the Deputy Leader of the Government he did not include an answer to my question concerning the participants in the several consortia invited to deal with the proposal for a fixed crossing in Northumberland Strait.

Senator Murray, earlier, gave us the names of the consortia, but he did not give us the breakdown of the participants which I had sought in my question. It was not included in the answer I was given the other day. If I could be given that information privately, it would be helpful. It could then be placed on the record when we return.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that information has not yet come to my attention. When it does, I will communicate it to the honourable senator whether or not the Senate is then sitting.

Hon. Peter Bosa: Honourable senators, in connection with the delayed answers given by the Deputy Leader of the Government, may I ask him whether he can provide an answer to my question concerning the repaving of the road system on Parliament Hill?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I regret to inform my honourable friend that despite the urgency of that particular question, it did not find its way into the list of answers that I brought to the house today. I will certainly try to get it as quickly as possible. In the meantime, I would ask my honourable friend to observe very great caution as he makes his way through the impediments in the area.

[*Translation*]

PENSION ACT, WAR VETERANS ALLOWANCE ACT AND COMPENSATION FOR FORMER PRISONERS OF WAR ACT

BILL TO AMEND—ANSWERS TO QUESTIONS ASKED ON SECOND READING

Hon. Arthur Tremblay: Honourable senators, Senator Thériault asked me two questions requesting information during consideration of Bill C-100. I obtained the answers yesterday.

The first question asked for the number of persons receiving benefits provided for in the bill. The answer to that question is as follows: About 380 persons.

The second question asked for the amounts required to enforce the legislation. The answer is as follows: About $3 million over the next five years.

[*English*]

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday, January 26, 1988, at two o'clock in the afternoon.

Motion agreed to.

HEALTH CARE

SPECIAL COMMITTEE APPOINTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.:

That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services, can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care;

That twelve Senators, to be designated at a later date, four of whom shall constitute a quorum, act as members of the special committee;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee; and

That the committee present its final report to the Senate no later than twelve months following its establishment.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, I adjourned the debate on Senator Argue's motion two days ago for a number of reasons, which I do not feel I ought to expand upon in detail this afternoon except to say that I still feel that a committee of 12 senators will, I suspect, impose a burden on the time available to them and other honourable senators to do their work properly. Most of us, if not all of us, are members of at least one committee, if not two and sometimes three. For that reason I had thought that adding another committee

would really be excruciating in terms of members available to sit on committees generally. When Senator Haidasz rose last Thursday to propose the creation of still another committee, I said at that time that I felt that an existing committee could very well look after the concerns he wished to explore by his additional committee. In some respects I still have the same reservation for the creation of this committee. That is one of the reasons why I was rather lukewarm to the idea. However, I shall not go against what seems to be considerable support for the establishment of this committee.

Other concerns were expressed and identified not only by myself but by some colleagues from my own party, and by some senators from the other party as well, with respect to the scope of the inquiry upon which the new committee would embark. I, for one, feel that while a few senators are professionally equipped to deal with some of the matters this committee will be expected to examine, we do not have in this house sufficient resources and expertise to embark upon the broad examination suggested by Senator Argue in his motion, which is "to examine Canada's health care system." That is a pretty broad mandate. It covers just about the entire sphere of health. So unless we retain the professional services of dozens of people, I do not think the Senate has the capacity to do a proper job on such a far-ranging subject. Therefore, I would like to propose an amendment. I am looking around for a seconder. May I call upon Senator Olson to consider seconding my motion?

Hon. H.A. Olson: I have not seen the amendment.

Senator Corbin: I did him a similar service before without hearing his motion beforehand. So, if he would pay attention, perhaps he could see his way to supporting this amendment.

Therefore, I move, seconded conditionally by the Honourable Senator Olson, P.C.:

> That the motion be amended in the first paragraph by striking out, immediately after the word "examine", in line 2 the words "Canada's health care system"; and by replacing the words "such an improved health care system", in lines 7 and 8, by the words "preventative medicine and other preventative measures".

If Senator Olson will indicate his support, we can proceed with the motion.

Senator Olson: Honourable senators, I second the motion.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, are there copies of the motion?

Senator Corbin: I am sorry, I meant to give the honourable senator a copy this morning.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the effect of the amendment is to concentrate the committee's attention on preventive health care and alternative health care systems and ways of improving Canada's health care system accordingly. I believe that many honourable senators were concerned about the words that have been removed; namely, a study of "Canada's health care system", and felt that they made the scope of the study broader than necessary. I believe there was a good deal of support for the essence of Senator Argue's proposition, that is, the study of alternative health care systems and preventive medicine. For that reason I am supporting the amendment.

• (1420)

Hon. Brenda M. Robertson: Honourable senators, upon looking at the amendment some of us continue to have reservations. I therefore move the adjournment of the debate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "nays" have it.

Senator Doody: Is it the wish of this chamber that Senator Robertson not be allowed to participate in this debate?

Senator Frith: No, but we would like her to participate right now.

Senator Doody: You want her to do it right now; in other words, she does not have any time to prepare?

Hon. Allan J. MacEachen (Leader of the Opposition): On that point, honourable senators, it was my understanding that members of the Senate were prepared to deal with this matter today. Indeed, it was stated last week, and affirmed earlier this week, that the Senate would deal with this matter before the Christmas break. I believe that Senator Doody himself, earlier in the week, had given that assurance to Senator Argue.

In an effort to accommodate the concerns that had been expressed by a number of senators, including Senator Robertson, Senator Argue has agreed to amend his motion—or support the amendment—and the amendment is a substantial one and is intended to meet certain concerns. I regret that I did not have an opportunity to discuss the matter with Senator Robertson, although I did discuss it with Senator Flynn and with Senator David, Senator Le Moyne, Senator Corbin and others. I assumed that we had removed the main objection.

Now I find myself in a somewhat uncomfortable situation in refusing the adjournment to Senator Robertson. However, I think that discomfort must be weighed against the reality that if we adjourn the debate today, the matter will be put off until January 26 or later, and the necessary preparations for the organization of the committee will not take place.

Senator Argue was assured that this matter would be dealt with. In fact, he has patiently agreed to stand a decision from one day to the next. Therefore, I wonder if there is some way in which Senator Robertson could accommodate the Senate, or whether we could accommodate her by coming back to this order later in the day when she has had an opportunity to look at the amendment, and then we can come to a decision. I would not want to deprive her of the opportunity of speaking. It is the question of having a decision today that I think is somewhat urgent.

Senator Doody: Honourable senators, I have no desire to inconvenience Senator Argue or anyone else in this regard. I was very much impressed with the list of names that Senator MacEachen gave us of the people who had been told about the amendment and what was being done. Since my name was mentioned as one who had committed himself to moving this matter along, I was just a little bit surprised that I was not one of the people who were told that an amendment was coming forth, or what the gist of it was. Therefore to me this is a whole new situation, even though I am being told that I was committed to moving it ahead in the absence of any information to that effect.

Therefore I must really mildly—as is my manner—protest the situation in which I find myself, and, at the same time, defend Senator Robertson's right to examine this matter and to think about when and where she wishes to speak.

As to the argument that Senator Argue will not have time to move his committee along, today we will adjourn until January 26. If it is his intention to meet during the Christmas period, then he can do all of the logistics that are necessary to demonstrate the actuality of that situation, and that might put a different complexion on things. However, it is my understanding that this place will be pretty well vacated during the next several weeks. Therefore, the urgency is more apparent than real in that respect.

Senator Frith: Honourable senators, it is a matter of a conflict that we all have in accommodating two of our colleagues. It is a fact that for some weeks now Senator Argue has been asking that this matter be dealt with in its original form, and he has received undertakings from us that it would be disposed of this week. Therefore, if we are to fulfill our undertaking to him we should put the motion in its original form, without the amendment, and then vote on it, because that is the undertaking that we gave him.

What has happened is that he has said: "I will take into account some concerns and, in effect, reduce the scope of the motion that you have agreed you would dispose of this week." Then we have the problem of accommodating Senator Robertson. It is very unusual for us to refuse the adjournment. There also is a rather esoteric provision in some of the material in my possession that if a senator's motion to adjourn is refused, that senator loses the right to speak on the motion, and we certainly do not want that to happen to Senator Robertson.

However, that is the position we are in. It seems to me that Senator Argue would be justified in saying: "If you do not like the smaller scope of my motion, and you say I have introduced a brand new ballgame, then fulfill the undertaking that you gave me and vote on the motion in its original form." I do not think that that original motion represents the consensus in the chamber. That is why I think the best solution is to have the matter stand until later in the day, and let Senator Robertson, and any others who wish to do so, speak to the amendment at that time. We have the time.

Senator Doody: Just to embellish the point that I thought I had made earlier, the principle of at least informing the government leadership—or what purports to be the government leadership—of the plans of the mover, the seconder, or the amender, on this matter is not so esoteric. I think it is a pretty well recognized convention. I even had to ask for a copy, which my friend so graciously and kindly brought across and presented to me with full yuletide greetings, and I will never forget that; it was a very nice gesture.

Nevertheless, the situation remains that this is a very different kettle of fish from what we started to deal with two days ago.

Senator Frith: That is why I say let us not deal with it now.

Hon. Duff Roblin: Honourable senators, I know perfectly well I am not going to add anything to the discussion, but it will give me some satisfaction, and I trust I may be allowed to express my opinion, because I was not one of the senators whose names were presented to the Senate as being authorities for the proposal that is before us now. Nor indeed was I one of those who were consulted in any way. However, I would like to say that I think it is a bad thing if we purport to limit the discussion in the Senate on a matter of this nature, particularly when we are dealing with a new proposition.

I am not aware of the arrangements made with Senator Argue. I certainly did not make any arrangements with him. In my opinion, it is probably not very suitable that private arrangements of this kind should be presented to us as something to which we should lend our support. I take the view that—

Senator Argue: No private arrangements were made with me.

Senator Roblin: I am glad to hear it.

Senator Argue: What Senator Doody has said is on the record of the Senate, that is all.

Senator Roblin: All I know is what Senator Doody put on the record right now. There was certainly no public arrangement made insofar as he was concerned. However, I am simply saying that we should not deprive Senator Robertson of the right to adjourn the debate at this particular moment on this subject for the simple reason that it is a new motion that we have before us now. This is not the original proposition; it is a new proposition. None of us, as far as I know—except those who concocted it—knew what was in it, although we heard it read to us just a few minutes ago. Therefore, to say now that the senator should not be allowed to adjourn this debate and to speak upon it at a later date seems to me to be quite wrong.

Honourable senators, in practical terms, what are we doing? Are we depriving Senator Argue of having his motion dealt with at an early date? We are not.

Senator Olson: Yes, we are.

Senator Roblin: We are not. If the motion is dealt with right now, everyone knows that we are adjourning until January 26. There is nothing that the committee will be doing in the interval. It is not as if time is being lost or the issue itself is one in which time is of the essence. It is not. It is a matter that will be discussed by members of the Senate over the months that are to come. Apart from meeting the obvious desire of Senator Argue to get on with his particular idea, I really cannot see what the urgency is that we should be asked to deal with it now in such a way as to prevent a senator from adjourning the debate and discussing what is essentially a new proposition at a later date. If we get into this habit we will be making a mistake.

Senator Robertson: Without jeopardizing my position to speak, I must say, in defence of Senator Corbin, that he did give me a copy of his amendment. Some of us discussed this amendment at length. We decided among ourselves that we wanted to have a little more time, and in that spirit I moved the adjournment of the debate. The future of the motion is at your mercy, I suppose, but I assumed that it was a normal procedure. I certainly did not intend to cause a ruckus, but I still stand by my motion. Kill it or do whatever you want to do with it.

Senator Corbin: Honourable senators, on a point of order, if I may refer to the mechanics of the wheeling and dealing that went on this morning, some of it informally outside the house and some of it formally inside the house, I must say that I had been in contact with my leader, with Senator Argue, and with some of the members who sit on the government side. I do not want to name anybody, because that is beside the point in any case. However, I do want to respond to the remark that Senator Doody made, and that was that he had not been informed of the motion when I rose to speak this afternoon.

For the information particularly of Senator Doody, I wish to tell him that of course I have been speaking with members of his party. I have been speaking with one member in particular who said, "Well, discuss it with other members." All the time I assumed that you yourself, Senator Doody, would be informed by your own members. I hope that you are not tagging me with the responsibility of having to inform you. After all, who am I to approach your august person and tell you what is going on with your own party?

Senator Doody: I understand.

Senator Corbin: I hope we are clear that you are not blaming me for this imbroglio.

Senator Argue: Honourable senators, I am the type of person who usually tries to be agreeable and reasonable. I think I have been reasonable.

This motion was first moved in June of this year. That is now more than six months ago. In all the sitting days since

[Senator Roblin.]

that time this motion was on the order paper. Senator Robertson, or any other senator, had an opportunity to speak to this motion and make their views known. There were then certain objections made—mainly, but not exclusively, from the other side of the house—that the scope of this motion was far too large, that it would take $6 million to look into this, and it would go on forever. I did not feel that way. I felt that there should be a broad basis of authority for the committee.

There seemed to be a substantial opinion that the terms of reference be narrowed. Senator Corbin felt that. My leader tried to accommodate others who had that point of view by coming forward with a compromise, shall we say, or with a suggested amendment. While everyone was not brought in on the discussion, a number of senators did discuss this question.

Now I do feel—and I feel this very sincerely and very honestly—that this is a time for decision. It is true to say that we are going into a recess and the question could be asked, "What is to be lost by waiting?" However, the difference between a decision today and waiting is that the decision will not be made. There is no assurance when a decision will be made. I am not trying to create difficulties, but Senator Doody some days ago seemed very amenable and said that we should make a decision on Tuesday of this week. That did not happen.

We on this side of the house have been very cooperative today. The government wanted a number of bills passed through the Senate—

Senator MacEachen: With virtually no notice.

Senator Argue: —in three stages so there could be Royal Assent today, and, as my leader says, with virtually no notice.

We have fully cooperated on this side of the house, and I think it is reasonable to ask for reciprocation, not in the same way and not to the same extent. We have accommodated the government on a number of motions. I think it is fair to say that a decision should be made on this motion today, and I hope that the question of the amendment and the question of the main motion could be put soon and put today.

Hon. Orville H. Phillips: Honourable senators, the remarks of the Leader of the Opposition about the urgency of proceeding with the formation of a committee have caused me to suggest to him that it is impossible to proceed with the work of the committee, because a selection committee has to meet. That committee cannot meet until the Senate returns. However, if the matter is so urgent, I point out to honourable senators that the motion for adjournment is subject to recall, and the Senate could be recalled during the adjournment to deal with the matter. I am sure that Senator Argue would come back for that.

Senator Olson: Honourable senators, I will just say a word or two while you try to get your act together. What is serious about the attempt to postpone this is that you are not keeping your word.

Senator Doody: On a point of order, Mr. Speaker, that honourable gentleman pointed across the floor to me. Can you sit down, please?

This is an entirely different situation from the situation that we discussed on Tuesday. An amendment has been brought in. We have had little chance or opportunity to study it, and that is the point I am making. We are now forced to debate and enter into a brand new arrangement of which we, as a group, had no prior knowledge. Individuals were informed. We, as a group, were not informed.

This has absolutely nothing to do with the commitment I made last Tuesday, and I deeply resent the implication that I am breaking my word in this case.

Senator Olson: If that is a point of order, honourable senators, there is a new interpretation being put on it. I believe that you gave a commitment that you are ready to pass this motion today.

Senator Doody: You are wrong.

Senator Olson: Am I? Now you are not living up to your commitment, and you are finding some tricky little way of getting around it by saying that it is a new motion. It is a more restricted motion than it was before. I will not go on with this, but I am just telling you what I think.

An Hon. Senator: Let us get on with the vote.

Senator Olson: So you want to get on with the vote. I think there is a new pattern that will come out of this that may not be so satisfactory to the government and their supporters in the future. But if you want to get on with it, look back to page 2370 as to what was agreed to. It says:

Senator Doody: It is already agreed.

Do not tell us what you did not agree to.

Senator Doody: I know what I agreed to.

Senator Olson: You are treading on pretty dangerous ground if you give an undertaking to a member such as Senator Argue and then welsh on it.

Senator Doody: Honourable senators, I do not know how we can make this point clear, but what we have before us right now is not what we had before us on Tuesday. No stretch of the vivid imagination of my honourable friend opposite can convince the world that black is white and round is square and this is the same thing that I made a commitment to on Tuesday.

• (1440)

Senator Frith: This is less than what you made a commitment to.

Senator Doody: But it is not the same, is it? Have we had a chance to look at it?

Senator Frith: Apparently you have.

Senator Phillips: Honourable senators, yesterday we had complaints that the Senate should not proceed without seeing *Hansard* for the previous day. Today honourable senators opposite want to vote on a motion which has not been distributed. All honourable senators have not seen the motion. I find it a strange coincidence that it is necessary to see *Hansard* before proceeding and not necessary to see a motion that is before the Senate.

Senator MacEachen: Ask Senator Doody for it. He has my copy. Let's have the vote!

The Hon. the Acting Speaker: Honourable senators, if no other honourable senator wishes to speak, I presume that what we have been doing for the past few minutes was holding a discussion on the relative points of order, and there have been a number of them. The question before the house is the amendment proposed by Senator Corbin—

An Hon. Senator: No, the adjournment!

The Hon. the Acting Speaker: I put the question on the adjournment and it was refused. I asked for yeas and nays, and the nays had it, so the adjournment was refused.

The motion now before the Senate is the amendment proposed by the Honourable Senator Corbin, seconded by the Honourable Senator Olson. Is it the wish of the Senate that I put the question?

Senator MacEachen: Question!

The Hon. the Acting Speaker: Those in favour of the amendment—

Hon. Efstathios William Barootes: Honourable senators, I think the amendment is debatable, is it not?

An Hon. Senator: Of course it is.

Senator Barootes: May I speak on the amendment proposed by my friend, Senator Corbin?

Senator Olson: Of course.

Senator Le Moyne: D'accord.

Senator Barootes: Thank you. Honourable senators, I have looked at this and have tried to figure out just how it will work. I know very little about procedure, but I will read the amendment:

> That a special committee of the Senate be established to examine Canada's health care system and report upon the role that preventative medicine and other preventative measures, together with the provision of a wider range of health services—

It says "a wider range of health services", not just "preventative measures".

It goes on to say:

> —can play in providing a more effective health care system, thus contributing to the health, happiness and longevity of Canadians; and further to examine how such an improved health care system might modify or control the ever increasing costs of health care.

The areas that concern me are the words "the provision of a wider range of health services". It does not say "beyond preventative measures." The other area that gives me a great deal of concern—and I say that because I have sat on such committees—is how these provisions "might modify or control the ever increasing costs of health care."

Honourable senators, from my experience in these matters—and that goes back to 1955—such an examination is an enormous undertaking. It takes a number of economists to explain just the cost of health services. Then one must think of the varieties that exist in Canada and the variety of ways in which Canadians are paying for health services. It is a dog's breakfast and would take a Solomon to bring this together.

But if we are also going to go into the wider range of health services, not just the preventive area—which was never explained to my satisfaction—we are talking about many, many other modalities and many other professional classes of health services.

Only one of these classes of health services has been studied recently, and that is the provision of midwifery in Ontario. That study took over a year. That report just came down. I believe it took around 18 months to prepare that report, and that dealt with only one element of another health service that could be studied.

If honourable senators think that we can handle this in 12 months, with a budget from the Internal Economy Committee, I warn them that that is impossible, that this is a far, far greater job than we are anticipating.

I ask honourable senators to consider circumscribing this more definitively so we know exactly what the committee will be doing, and to consider where the Senate can find all of the people who can tie all of these various facets and elements of health care together. Those people are needed to undertake such a study.

I beg honourable senators to take a little time to think about this, to talk to one or two of their friends in the health services area, be they chiropractors or whatever, and then come back and say, "Yes, we can do this," or "No, we cannot do that." I think we should take a little time and let this sink in and do a little research over the holidays and ask health professionals about this. We should consider what we are getting into before we jump into this big pool.

Senator Doody: Honourable senators, is it the desire of the Senate to vote on this now or later this day?

Senator Frith: Later this day, if there is no other senator who wishes to speak to it today.

Senator Doody: Does Senator Robertson wish to speak later this day, or is Senator Robertson prepared to go ahead now?

Senator Robertson: No.

Senator Doody: Then, we might as well have the vote now and get it over with.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Corbin, seconded by the Honourable Senator Olson:

> That the motion be amended in the first paragraph by striking out, immediately after the word "examine", in line 2 the words "Canada's health care system"; and by replacing the words "such an improved health care system", in lines 7 and 8, by the words "preventative medicine and other preventative measures".

[Senator Baootes.]

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

Some Hon. Senators: Nay.

Some Hon. Senators: Yea.

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

And two honourable senators having risen.

The Hon. the Speaker *pro tempore:* Please call in the senators.

● (1500)

Amendment carried on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	LeBlanc (*Beauséjour*)
Anderson	Lefebvre
Argue	MacEachen
Barrow	Marchand
Bonnell	Marsden
Bosa	Molgat
Corbin	Neiman
Cottreau	Olson
Denis	Perrault
Fairbairn	Petten
Frith	Robichaud
Guay	Rousseau
Haidasz	Stanbury
Hays	Stewart (*Antigonish-Guysborough*)—32.
Hébert	
Hicks	
Langlois	
Leblanc (*Saurel*)	

NAYS

THE HONOURABLE SENATORS

Atkins	Macdonald (*Cape Breton*)
Balfour	Macquarrie
Barootes	Murray
Bélisle	Phillips
Bielish	Robertson
Cochrane	Roblin
Cogger	Rossiter
David	Simard
Doody	Spivak
Doyle	Tremblay
Flynn	Walker—24.
Kenny	
MacDonald (*Halifax*)	

ABSTENTIONS

THE HONOURABLE SENATOR

Le Moyne—1.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the main motion, as amended?

• (1510)

Senator Frith: The motion, as amended, has been carried. The amendment carries the motion. It is only if the amendment is defeated, Your Honour, that we have to put the motion again.

Senator Roblin: No, I do not think that is right at all. I think that is wrong.

Senator Frith: We go through this every time.

Senator Roblin: You had better get it right, then. The main motion, as amended, has to be put again.

The Hon. the Speaker *pro tempore:* I am sorry, but I think I have to put the main motion, as amended.

It is moved by the Honourable Senator Argue, P.C., seconded by the Honourable Senator MacEachen, P.C.—

An Hon. Senator: Dispense!

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the main motion, as amended?

Senator MacEachen: Mr. Speaker, have you ruled that you have to proceed to put another motion?

The Hon. the Speaker *pro tempore:* My ruling is that I have to put the main motion, as amended, before the house.

Senator MacEachen: Have you dealt with the point of order raised by Senator Frith? I would like to hear the ruling based upon some authority.

Senator Frith: The motion is not whether the motion should be amended. That is not what we voted on. What we voted on was the amended motion.

Some Hon. Senators: No!

Senator Frith: Do senators mean to tell me that they are going to vote on it all over again? Are we going to vote on this twice? That is just the wrong procedure. We have been through this before. The amendment carries the motion.

Hon. Jacques Flynn: The obvious argument would be that if anyone wanted to move another amendment the question would have to be put on the new amendment.

Senator Frith: If there were such an amendment, yes.

Senator Flynn: We voted only on the amendment. Now the question is on the motion, as amended.

Senator Frith: Well, let us do it all over again.

Senator Flynn: It is not necessarily the same question.

Senator Frith: I hope that we just do it twice, not three times.

Hon. Henry D. Hicks: Honourable senators, I cannot understand the proposition of Senator Frith. I, for example, felt that the motion was improved by the amendment. Therefore, I voted in favour of the amendment. That does not mean that I think it is a good motion. That does not mean that we would not be free to move another amendment on which we could vote, and we must then vote on the motion, as amended, once, twice or three times. Therefore, the Speaker is absolutely correct in now ruling that he must put the question to vote on the motion, as amended.

The Hon. the Speaker *pro tempore:* Honourable senators, this is what I have decided: I have to put the main motion, as amended, again before the Senate.

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

Some Hon. Senators: On division.

Motion, as amended, agreed to, on division.

IMMIGRATION ACT, 1976

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Leave having been given to revert to Reports of Committees:

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 17, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, on November 3, 1987, respectfully requests that it be empowered to adjourn from place to place in Canada for the purpose of its examination of the said Bill.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees,* the revised supplementary budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

(For full text of report, see Appendix "A", p. 2511.)

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

Senator Neiman: With leave, now.

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

Hon. Senators: Agreed.

Senator Neiman: Honourable senators will recall that Bill C-55 was referred to the Standing Senate Committee on Legal and Constitutional Affairs early last month. We have not had an opportunity to deal with it in any detail as yet, but hope to do so as soon as Parliament reconvenes after the Christmas recess. We had planned, in response to innumerable requests from various individuals, agencies and organizations, to travel in the West to hear briefs and representations with respect to Bill C-55. For that purpose we have asked for what I think would be a modest increase in our budget for the year.

If honourable senators look at the material before them they will see that the committee's budget for the past four years has been relatively small. The committee has rarely expended more than approximately 10 per cent or 15 per cent of its budget, and the same remains true for this year. Originally our budget was approved at $44,140. For the purpose of the anticipated trip out West the committee is asking for an increase of $35,572.

● (1520)

An Hon. Senator: Agreed.

Some Hon. Senators: Carried.

Senator Neiman: I gather that honourable senators will allow the committee this increase in its budget. Your generosity is very much appreciated.

Honourable senators, I move the adoption of the report.

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

[*Translation*]

Hon. Paul David: Honourable senators, I had the impression that Senator Macquarrie wanted to ask questions concerning the previous report. May I have leave of the house to ask Senator Neiman a question about the report she has just presented?

Honourable senators, if I understood correctly, the committee chaired by Senator Neiman would like to travel to western Canada. I should like to know why she wants to go to western Canada rather than eastern Canada. In terms of this legislation, would there be more problems in the west than in the east? That is the only question I want to ask you.

[*English*]

Senator Neiman: I thank the honourable senator. We have set aside a sum of money in our budget to cover the possibility of a trip to the East. We have planned a trip to the west, because we have received many requests from various people and organizations in that area. We have received requests from some of the eastern cities, including some in Newfoundland, but we are holding those in reserve.

Senator Doody: I thought you would rush out there immediately.

Motion agreed to and report adopted.

FOREIGN AFFAIRS

TWELFTH REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Heath Macquarrie: Honourable senators, the Standing Senate Committee on Foreign Affairs has the honour to present its twelfth report respecting power to incur special expenses pursuant to the procedural guidelines for the financial operation of Senate committees.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and to the *Debates of the Senate* of this day and that it form part of the permanent records of this house.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 2514.*)

Senator Macquarrie: Honourable senators will note that the document was laid on their desks about an hour ago.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this report be taken into consideration?

Senator Macquarrie: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

PRIVATE BILL

COOPERANTS, MUTUAL LIFE INSURANCE SOCIETY—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill S-14, to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec, and acquainting the Senate they had passed the bill without amendment.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DEBATE CONTINUED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the Canada-U.S. Free Trade Agreement.—(*Honourable Senator Gigantès*).

Hon. Dan Hays: Honourable senators, I would like to address the Senate on the inquiry calling the attention of the Senate to the Canada-U.S. Free Trade Agreement, which stands in the name of Senator Gigantès. My purpose is to call attention to a specific area covered by the Free Trade Agreement, namely, the consequences of the agreement on energy. My remarks will not be brief, I am sorry to say, but I think they are important in view of the fact that this matter is now being discussed in the other place.

Canada has reached a watershed in energy policymaking in the recent era of oil price shocks and an embargo. Canadian policy has been one of extremes, from the comprehensive regulation of the former government's National Energy Program to this government's laissez-faire approach of the Western Accord.

I am concerned with the effect that these extreme policy swings have had, and will continue to have, on Canadian energy development. I am concerned with the direction that our energy policymakers may take us in the future. Part of that concern lies in my reservations about the energy component of the Free Trade Agreement.

I wish to share with honourable senators my reasons for this apprehension. I will direct my remarks primarily to the petroleum sector, because crude oil and natural gas together satisfy two-thirds of Canadian energy demand, and I will suggest some characteristics of what I believe should constitute our future energy policy.

The context within which I make my remarks is important; so let me begin with a brief review of Canada's energy affairs in the post-war period.

At the close of World War II coal was Canada's principal energy commodity, providing more than half of our energy supply. Crude oil and natural gas together then accounted for less than 25 per cent of Canadian primary energy demand. Between 1945 and 1960 the Canadian energy system underwent a remarkable evolution. In just 15 years oil and gas expanded their joint share of the energy mix from under 25 per cent to almost 70 per cent. In 1973, at the time of the Arab oil embargo, that share was 79 per cent.

Today, despite the oil price shocks and the lingering influence of the embargo, oil and gas still handle more than two-thirds of our domestic energy demand, with coal responsible for only 15 per cent. Moreover, the net export of Canadian crude oil, natural gas and natural gas liquids to the United States earned more than $7 billion in 1986, down from the record level of $12 billion in 1985 due to sharply lower oil and gas prices. Canada has had a positive trade balance in energy with the United States since 1969.

Why did crude oil in particular, and natural gas to a lesser degree, make this spectacular advance in satisfying our energy requirements?

The transport of oil is comparatively safe and cheap. It is a liquid with a high energy content. Prior to the price shocks of 1973-74 and 1979-80 it was an inexpensive energy commodity. Crude oil is more environmentally benign than coal, the fuel which it largely replaced; and with its complex hydrocarbon chemistry, oil can be refined into a broad range of highly specialized fuels and petrochemicals.

Natural gas shares a number of these attributes, and, in fact, is a premier fuel when one considers its environmental impact.

Wood, coal and crude oil have each, in turn, dominated energy use in the industrialized world, a progression which we have seen take place in Canada within the twentieth century. Today, however, society is entering an age of multi-fuel dependence. Our increasing demand for energy, coupled with the turmoil of recent years in world oil markets, has made evident the dangers of relying too heavily on a single energy commodity. Those countries with a range of energy options, such as Canada, are well placed to meet the energy requirements of the future.

Canada has not only been favoured with extensive resources of conventional crude oil, natural gas, coal, uranium, and hydro-electricity but also with the lion's share of the world's bitumen resource, contained in the oilsands of Alberta. Beyond those so-called conventional sources of energy, Canadians can call upon renewable sources of energy—biomass, the Fundy tides, wind, solar radiation, and geothermal energy—and we are far from having exploited the opportunities offered in one of our best energy options, namely, conservation.

Why, then, has Canada experienced such problems in the energy sector? Why do we face the future with uncertainty? Our difficulties have arisen principally because of the manner in which we have managed our energy resources, not because of shortages in those resources, with the one exception of conventional light crude oil.

Domestic energy development has been plagued with inconsistency, instability and regional unfairness in policymaking. A trend toward energy regulation in the 1960s and 1970s culminated in the highly interventionist National Energy Program introduced in October of 1980. That policy set the domestic price of oil and linked the price of natural gas to it. The NEP erred, particularly, first, in assuming that the international price of crude oil would continue to rise for at least a decade into the future; second, by maintaining a domestic oil price substantially below the world price on a protracted basis rather than allowing a limited period of adjustment to higher prices, and, third, in redirecting exploration activity outside the western provinces, where conventional oil and gas resources had in the past been exploited to the benefit of all Canadians.

● (1530)

In 1985 the Conservative government swung to the other extreme with its view that Canada's energy needs would be adequately met if only we could deregulate the energy system. Market forces were to be the proxy for federal energy policy. Relying solely on the market to determine the energy future of Canadians is as misguided, however, as the former attempt to control all aspects of domestic oil and gas marketing. The government has implicitly acknowledged this in creating the Canadian Exploration and Drilling Incentive Program and launching the energy options policy-making process, which is scheduled to report its views on energy policy to the minister by March 31, 1988. The Conservative government has belatedly recognized that energy in general and oil in particular is not just an economic commodity. It is also a strategically important commodity, whose management demands special policy attention. Regrettably, the slowness of the government to realize this means that the energy options process will only result in a new policy proposal in the fourth year of the government's mandate. Beyond that the period of uncertainty in Canada's policy will continue until the fate of the Free Trade Agreement is resolved. Another question also triggered by the agreement involves the right of energy exporting provinces to continue to favour their interprovincial markets on a supply or price basis.

Compounding the problem is the manner in which the Free Trade Agreement circumscribes the energy options policy-making process. We can no longer craft a Canadian energy policy. Our energy policy in future will have a continental aspect, influenced by a dominant partner. How enlightened will Americans be in their input to this bilateral energy arrangement?

The United States is very much concerned with its energy security, and we can expect the United States policy-makers to act accordingly in their dealings with us. Those policy-makers are, to a greater degree than ours, under pressure to respond to parochial concerns. As an example, consider the action launched earlier this month in the United States under section 232, commonly known as the national security clause of the Trade Expansion Act of 1962. This action seeks relief from imports of crude oil and petroleum products into the United States, including those from Canada, which are claimed to impair national security. The petitioner is the National Energy Security Committee, which represents a diverse group of associations, companies and individuals in the petroleum industry who account for roughly one third of total U.S. oil production. Two quotations from the petition illustrate the reasoning of this group. The first one reads:

> For the oil industry and for other industries as well, imports are the vehicle by which the effects of relatively lower world prices are transmitted to the U.S. Faced with an increasing supply of lower-priced foreign oil at the beginning of 1986 in amounts exceeding demand requirements, U.S. producers had no choice but to lower their prices as well if they wished to compete. In the world market, U.S. companies are price takers (that is, they must price at the prevailing world price, and have no ability to set prices themselves. Because of the higher costs attributable to much of the U.S. production, however, many companies could not at those lower prices transmitted to the domestic market through imports earn revenues sufficient to cover production costs. Hence the decline in production, business failures, the severe cutback in activity in the industry, and resultant high unemployment among oil workers.

The second quotation I would like to leave with you indicates the concern of the petitioner regarding the impact that rising imports of oil are having on U.S. national security. It reads:

> In their recent book, *Oil and War*, authors Goralski and Freeburg observed that oil and war are more inextricably linked today than in World War II. The problems experienced by the U.S. in that conflict . . . were nothing compared to those being experienced today . . .

Wars have indeed been fought over natural resources. The presence of American and other naval forces in the Persian Gulf today attests to the seriousness with which some nations view the threat to international oil trading.

The United States today is importing approximately 40 per cent of all the oil it consumes, a dependence exceeding that of 1973 when the Arab oil embargo had such a devastating effect on the western world. American energy analysts fear that this dependence could rise to 60 per cent or more by the turn of the century. As Canada and the North Sea recede in importance as suppliers to this huge market, the United States will inevitably see its reliance on OPEC oil, especially Middle East oil, rise once again.

Americans, free enterprisers that they may be, have not always been non-interventionist. Increasingly they are showing signs that they do not believe that the market alone will resolve their growing energy difficulties. Indeed, the Free Trade Agreement, like the U.S. strategic petroleum reserve with its 540 million barrels of oil already in storage, is a deliberate step by American policy-makers to reduce their vulnerability to unfavourable energy developments in politically unstable regions of the world. They have stated that the energy component of the trade agreement is one of its most important features, with its guarantee of proportional access to Canadian energy supplies.

Let me then address the question: Why is the market alone an inadequate guarantor of our future energy security? Is there a role for the Canadian government to assume in guiding the nation's energy development?

Market forces operate with a limited time horizon, because private enterprise, quite rightly, expects a reward for its efforts returned within a reasonable period of time. But a complex energy system such as Canada's changes its character over longer periods of time. Large power plants may take a decade to construct and have useful lives of 30 to 40 years. Energy-consuming devices such as appliances and automobiles last a decade or more. Buildings may stand for half a century; a frontier oil deposit such as Hibernia or Amauligak may see 15

years elapse between discovery and the arrival of that oil in the marketplace.

In short, decisions being made today regarding energy development are determining the character of Canada's energy system until well into the next century. Conversely, being in a position to exploit various energy options in the future means laying the groundwork for those options—through energy research and development, for example—years or even decades in advance of their need.

To illustrate, the attempt to commercialize fusion power is being driven around the world by huge amounts of government spending in research and development programs whose length is measured in decades and cost in billion of dollars. We can predict a similar effort to exploit the promise of superconductivity and to introduce hydrogen broadly as a fuel in our energy system. The private sector, with the exception of a few corporations as rich and powerful as many governments, cannot be expected to invest such large sums in an endeavour whose financial return lies a quarter-century or more in the future.

Since oil and gas are depleting resources, society must consider future users as well as today's consumers. But who speaks for the energy user of the future? In effect, promoting energy conservation and requiring the petroleum industry to follow good production practices in extracting the oil and gas resources of our nation are examples of policies which act in the interests of future generations of Canadians.

In this context, I must also refer to a serious problem which we have allowed to develop in Canada—the distrust and alienation felt by many western Canadians toward the federal government and towards central Canada.

Alberta accounts for two thirds of Canada's primary energy production; Ontario accounts for about 35 per cent of Canada's net energy consumption. The result has been disagreement about energy pricing between the producing and consuming regions of the country. Federal policy caused oil to be sold within Canada at substantially less than world prices from 1974 to 1984. The restraint of domestic oil and gas prices represented a huge transfer of wealth from the petroleum-producing regions of Canada to the petroleum-consuming regions—by one recent estimate, a transfer of approximately $58 billion.

This has fostered the view by westerners that central Canadians regard western Canada as a resource hinterland, analogous to the colonies of the nineteenth century powers, to be exploited in a similar fashion. Canadian energy policy should never again blatantly exploit one region of the nation for the benefit of another.

● (1540)

I have criticized the former National Energy Program in my remarks, but let me now speak favourably about certain aspects of that policy.

The Government of Canada, through the NEP, spearheaded initiatives in fuel substitution and energy conservation which have been to the benefit of both current and future energy consumers. With a modest investment of federal funds, and using the leverage of the second oil-price shock, Canada achieved within the five-year period 1980-1984 a reduction in oil's share of our primary energy demand from 51 per cent to 42 per cent. That represents an impressive 17 per cent drop in relative use.

In Canada today, however, there is a critical lack of the federal presence to protect the public interest. The new government in its haste to dismantle the National Energy Program jettisoned the good elements of the program along with the bad. It accepted as an article of faith the premise that market forces are adequate in themselves to assure the future energy security of Canadians.

The market is important. It should indeed be the principal determinant of the manner and rate at which our energy resources are exploited, and it should govern the day-to-day workings of our energy system in normal circumstances. But by its very nature it cannot be the sole arbiter of the public interest.

I am reminded of an earlier day in the field of environmental pollution when private enterprise made the entrepreneurially sound, but socially irresponsible, decision to externalize pollution costs; that is, to pass on to the public the cost of dealing with environmental degradation. Governments were compelled to introduce environmental legislation to protect the public, because the dictates of the market alone were not adequate to protect our present or future interests.

So it is with market forces in the energy field. Petroleum companies want to maximize oil and gas production. Shut-in capacity is said to be economically wasteful. Governments, however, must be concerned with the strategic aspects of energy supply and demand. It was not acceptable to be forced to tanker Alberta oil through the Panama Canal to Atlantic Canada during the Arab oil embargo. Consequently, the federal government subsidized the extension of the interprovincial pipeline from Sarnia to Montreal, because it judged that to be in the public interest at the time. A policy which simply relies on the market forces of the day will not always suffice to deal with an emergency, even when such an emergency is anticipated. The dangers of complacency should be apparent after three oil-price shocks and an embargo. Further disturbances in the world oil market are almost certain to occur.

Since World War II there have been six major disruptions in world oil supply, all of which have originated in the Middle East: (1) the 1951-1953 Iranian boycott; (2) the 1956-1957 Suez Crisis; (3) the 1967 Six-Day War; (4) the 1973 Yom Kippur War; (5) the 1979 Iranian Revolution, and, (6) the 1980 invasion of Iran by Iraq. The last three events have had an enormous impact on world affairs. For example, since 1973 there has been a transfer of more than $2 trillion U.S. from oil-importing nations to OPEC nations. This transfer has contributed substantially to the monumental indebtedness of the Third World and to sustaining the Iran-Iraq conflict, despite heavy casualties and the continuing loss of expensive military equipment.

It is not surprising that governments have considered it necessary to assume a more direct role in national energy affairs. Nor should it surprise anyone that governments, including that of the United States, will do so in the future if they judge that circumstances warrant intervention.

Today the international oil market is functioning reasonably well only because the majority of the members of OPEC are willing to shut in capacity, and because Saudi Arabia has resumed its former role as swing producer. This shut-in capacity amounts to approximately ten million barrels of output per day. To compare, Canada consumes a little over one million barrels per day. Of this ten million, two thirds lies in the Persian Gulf region and the remaining third in other parts of OPEC. The rest of the world, including the Communist bloc, is producing at or very near installed capacity.

The oil price collapse of 1986 resulted in a global slump in petroleum exploration and development. Nowhere was that slump more pronounced than in North America, with its large numbers of low-production-rate wells and high average cost of establishing new reserves. This drop in activity will be reflected in lower petroleum output in future years, further strengthening OPEC's position.

In the industrialized world energy markets are becoming progressively more interrelated as industrial and utility users expand their dual-fuelling capacity. The artificiality in world oil pricing and the ripple effect on all energy prices when oil prices rise or fall should not be ignored by policymakers.

Nothing has changed sufficiently in the geopolitical environment to justify the complacency that the Conservative government has brought to energy policy-making. Granted, the National Energy Program was an extreme response in a situation where existing energy policy was lacking to handle a perceived crisis. In turn, the laissez-faire approach of the new government is an equally misguided reaction to the previous policy. These policy swings are injurious to energy development.

I hope that energy options do indeed reflect a willingness on the part of this government to bring a more open mind to energy policy development, and I look forward to the policy recommendations which this exercise will provide in the spring of next year. I deplore the fact, however, that this type of thinking was not done earlier, as part of the Conservative government's initial reactions to develop new energy policy. Three years have been lost, and with the appearance of the Free Trade Agreement some of the latitude to set policy has been lost.

On the regulatory side, we have also made changes to the benefit of the energy industry. It is less evident that these changes ultimately benefit Canadian energy consumers.

Traditionally the National Energy Board has applied various tests before licences to export crude oil, natural gas, and electricity were granted. We have had supply and price tests to protect the interests of Canadian consumers. Today the petroleum industry has seemingly won the government to its point of view that the sale of oil and gas to the U.S. should be largely unrestricted, and that it is ill-advised to leave petroleum in the ground beyond the dictates of good oil field practices.

[Senator Hays.]

Producing our petroleum reserves at the maximum efficient rate means that there is no appreciable surge capacity in output. Despite the fact that OPEC holds almost all of the world's shut-in oil capacity, it frequently raises the issue of resource conservation. In Canada we have husbanded our oil and gas resources in the past to the advantage, perhaps, of U.S. consumers today. Past and continuing subsidies to encourage the development of our domestic petroleum industry—of which the Petroleum Incentives Program was the most costly and obvious of many—now stand to be transmitted in substantial part to U.S. buyers, given the nature of the Free Trade Agreement and current federal policy.

In this context, it is interesting to note that the final text of the agreement states: "Both parties have agreed to allow existing or future incentives for oil and gas exploration, development and related activities in order to maintain the reserve base for these energy resources." Given that the transboundary flow of oil and gas is almost entirely from Canada to the U.S., it is not surprising that the Americans found this provision to be acceptable.

This is not a representative time in the Canadian export of oil. In recent months we have re-emerged as the largest single supplier of crude oil and products to the United States, a position we held briefly in 1973. Why have we again become the foremost supplier to the U.S. when the ratio of Canadian oil reserves to current annual production is only about 12? OPEC had a year-end 1986 reserves-to-production ratio of 73, with Saudi Arabia standing at 97 and Kuwait at 210. Yet, at this time of falling Canadian output and rising imports of conventional light crude oil we find ourselves on the threshold of a Free Trade Agreement with the U.S.A. Canada already has a huge positive trade balance in energy commodities with the United States; why is an argument about ensuring access to the American energy markets considered to be so compelling?

Apart from uranium, where Canadian concern about U.S. protectionism is well-founded, the United States will soon want to take larger amounts of Canadian oil, gas, and electricity. It was not necessary to guarantee Americans proportional access to Canadian energy supplies to see rising energy exports in the 1990s.

Over the last decade oil reserve additions in the U.S. exceeded production in only one year; gas reserve additions have exceeded gas output in only two of those years. This, despite the fact that the decade included the highest prices ever seen for oil and gas. New England will soon experience a significant shortfall in electrical generating capacity.

Yet, the federal government portrays the Free Trade Agreement to the public as essential to securing access to U.S. energy markets. The preamble to the energy chapter of the agreement states that view explicitly: "This chapter . . . will secure Canada's access to the United States market for energy goods."

It seems more likely that the U.S. wanted this part of the agreement, knowing that its energy situation is deteriorating and wanting to bind Canada as an energy supplier. In a recent talk one of Canada's trade negotiators observed that "what we have done is simply enshrine the government's energy policy in an international agreement."

What government energy policy? Did Canadians know that Americans would be guaranteed proportional access to Canadian energy supplies? If this agreement simply enshrines existing federal policy, why is energy minister Masse engaged in a year-long exercise, scouring the country for input to federal energy policy, after the fact?

Does the Free Trade Agreement improve Canada's energy security? We have given up some of our freedom to allocate energy supplies internally in time of a shortfall. The final text observes that a restriction on energy exports can be introduced only if (1) "the restriction does not reduce the proportion of the total export shipments . . .", measured against the most recent 36-month reporting period; (2) "the party does not impose a higher price for exports of an energy good . . . than the price charged . . . when consumed domestically"; and, (3) "the restriction does not require the disruption of normal channels of supply to the other party or normal proportions among specific energy goods supplied to the other party . . .".

The implications of these provisions are troubling.

The Free Trade Agreement does provide the United States with a greater measure of energy security by enshrining continentalism in energy marketing, but because the U.S. is becoming deficient in the nonrenewable energy forms apart from coal, I do not see that it provides anything in concrete terms for Canadian security. And it is debatable whether it guarantees a better market for Canadian energy commodities than we now have.

We will continue to be a swing supplier of energy at such times and in such amounts as Americans decide to purchase in times of normal markets. And if for some reason energy accessibility is constrained, the United States will still be assured of proportional access to our energy supplies. It is evident that the Free Trade Agreement promises greater benefits to the United States in the field of energy than it does to Canada.

In earlier actions this government had reduced its support of energy research and development, to our future detriment. We no longer have the energy division at the National Research Council, which served as the lead Canadian agency for research into renewable forms of energy development. Atomic Energy of Canada is losing $100 million annually in funding for nuclear research and development.

Federal leadership on energy conservation and fuel substitution has been blunted, with the Canadian Home Insulation Program and the Canada Oil Substitution Program having been phased out early, and with the Natural Gas Laterals Program indefinitely deferred. Canada does not operate an oil stockpiling scheme, a measure which would provide short-term security in the event of another disruption in world oil supply, and which was recommended by the House of Commons Standing Committee on Energy, Mines and Resources in its recent report "Oil: Scarcity or Security?"

From a Canadian perspective, the six-month notice period for terminating the agreement is too short. It does not impose the discipline on both parties of having to live with the agreement for an extended period if differences arise.

Canada is not likely to terminate the agreement because of its comprehensive nature and the broad range of opportunities available to the United States to retaliate against such action. It is much more likely that notice of termination would be initiated by the United States in response to political pressures. A longer notice of termination might allow a government to withstand a transient political attack on the Free Trade Agreement.

Within Canada we will see the market act to realign energy supply patterns north-south rather than east-west, because this is generally a less expensive and more efficient transportation arrangement. This has to some degree already occurred, with the Sarnia-to-Montreal extension of the interprovincial oil pipeline operating today at just one third of its capacity. Only the pattern of existing facilities provides some resistance to this shift. This ignores the political reality that we are our own best market, and, if we are not, we should be.

Previous governments, with the support of Canadians, were willing to pay a premium to extend our oil and gas transmission systems along the west-east axis of the country. Those initiatives were taken in the name of national energy security and were deemed by most to be wise investments.

As more of western Canada's crude oil output is directed south into the United States, eastern Canada imports progressively larger amounts of foreign oil. In the event of a future disruption in international oil supplies, we can only redirect domestic crude oil supplies to the extent that we share the shortfall with the United States. Natural gas poses a potentially more serious problem.

An argument advanced in favour of the Free Trade Agreement is that it prevents the Government of Canada from misusing its powers in the future to benefit a politically dominant region of the country, whether characterized as energy producer versus energy consumer or East versus West.

I don't think the agreement will work in this way. For one reason, the agreement does not bear on federal taxation of the petroleum industry, the means used to implement the most undesirable aspects of the National Energy Program.

A disturbing aspect of this argument is the implication that western Canadians should be comfortable with an American-driven energy policy. Referring again to the petition in the United States to restrict oil imports under the national security clause, I quote:

> A policy of letting the market decide may seem to work when supplies are ample, and prices are falling, as they have indeed in recent years. But a change in the scenario—our rapidly growing dependence on oil imports—underscores the fallacy of continuing to look to the free

market to make decisions for us, when there is no free market at work.

Bear in mind that this is from an American petition of oil producers.

Also, there are proposals in the United States to increase taxes on gasoline and to introduce an oil import fee. It is becoming increasingly apparent that Congress and the new administration, which will take office in a year's time, will be under pressure to intervene in the growing American dependence on foreign supplies of energy. In my opinion, Canada will have a limited say in the nature of future U.S. policy initiatives which bear on Canadian energy affairs, notwithstanding Chapter 18 of the Free Trade Agreement on institutional provisions and the attempt in the agreement to interlock the two countries in a coordinated energy policy stance.

Canada and the United States are facing different energy problems, and both countries need the flexibility to pursue differing solutions. The Free Trade Agreement seriously limits Canada's ability to pursue its own policy path. It is a lesser constraint on the United States. A U.S.-driven policy that Canadians do not like would be very hard to change—much harder, I submit, than it was for us to change the National Energy Program.

It has been asserted that the energy component of the Free Trade Agreement is little more than an extension of our energy-sharing commitment as a member of the International Energy Agency. This is misleading on two counts. First, the IEA commitment applies only to sharing oil in the event of a curtailment in supply; the Free Trade Agreement covers all energy commodities traded between Canada and the United States. Second, a country's obligations under the IEA agreement can change as its oil import/export situation evolves. The Free Trade Agreement binds Canada to a proportional sharing of its energy supplies, regardless of future domestic circumstances. Article 908 of the Free Trade Agreement provides that the IEA's 1974 agreement on an international energy program shall take precedence in the event of an inconsistency between the two.

Let me now turn to the last part of my remarks and address the question: What alternatives are there to the energy policy path which the federal government is following today?

I believe that future Canadian energy policy must be grounded in five elements, which I present in no particular order.

First, conservation must become a centrepiece of Canadian energy policy, with the federal government providing the leadership. Experience has shown that conservation initiatives are often economically advantageous when compared with the cost of developing new energy supplies. To the extent that we continue to reduce the relative importance of oil in the domestic energy mix, Canadians benefit in a strategic sense through lessened exposure to unexpected events in the world oil market. Using less energy per unit of gross domestic product also strengthens Canada's competitive position in international trade.

[Senator Hays.]

Second, greater efforts to exploit our extensive resources of bitumen and heavy oil—primarily, but not exclusively, for domestic use—should be made to offset our declining production of conventional light crude oil. The decision to proceed with the Lloydminster heavy oil upgrader is one example of this, as is the incremental approach to developing the oil sands. As a companion measure, enhanced oil recovery should be actively promoted to ensure the most efficient exploitation of Canada's remaining resources of conventional crude oil.

Third, federal energy policy must be fair and equitable in a regional context. Producers of energy commodities and the provinces in which these resources reside must not be exploited by an inequitable transfer of wealth to other segments of Canadian society. Support for the development of renewable energy forms should be expanded: all regions of Canada have access to renewable energy resources whereas Canada's resources of the fossil fuels—oil, gas, and coal—are much more limited in their occurrence. Federal energy policy should act to reduce today's marked imbalances in regional energy supply. Here the sequence of research, development, demonstration, and deployment can be fostered through the federal policy process.

● (1600)

Fourth, Canadian policy must anticipate future disruptions in the supply of oil or their equivalent in price shocks. Canada must control the degree to which it allows its energy transmission systems to become re-oriented to supply the U.S. market. At the same time, Canadian policy must still assure the United States of a measure of security of supply consistent with our own security interests.

Fifth, market forces should determine day-to-day energy dealings in normal circumstances. The role of the federal government is to oversee Canada's energy development in a strategic or long-term planning sense.

I began my remarks by referring to the pivotal stage that we have reached in Canadian energy policy-making. I am confident that our country has the capacity in its natural and human resources to ensure a prosperous and secure energy future. We have yet to be assured that our political leaders are up to the task.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this order had stood in the name of Senator Gigantès. Honourable senators will remember that he had adjourned his own motion and was to continue with a second and third instalment. So I suggest that the debate be adjourned in the name of Senator Gigantès.

On motion of Senator Frith, for Senator Gigantès, debate adjourned.

AGRICULTURE

NEED FOR COMPREHENSIVE FINANCIAL SUPPORT PROGRAM FOR GRAIN PRODUCERS

Hon. H.A. Olson rose pursuant to notice of Tuesday, December 15, 1987:

That he will call the attention of the Senate to the need for a comprehensive financial support program for agricultural producers, especially cereal grain producers, to compensate for the drastic lowering of cereal grain market prices.

He said: Honourable senators, I raised this question about a farm financing package a few days ago, because when the announcement was made by the Prime Minister and the Minister of Agriculture, I was unable to obtain any background information, and I mentioned that at that time. Since then I have received a package from the Minister of Agriculture that contains not only in some detail the particular parts of the financial program that was being offered to Canadian agriculture but, indeed, some reasonably good background information sheets on each. If the package had been provided to senators—and I do not blame the leadership in the Senate, because I asked the leader before we came into the Senate that day if he could help me, and he, too, claimed, properly so, that he did not have the package either—we would not be spending time on this matter today.

Honourable senators, I do not want to spend a lot of time today complaining, but this government, for whatever reason, does not seem to think that senators have a right to background information. This is the most severe experience I have had in attempting to get background information. I had to go to one of my colleagues in the Liberal Party and obtain his information kit and get it photocopied. Although I was told that these background information kits were being distributed in the Centre Block, none was distributed to senators' offices that day or even the next day. I hope that in the future we will not have to raise this problem again.

In any event, honourable senators, there are three subjects I need further information on. I understand that Senator Barootes is ready, willing and able to provide that. The first relates to the Special Grains Program. It says in this background information that that will be extended to the 1987 crop year. The package goes on to explain that the amount will be $1.1 billion for the 1987 crop year.

That is welcome news. I might say that while it is not as much as the premiers asked for at the meeting in Humboldt, Saskatchewan, or at several other meetings, it is welcome and it is a fairly significant amount. It is not enough to completely substitute for the reduction in the price of grain, and perhaps it could be argued that it is not as much as European farmers are receiving from their governments by way of subsidies, but I do want to acknowledge that it is a significant amount.

Perhaps Senator Barootes could tell us if farmers can look forward to this program being extended into subsequent years, as long as the subsidy war between the United States and Europe continues to keep international prices depressed.

It is very clear in the background papers that that is the reason the government advances for extending the program into the 1987 crop year, and I accept that. But I also realize that the possibility of these depressed prices, particularly for cereal grains, is likely to continue into 1988 also. Perhaps Senator Barootes could tell us whether the government is, in fact, giving a commitment that it will stand by the farmers and continue with this financial support package as long as other governments cause depressed international prices because of subsidy wars.

When the Minister of State (Finance) appeared before the Senate in the Committee of the Whole this morning on Bill C-101, he explained in great detail what they are doing with the farm fuel rebates, and I appreciated that. Therefore, I will not raise that matter now.

I now get down to my third concern, and that relates to the Farm Debt Review Boards. It says that they will also be "extended from August 1988 to 1991." It then states:

The extension represents a federal commitment of about $40 million.

Can Senator Barootes tell us what the $40 million will be used for? I do not know.

Senator Barootes: Would you repeat that?

Senator Olson: The third point in the Summary of Initiatives states:

Farm Debt Review Boards will be extended from August 1988 to 1991.

Further down it states:

The extension represents a federal commitment of about $40 million.

I do not know what the federal government is going to use the $40 million for. I assume it will be to help people who are having difficulty with their debts. I know that the Farm Debt Review Boards look at individual applications for assistance, but how they will apply and use $40 million is not explained.

So we leave it at that, but then the next point says:

—the Farm Credit Corporation was provided with special funding of $30 million.

It says that this will be used in conjunction or in connection with the FDRB. Is it $70 million, or is the $30 million there for some other reason? I need an explanation on that.

Then it says:

The FCC's Commodity Based Loans Program will receive funding to offer additional loans until 1991 totalling $450 million at interest rates as low as six per cent.

I want to know how that will be administered, how it will be applied for, and who qualifies for it. That is not explained in the background information package. If that is a shortfall in the information package provided to us, that is fine. I do not know of any loans now at 6 per cent, but perhaps Senator Barootes has been able to find that out.

Honourable senators, there is an innocuous sentence that says:

Amendments to the act will be introduced to increase the producer levy rate.

I think they pay 2 per cent of their gross receipts now. I have heard it said that that might be increased to 5 per cent. That little sentence is stuffed in the middle. That is a 150 per

cent increase if it does go to 5 per cent, and that is a lot of money. I wonder if that is what the government is doing. Why did they not put the amount in? They did not say they were increasing it to 3 or 4 per cent. If it is about 3 per cent, I think that is justified; but if it gets up to around 5 per cent, then it is probably more than is justified.

● (1610)

Last, I want to give credit to the review board, or maybe even the Minister of Agriculture. Someone has listened carefully to the representations that we made last year, where there were some unfair provisions in the formula for paying. One was that they excluded a crop like mustard—I see that this year it is included—because the basis for making the payment is the seeded acreage. In western Canada they have added one-third of the summer fallow, but they left out a lot of crops, including mustard, which troubled me some, because a lot of producers in southern Alberta produce mustard.

If there was a little more time, or if I were to take a little more time, honourable senators, I would ask a few more questions, but these are the things that I need to know now, if I can, because during the next four or five weeks I intend to do what a good senator does—that is, that he goes about the parts of the country that he represents here and explains government programs to people. In this case I believe that the government has come forward with a program that will be helpful. It is welcome, and will certainly relieve a good deal of anxiety for some people who are apprehensive about their wellbeing after the government announced a significant decline in the initial price of grains back in April.

So while it is several months late, it is still welcome. I hope that we can have much further detail so that we can answer these questions during the recess.

Hon. Efstathios William Barootes: Honourable senators, I am pleased to try to answer those questions which Senator Olson has, but first let me take this opportunity to extend my good wishes and congratulations to him on the commendable way in which he has presented his points of view. We particularly appreciate this from Senator Olson, because we have learned to have respect for his judgment, respect for him because of the breadth of experience—

Senator Frith: Put your hockey helmet on and put your shoulder pads on!

Senator Barootes: —and knowledge that he has in the field of which he speaks. I thank him very much.

Insofar as the views that he has expressed commending the government's programs extend to the rest of his confrères on his side of the chamber, I wish to thank him doubly, and wish them all a happy holiday.

With respect to the questions, if I am remiss in not getting all the answers that he wants exactly as he wants them, please forgive me, because my information has just been arriving today as well, although I was able to obtain some of it last night. In respect to the extension of these things, let me quote some of the things that have been said by our Prime Minister and repeated since then by our Minister of Agriculture.

[Senator Olson.]

Regarding the commitment of the government to future extension, he has said:

> This government believes that agriculture is a cornerstone of our economy and the lifeblood of many rural communities.
>
> That is why we are committed to building a strong and stable futue for Canadian agriculture.
>
> This government will stand by farmers and their families when they are hurting.
>
> When farmers are hurting, this nation is hurting.

I will give Senator Olson one or two other statements which may alleviate his anxiety about future extension of programs. This comment was made by the Prime Minister in respect to the international crisis that has occurred in prices, trading and marketing on December 15, 1987. He said:

> I can assure you that Canada will continue to play a lead role until international reform is achieved. In the meantime, farmers can have confidence in our priority commitments to building a stronger, more competitive agriculture industry in this country. The path on this is clear—
>
> Pending international solution, we must continue to cushion farmers from the hurt caused by international subsidy practices; continue to maintain our agricultural markets, and aggressively pursue new ones.

In this respect let me say that in the last two years our percentage of the export market, as pursued by the Canadian Wheat Board—that fine and diligent organization—has gone from 17 per cent of the world export market to 24 per cent. I doubt if it will hold there, but also in the matter of volumes traded we have reached a new high of 31 million tonnes of export this year. So we are not losing markets, but the price is killing us, as Senator Olson pointed out.

He also asked some questions in respect of mustard. May I ask if mustard and mustard seed are the same thing?

Senator Olson: Yes.

Senator Barootes: I can alleviate your anxiety, concern and crocodile tears for the mustard growers in your area.

Senator Olson: My prayers have been answered!

Senator Barootes: They are included in the new expanded 12 commodities which will go under the Western Grains Stabilization Plan.

Senator Olson: I thank you for that.

Senator Barootes: I wish to hear your applause for that, sir.

Senator Olson: Hear, hear!

Senator Barootes: Next, I will speak about the levy. I think I have something on the levy that might be of some help to you.

If the levy is presently 1 per cent of the revenue of a farmer delivering grains which are covered under the stabilization plan—

Senator Olson: A little more than that.

Senator Barootes: The government's contribution to that fund is 2 per cent higher than the producer's level. Presently it is about one in three.

As you know, because the seven lean years were far leaner than the seven fat years that we had before, that fund has gone into deficit. It has expended its insurance money and has gone into deficit to the extent of $1.5 billion. The present levy collections—both the government and the producer levies together—do not even cover the interest costs on that deficit of $1.5 billion.

As a consequence, the government has agreed to write off, forgive, pay for half of that deficit, and bring it down to $750 million this year, and perhaps consider in concert with the government and the producers and the institutions of agriculture what might be done next year. The reason for that is because many producers have dropped out of the stabilization plan. If you were to bring them in now, with that enormous debt which they might have to exonerate with their levies, the levy rate would be so high and so onerous that it would prohibit virtually anyone from joining a plan. So those who are coming back into the plan are to be forgiven the 10 per cent extra nomination that is necessary, and the levy will likely not rise as high as otherwise might be necessary.

Now you asked about the date for this. The changes in the levy rate will be made following consultation with the advisory council, who are producers in the West, and whatever rate struck between them which is reasonable and sensible, it will still be 2 per cent more by the government than is advanced by the producers from their revenue.

Senator Olson: It will be retroactive?

Senator Barootes: It will be retroactive to August 1, 1987. Is that adequate?

Senator Olson: A little adequate.

Senator Barootes: I am not sure that I can answer this quite to your satisfaction, but there were some questions about the Farm Debt Review Board and the $30 million and $40 million. A grant of more than $30 million has already been given to the Farm Debt Review Board this year, and another $40 million is to be added to the area of advanced commodity loans.

• (1620)

When the Farm Debt Review Board with a farmer sits down with the farmer's creditors and attempts to mediate these matters, it may come to conclusions which, after mediation, can result in the loan being lessened, payments being lessened, or the interest being lessened, and that costs money. When that settlement is arrived at after the board has mediated between a creditor and the farmer-owner, who is the debtor, some costs are involved, and that is what that $30 million and $40 million is for.

The $40 million specifically applies to the advanced commodity loans which are made through the FCC, and if an acceptable arrangement is made it will reduce the loan rate to 6 per cent from whatever the existing rate is. In addition, it applies to any further loans advanced to that client-farmer in the future through the FCC. That is what some of those advances are for.

I should add that the FCC is also getting $103 million deferred debt this year, and $100 million in cash will be injected into it to enable it to continue its work, because, as you know, it is—and the blunt words are—"broke" or "bankrupt."

I hope, honourable senators, that I have, in part, answered these questions. I do wish to take this opportunity to thank my learned friend for the questions that he advanced, and I hope that my answers are of some assistance to him.

Hon. Senators: Hear, hear!

Senator Olson: Honourable senators, the answers my honourable friend gave will be most helpful, and I thank him very much for them.

The Hon. the Acting Speaker: As no other honourable senator wishes to participate in the debate, this inquiry is considered debated.

CHRISTMAS GREETINGS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Royal Assent is almost ready to get under way. The Deputy Governor General is on the premises, as is the minister, and I suggest that we adjourn during pleasure, but await their arrival in the chamber.

Before I leave, honourable senators, I want to take this opportunity to wish all my colleagues here, on both sides of the house, the best possible Christmas season and a good break. I want to thank them particularly for the cooperation that we have received during the past few days, especially in terms of our legislative agenda.

I also want to thank the staff of the Senate who, as always, have been so cooperative and helpful during the past year. In particular, I should like to single out the pages. I was just thinking today that the faces change from time to time, but it seems to me that their cheerfulness, courtesy and cooperation never seem to diminish. I am very pleased indeed to wish them, as well as the rest of the staff, the season's greetings and best wishes.

Having said these few words, I move that the Senate adjourn to await the arrival of the deputy to Her Excellency.

The Senate adjourned during pleasure.

• (1630)

At 4.45 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor

General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Royal Canadian Mint Act and the Currency Act (*Bill C-46, Chapter 43, 1987*).

An Act to amend the Unemployment Insurance Act, 1971 (*Bill C-90, Chapter 44, 1987*).

An Act to amend the Pension Act, the War Veterans Allowance Act, to repeal the Compensation for Former Prisoners of War Act and to amend another Act in relation thereto (*Bill C-100, Chapter 45, 1987*).

An Act to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971 (*Bill C-64, Chapter 46, 1987*).

An Act to amend the Judges Act (*Bill C-88, Chapter 47, 1987*).

An Act to bring into force the Revised Statutes of Canada, 1985 (*Bill C-94, Chapter 48, 1987*).

An Act respecting the impositon of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof (*Bill C-87, Chapter 49, 1987*)

An Act to amend the Excise Tax Act (*Bill C-101, Chapter 50, 1987*).

An Act to amend the Canada Labour Code (*Bill C-97, Chapter 51, 1987*).

An Act to amend An Act respecting the Hudson Bay Mining and Smelting Co., Limited (*Bill C-98, Chapter 52, 1987*).

An Act to amend the Citizenship Act (period of residence) (*Bill C-254, Chapter 53, 1987*).

An Act to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec (*Bill S-14*)

The Honourable Marcel Danis, Deputy Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988 (*Bill C-95, Chapter 54, 1987*).

To which bill I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, January 26, 1988, at 2 p.m.

APPENDIX "A"

(*See p. 2499*)

IMMIGRATION ACT, 1976

BILL TO AMEND — REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

THURSDAY, December 17, 1987

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, on November 3, 1987, respectfully requests that it be empowered to adjourn from place to place in Canada for the purpose of its examination of the said Bill.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the revised supplementary budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON
LEGAL AND CONSTITUTIONAL AFFAIRS

REVISED APPLICATION FOR SUPPLEMENTARY BUDGET
AUTHORIZATION FOR THE PERIOD
1st APRIL 1987 TO 31st MARCH 1988

ORDERS OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, November 25, 1986:

"With leave of the Senate,

The Honourable Senator Nurgitz moved, seconded by the Honourable Senator Rossiter:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to engage the services of such counsel and technical, clerical and other personnel asl may be necessary for the purpose of its examination and consideration of such bills, subject-matter of bills and estimates as are referred to it:

The question being put on the motion, it was—
Resolved in the affirmative."

Extract from the *Minutes of the Proceedings of the Senate*, Tuesday, November 3, 1987:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Simard, seconded by the Honourable Senator Macquarrie, for the second reading of the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.

After debate and--
The question being put on the motion, it was --
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Doody moved, seconded by the Honourable Senator Tremblay, that the Bill be referred to the Standing Senate Committee on Legal and Constitutionnal Affairs.

After debate and--
The question being put on the motion, it was --
Resolved in the affirmative.

CHARLES A. LUSSIER,
Clerk of the Senate

Extract from the *Minutes of Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs* of Tuesday, November 17, 1987:

The Honourable Senator Frith moved, - That the Chairman, by means of a report of Committee, seek authority from the Senate to adjourn from place to

place within Canada for the purpose of hearing testimony on Bill C-55.

Extract from the *Minutes of Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs* of Tuesday, December 8, 1987.

The Honourable Senator Fairbairn moved, - That subject to the authority being granted by the Senate, a group of up to 6 members of the Committee, plus staff be authorized to travel to cities in Canada, in order to hold hearings with interested groups and individuals with respect to Bill C-55.

ANDREW N. JOHNSON,
Clerk of the Committee

ORIGINAL BUDGET ADOPTED BY THE SENATE ON JUNE 18, 1987

Professional and Other Services (including salaries)	$	29,200
Transportation and Communications		13,440
All Other Expenditures		1,500
TOTAL	$	44,140

REQUEST FOR REVISED SUPPLEMENTARY BUDGET

Professional and Other Services (including salaries)	$	11,800
Transportation and Communications		66,612
All Other Expenditures		1,300
TOTAL	$	79,712

DIFFERENCE

Professional and Other Services (including salaries)	-	$	17,400
Transportation and Communications	+		53,172
All Other Expenditures	-		200
TOTAL	+	$	35,572

Therefore $35,572.00 is requested in new funds.

The original budget was approved by the Committee on the 2nd day of April 1987.

The revised budget was approved by the Committee on the 8th day of December, 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

Joan Neiman
Chairman, Standing Senate Committee on
Legal and Constitutional Affairs

Date: December 8, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal
Economy, Budgets and Administration

Date: December 15, 1987

For information purpose only

Budget authorized for the period October 1st, 1985 to March 31st, 1986	$	52,750
Budget authorized for the period April 1st, 1986 to March 31st, 1987	$	61,700
Budget authorized for the period October 1st, 1986 to March 31st, 1987	$	34,940
Original Budget authorized for the period April 1st, 1987 to March 31st, 1988	$	44,140

EXPLANATION OF COST ELEMENTS

Professional and Other Services (including salaries):

1.	Professional services Legal Consultant @ $800 per day 6 days @ $800	$ 4,800	
	NOTE: Counsels would be hired by contract according to Legislation referred to the Committee.		
2.	Honorariums	2,000	
	NOTE: Expert witnesses invited by the Committee have, in the past, requested to be reimbursed honorariums (2 individuals x $1,000). This amount is an average based on past requests.		
3.	Public Relations - Humphreys Press Communications, interviews etc. for C-55 trip.	5,000	$11,800

Transportation and Communications:

1.	Participation at Special Conferences Seminars and/or speaking engagements by Committee members and/or staff to be determined at a later date.	$ 7,500	
	NOTE: This amount is an estimate based on two (2) participants at		

five (5) conferences to be held in Canada at a cost of $1,500 per conference ($750 per participant). The amount was calculated by taking the average cost of past conferences:

a)	Registration fees	$ 150	
b)	Hotel accomodations, per diem and ground transportation	$ 250	
c)	Air Transportation	$ 350	
2.	Travel for Bill C-55		$57,672

Variable costs per person for 6 senators and 10 staff: *

a) Air Travel: regular economy fare without advance reservation:

Ottawa/Winnipeg	$ 307
Winnipeg/Regina	$ 148
Regina/Edmonton	$ 166
Edmonton/Vancouver	$ 197
Vancouver/Ottawa	$ 552
Total	$ 1,370

b) Hotel: 7 nights @ $ 80 $ 560

c) Per diem: 8 days @ $ 40 $ 320

d) Ground Transportation $ 60 / city (taxis) $ 240

*NOTE: The staff consists of: one clerk, one researcher, three interpreters, three stenographers, one public relations agent and one messenger.

- Total variable cost per participant: $ 2,940
- Total variable costs for 16 participants: $39,840

Fixed Costs

- Rental of meeting rooms: 6 days @ $ 300 $ 1,800
- Sound Equipment: rental contract with ISTS for sound amplification:

Winnipeg:	$ 3,400
Regina:	$ 2,932
Edmonton:	$ 4,000
Vancouver:	$ 4,200

- Photocopy, supplies, coffee, refreshments etc. $ 500
- Other $ 1,000

Total fixed costs $17,832

3.	Telephones and telegrams	$ 1,000	
4.	Postage, freight and courier services	$ 440	
			$66,612

Other expenses:

1.	Purchasing of stationery, books and periodicals	$ 300	
2.	Other expenses	$ 1,000	$ 1,300
	Total		**$79,712**

APPENDIX "B"

(*See p. 2500*)

FOREIGN AFFAIRS

TWELFTH REPORT OF STANDING SENATE COMMITTEE

THURSDAY, December 17, 1987

The Standing Senate Committee on Foreign Affairs has the honour to present its

TWELFTH REPORT

Your Committee, which was authorized by the Senate on November 5, 1987 to examine and report upon elements of a Free Trade Agreement between Canada and the United States, tabled in the Senate on October 6, 1987 (Sessional Paper No. 332-589), and texts subsequently agreed to, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

HEATH MACQUARRIE
Deputy Chairman

APPENDIX (A) TO THE REPORT

STANDING SENATE COMMITTEE ON
FOREIGN AFFAIRS

APPLICATION FOR SUPPLEMENTARY BUDGET
AUTHORIZATION FOR THE FISCAL YEAR
ENDING MARCH 31, 1988

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, Thursday, 5th November 1987:

"With leave of the Senate,
The Honourable Senator Doody moved, seconded by the Honourable Senator Phillips:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon elements of a Free Trade Agreement between Canada and the United States, tabled in the Senate on October 6, 1987 (Sessional Paper No. 332-589), and texts subsequently agreed to; and

That the Committee present its report no later than March 29, 1988.

After debate and--
The question being put on the motion, it was --
Resolved in the affirmative."

CHARLES A. LUSSIER,
Clerk of the Senate

SUMMARY

Professional and Other Services	**$ 102,891**
Transportation and Communications	**3,250**
All Other Expenditures	**13,105**
TOTAL	**$ 119,246**

The foregoing budget was approved by the Committee on the 8th day of December, 1987.

The undersigned or an alternate will be in attendance on the date that this budget is being considered.

George C. van Roggen
Chairman, Standing Senate Committee
on Foreign Affairs

Date: December 9, 1987

Approved by:

Guy Charbonneau
Chairman, Standing Committee on Internal Economy, Budgets and Administration

Date: December 17, 1987

EXPLANATION OF COST ELEMENTS

Professional and Other Services

1. 1 Advisor 147 hrs. at $107 per hr. (7 hrs/week x 21 weeks @ $107./hr)	$ 15,729.00	
1 Advisor 630 hrs. at $55.00 per hr. (30 hrs/week x 21 weeks @ $55./hr)	$ 34,650.00	
1 Research Assistant 273 hrs. at $24. per hr. (13 hrs/week x 21 weeks @ $24./hr)	$ 6,552.00	
3 Specialists 315 hrs. at $75. per hr. 5 hrs/week x 21 weeks @ $75./hr	$ 23,625.00	$ 80,556.00
2. Commissioned Research		$ 10,000.00
3. Expenses of witnesses		$ 12,335.00

Transportation and Communications

1. Travel Expenses		
a) Anticipated expenses of Senators responding to invitations to speak on the work of theCommittee	$ 2,000.00	
2. Telegrams and Telephones	$ 250.00	
3. Postage and Freight	$ 1,000.00	$ 3,250.00

All Other Expenditures

1. Purchase of Stationery, Books and Periodicals	$ 250.00	
2. Cost of reprinting three Reports of the Standing Committee on Foreign Affairs respecting Canada - U.S. Relations: English - Vol. I (250 copies); Vol. II (250 copies); Vol. III (1000 copies)	$ 8,590.00	
French - Vol. III (250 copies)	$ 3,265.00	
3. Other expenditures	$ 1,000.00	$ 13,105.00
TOTAL		**$119,246.00**

For information purposes:

The following is an estimate of the balance of the budget, still available to the Committee for the fiscal year ending 31 March 1988:

A) With respect to its examination of the expenditures set out in External Affairs Votes 1, 5, 10, 15, 20, 25, 30, L35, L40, 45, 50 and 55 and National Defence Votes 1, 5 and 10 of the Estimates for the fiscal year ending the 31st March, 1988 as authorized by the Senate on March 11, 1987.

Allotment

Professional and Other Services	$ 71,453.00
Transportation and Communications	4,500.00
All Other Expenditures	1,250.00
Total	$ 77,203.00

Expended

Professional and Other Services	$ 19,003.50
Transportation and Communications	72.43
All Other Expenditures	0
Total	$ 19,075.93

Balance

Professional and Other Services	$ 52,449.50
Transportation and Communications	4,427.65
All Other Expenditures	1,250.00
Total	$ 58,127.15

B) With respect to its examination of the desirability and advantages of the Turks and Caicos Islands becoming a part of Canada, as authorized by the Senate on March 17, 1987.

Allotment

Professional and Other Services	$ 8,105.00
Transportation and Communications	1,500.00
All Other Expenditures	250.00
Total	$ 9,855.00

Expended		
Professional and Other Services	$	0
Transportation and Communications		0
All Other Expenditures		0
Total	$	0

Balance		
Professional and Other Services	$	8,105.00
Transportation and Communications		1,500.00
All Other Expenditures		250.00
Total	$	9,855.00

APPENDIX (B) TO THE REPORT

THURSDAY, December 17, 1987

The Standing Committee on Internal Economy, Budgets and Administraation has examined and approved the supplementary budget presented to it bv the Chairman of the Standing Senate Committee on Foreign Affairs for the proposed expenditures of the said Committee with respect to examine and report upon elements of a Free Trade Agreement between Canada and the United States, as authorized by the Senate on November 5, 1987. The said supplementary budget is as follows:

Professional and Other Services	$ 102,891
Transportation and Communications	3,250
All Other Expenditures	13,105
	$ 119,246

ATTEST:

GUY CHARBONNEAU
Chairman